

Colorado Revised Statutes

PART 1 CODE OF ETHICS

24-18-101. Legislative declaration.

The general assembly recognizes the importance of the participation of the citizens of this state in all levels of government in the state. The general assembly further recognizes that, when citizens of this state obtain public office, conflicts may arise between the public duty of such a citizen and his or her private interest. The general assembly hereby declares that the prescription of some standards of conduct common to those citizens involved with government is beneficial to all residents of the state. The provisions of this part 1 recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

Source: L. 88: Entire article added, p. 899, § 1, effective July 1.

24-18-102. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability company, partnership, sole proprietorship, trust or foundation, or other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money, thing of value, or economic benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

(3) "Employee" means any temporary or permanent employee of a state agency or any local government, except a member of the general assembly and an employee under contract to the state.

(4) "Financial interest" means a substantial interest held by an individual which is:

- (a) An ownership interest in a business;
- (b) A creditor interest in an insolvent business;
- (c) An employment or a prospective employment for which negotiations have begun;
- (d) An ownership interest in real or personal property;
- (e) A loan or any other debtor interest; or
- (f) A directorship or officership in a business.

(5) "Local government" means the government of any county, city and county, city, town, special district, or school district.

(6) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(7) "Official act" or "official action" means any vote, decision, recommendation, approval, disapproval, or other action, including inaction, which involves the use of discretionary authority.

(8) "Public officer" means any elected officer, the head of a principal department of the executive branch, and any other state officer. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

(9) "State agency" means the state; the general assembly and its committees; every executive department, board, commission, committee, bureau, and office; every state institution of higher education, whether established by the state constitution or by law, and every governing board thereof; and every independent commission and other political subdivision of the state government except the courts.

Source: L. 88: Entire article added, p. 899, § 1, effective July 1. L. 90: (1) amended, p. 447, § 10, effective April 18. L. 91: (8) amended, p. 837, § 1, effective March 29.

24-18-103. Public trust - breach of fiduciary duty.

(1) The holding of public office or employment is a public trust, created by the confidence which the electorate reposes in the integrity of public officers, members of the general assembly, local government officials, and employees. A public officer, member of the general assembly, local government official, or employee shall carry out his duties for the benefit of the people of the state.

(2) A public officer, member of the general assembly, local government official, or employee whose conduct departs from his fiduciary duty is liable to the people of the state as a trustee of property and shall suffer such other liabilities as a private fiduciary would suffer for abuse of his trust. The district attorney of the district where the trust is violated may bring appropriate judicial proceedings on behalf of the people. Any moneys collected in such actions shall be paid to the general fund of the state or local government. Judicial proceedings pursuant to this section shall be in addition to any criminal action which may be brought against such public officer, member of the general assembly, local government official, or employee.

Source: L. 88: Entire article added, p. 900, § 1, effective July 1.

24-18-104. Rules of conduct for all public officers, members of the general assembly, local government officials, and employees.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust. A public officer, a member of the general assembly, a local government official, or an employee shall not:

(a) Disclose or use confidential information acquired in the course of his official duties in order to further substantially his personal financial interests; or

(b) Accept a gift of substantial value or a substantial economic benefit tantamount to a gift of substantial value:

(I) Which would tend improperly to influence a reasonable person in his position to depart from the faithful and impartial discharge of his public duties; or

(II) Which he knows or which a reasonable person in his position should know under the circumstances is primarily for the purpose of rewarding him for official action he has taken.

(2) An economic benefit tantamount to a gift of substantial value includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.

(3) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit tantamount to gifts of substantial value for purposes of this section:

(a) Campaign contributions and contributions in kind reported as required by section 1-45-108, C.R.S.;

(b) An occasional nonpecuniary gift, insignificant in value;

(c) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;

(d) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such public officer, member of the general assembly, local government official, or employee is scheduled to participate;

(e) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is offered to such public officer, member of the general assembly, local government official, or employee which is not extraordinary when viewed in light of the position held by such public officer, member of the general assembly, local government official, or employee;

(f) Items of perishable or nonpermanent value, including, but not limited to, meals, lodging, travel expenses, or tickets to sporting, recreational, educational, or cultural events;

(g) Payment for speeches, appearances, or publications reported pursuant to section 24-6-203;

(h) Payment of salary from employment, including other government employment, in addition to that earned from being a member of the general assembly or by reason of service in other public office.

(4) The provisions of this section are distinct from and in addition to the reporting requirements of section 1-45-108, C.R.S., and section 24-6-203, and do not relieve an incumbent in or elected candidate to public office from reporting an item described in subsection (3) of this section, if such reporting provisions apply.

Source: L. 88: p. 901, § 1. L. 92: (3)(g) and (3)(h) amended, p. 874, § 103, effective January 1, 1993. L. 94: (3) amended and (4) added, p. 1827, § 4, effective January 1, 1995.

24-18-105. Ethical principles for public officers, local government officials, and employees.

(1) The principles in this section are intended as guides to conduct and do not constitute violations as such of the public trust of office or employment in state or local government.

(2) A public officer, a local government official, or an employee should not acquire or hold an interest in any business or undertaking which he has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by an agency over which he has substantive authority.

(3) A public officer, a local government official, or an employee should not, within six months following the termination of his office or employment, obtain employment in which he will take direct advantage, unavailable to others, of matters with which he was directly involved during his term of employment. These matters include rules, other than rules of general application, which he actively helped to formulate and applications, claims, or contested cases in the consideration of which he was an active participant.

(4) A public officer, a local government official, or an employee should not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when he has a substantial financial interest in a competing firm or undertaking.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1.

24-18-106. Rules of conduct for members of the general assembly.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the member of the general assembly committing the act has breached his fiduciary duty and the public trust. A member of the general assembly shall not accept a fee, a contingent fee, or any other compensation, except his official compensation provided by statute, for promoting or opposing the passage of legislation.

(2) It shall not be a breach of fiduciary duty and the public trust for a member of the general assembly to:

(a) Use state facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting state business.

(3) Notwithstanding any other provision of law, no member of the general assembly shall lobby, solicit lobbying business or contracts, or otherwise establish a lobbying business or practice respecting issues before the general assembly prior to the expiration of his or her term. Where the member tenders his or her resignation prior to the expiration of his or her term, the requirements of this subsection (3) shall apply up through the date of the member's resignation from office.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1. **L. 2003:** (3) added, p. 1230, § 1, effective July 1.

24-18-107. Ethical principles for members of the general assembly.

(1) The principles in this section are intended only as guides to a member of the general assembly in determining whether or not his conduct is ethical.

(2) A member of the general assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly shall disclose the fact to the house of which he is a member and shall not vote thereon. In deciding whether or not he has such an interest, a member shall consider, among other things, the following:

(a) Whether the interest impedes his independence of judgment;

(b) The effect of his participation on public confidence in the integrity of the general assembly; and

(c) Whether his participation is likely to have any significant effect on the disposition of the matter.

(3) An interest situation does not arise from legislation affecting the entire membership of a class.

(4) If a member of the general assembly elects to disclose the interest, he shall do so as provided in the rules of the house of representatives or the senate, but in no case shall failure to disclose constitute a breach of the public trust of legislative office.

Source: L. 88: Entire article added, p. 902, § 1, effective July 1.

24-18-108. Rules of conduct for public officers and state employees.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A public officer or a state employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects, regulates, or supervises in the course of his official duties;

(b) Assist any person for a fee or other compensation in obtaining any contract, claim, license, or other economic benefit from his agency;

(c) Assist any person for a contingent fee in obtaining any contract, claim, license, or other economic benefit from any state agency; or

(d) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) A head of a principal department or a member of a quasi-judicial or rule-making agency may perform an official act notwithstanding paragraph (d) of subsection (2) of this section if his participation is necessary to the administration of a statute and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) Repealed.

Source: L. 88: Entire article added, p. 903, § 1, effective July 1. **L. 91:** (4) repealed, p. 837, § 2, effective March 29.

24-18-108.5. Rules of conduct for members of boards and commissions.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty.

(2) A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses shall not perform an official act which may have a direct economic benefit on a business or other undertaking in which such member has a direct or substantial financial interest.

Source: L. 91: Entire section added, p. 837, § 3, effective March 29.

24-18-109. Rules of conduct for local government officials and employees.

(1) Proof beyond a reasonable doubt of commission of any act enumerated in this section is proof that the actor has breached his fiduciary duty and the public trust.

(2) A local government official or local government employee shall not:

(a) Engage in a substantial financial transaction for his private business purposes with a person whom he inspects or supervises in the course of his official duties; or

(b) Perform an official act directly and substantially affecting to its economic benefit a business or other undertaking in which he either has a substantial financial interest or is engaged as counsel, consultant, representative, or agent.

(3) (a) A member of the governing body of a local government who has a personal or private interest in any matter proposed or pending before the governing body shall disclose such interest to the governing body and shall not vote thereon and shall refrain from attempting to influence the decisions of the other members of the governing body in voting on the matter.

(b) A member of the governing body of a local government may vote notwithstanding paragraph (a) of this subsection (3) if his participation is necessary to obtain a quorum or otherwise enable the body to act and if he complies with the voluntary disclosure procedures under section 24-18-110.

(4) It shall not be a breach of fiduciary duty and the public trust for a local government official or local government employee to:

(a) Use local government facilities or equipment to communicate or correspond with a member's constituents, family members, or business associates; or

(b) Accept or receive a benefit as an indirect consequence of transacting local government business.

Source: L. 88: Entire article added, p. 903, § 1, effective July 1.

24-18-110. Voluntary disclosure.

A member of a board, commission, council, or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses, a member of the general assembly, a public officer, a local government official, or an employee may, prior to acting in a manner which may impinge on his fiduciary duty and the public trust, disclose the nature of his private interest. Members of the general assembly shall make disclosure as provided in the rules of the house of representatives and the senate, and all others shall make the disclosure in writing to the secretary of state, listing the amount of his financial interest, if any, the purpose and duration of his services rendered, if any, and the compensation received for the services or such other information as is necessary to describe his interest. If he then performs the official act involved, he shall state for the record the fact and summary nature of the interest disclosed at the time of performing the act. Such disclosure shall constitute an affirmative defense to any civil or criminal action or any other sanction.

Source: L. 88: Entire article added, p. 904, § 1, effective July 1. **L. 91:** Entire section amended, p. 838, § 4, effective March 29.

24-18-111. Powers of the secretary of state.

(1) The secretary of state may:

(a) Issue advisory opinions to persons subject to the provisions of this article concerning issues relating to the requesting person's conduct and the provisions of this article with such deletions as are necessary to protect the identity of the requesting party or the party about whom the opinion is written;

(b) Keep and permit reasonable public access to voluntary disclosure statements;

(c) Make rules for the conduct of his affairs under this part 1.

(2) Any advisory opinion issued by the secretary of state shall take priority over any comment issued by the board of ethics for the executive branch pursuant to section 24-18-112 or any opinion issued by the board of ethics for the general assembly pursuant to section 24-18-113 if the comment or the opinion covers the same circumstances and the same issues as covered by the opinion of the secretary of state and if the comment or the opinion reached a separate conclusion from that reached by the opinion of the secretary of state.

Source: L. 88: Entire article added, p. 904, § 1, effective July 1.

24-18-112. Board of ethics for the executive branch - created - duties.

(1) There is hereby created a board of ethics for the executive branch of state government in the office of the governor. The board shall consist of five members to be appointed by and serve at the pleasure of the governor.

(2) The board of ethics for the executive branch shall:

(a) Comment, when requested by the governor, on each proposed gubernatorial appointment, including the heads of the principal departments and the senior members of the governor's office based upon the provisions of this article;

(b) Upon written request of the governor, review complaints of any violation of the provisions of this article by a member of the executive branch of state government;

(c) Make written recommendations to the governor concerning his requests; and

(d) Review appeals brought before the board of ethics pursuant to section 24-30-1003 (4).

Source: L. 88: Entire article added, p. 905, § 1, effective July 1. **L. 94:** (2) amended, p. 1249, § 2, effective July 1.

24-18-113. Board of ethics for the general assembly - created - duties.

(1) There is hereby created a board of ethics for the general assembly. The board shall consist of four legislative members. One member shall be appointed by and serve at the pleasure of the majority leader of the house of representatives; one member shall be appointed by and serve at the pleasure of the majority leader of the senate; one member shall be appointed by and serve at the pleasure of the minority leader of the house of representatives; and one member shall be appointed by and serve at the pleasure of the minority leader of the senate.

(2) The board of ethics for the general assembly shall, upon written request of a member of the general assembly, issue advisory opinions concerning issues relating to the requesting member's conduct and the provisions of this article.

Source: L. 88: Entire article added, p. 905, § 1, effective July 1.

PART 2
PROSCRIBED ACTS RELATED TO CONTRACTS AND CLAIMS

24-18-201. Interests in contracts.

(1) Members of the general assembly, public officers, local government officials, or employees shall not be interested in any contract made by them in their official capacity or by any body, agency, or board of which they are members or employees. A former employee may not, within six months following the termination of his employment, contract or be employed by an employer who contracts with a state agency or any local government involving matters with which he was directly involved during his employment. For purposes of this section, the term:

(a) "Be interested in" does not include holding a minority interest in a corporation.

(b) "Contract" does not include:

(I) Contracts awarded to the lowest responsible bidder based on competitive bidding procedures;

(II) Merchandise sold to the highest bidder at public auctions;

(III) Investments or deposits in financial institutions which are in the business of loaning or receiving moneys;

(IV) A contract with an interested party if, because of geographic restrictions, a local government could not otherwise reasonably afford itself of the subject of the contract. It shall be presumed that a local government could not otherwise reasonably afford itself of the subject of a contract if the additional cost to the local government is greater than ten percent of a contract with an interested party or if the contract is for services that must be performed within a limited time period and no other contractor can provide those services within that time period.

(V) A contract with respect to which any member of the general assembly, public officer, local government official, or employee has disclosed a personal interest and has not voted thereon or with respect to which any member of the governing body of a local government has voted thereon in accordance with section 24-18-109 (3) (b) or 31-4-404 (3), C.R.S. Any such disclosure shall be made: To the governing body, for local government officials and employees; in accordance with the rules of the house of representatives and the senate, for members of the general assembly; and to the secretary of state, for all others.

Source: L. 88: Entire article added, p. 905, § 1, effective July 1.

24-18-202. Interest in sales or purchases.

Public officers and local government officials shall not be purchasers at any sale or vendors at any purchase made by them in their official capacity.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-203. Voidable contracts.

Every contract made in violation of any of the provisions of section 24-18-201 or 24-18-202 shall be voidable at the instance of any party to the contract except the officer interested therein.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-204. Dealings in warrants and other claims prohibited.

State officers, county officers, city and county officers, city officers, and town officers, as well as all other local government officials, and their deputies and clerks, are prohibited from purchasing or selling or in any manner receiving to their own use or benefit or to the use or benefit of any person or persons whatever any state, county, city and county, city, or town warrants, scrip, orders, demands, claims, or other evidences of indebtedness against the state or any county, city and county, city, or town thereof except evidences of indebtedness issued to or held by them for services rendered as such officer, deputy, or clerk, and evidences of the funded indebtedness of such state, county, city and county, city, or town.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.

24-18-205. Settlements to be withheld on affidavit.

(1) Every officer charged with the disbursement of public moneys who is informed by affidavit establishing probable cause that any officer whose account is about to be settled, audited, or paid by him has violated any of the provisions of this part 2 shall suspend such settlement or payment and cause such officer to be prosecuted for such violation by the district attorney of the appropriate jurisdiction.

(2) If there is judgment for the defendant upon such prosecution, the proper officer may proceed to settle, audit, or pay such account as if no such affidavit had been filed.

Source: L. 88: Entire article added, p. 906, § 1, effective July 1.