



KOPELMAN AND PAIGE, P.C.
The Leader in Municipal Law

101 Arch Street
Boston, MA 02110
T: 617.556.0007
F: 617.654.1735
www.k-plaw.com

March 21, 2011

MEMORANDUM TO MUNICIPAL CLIENTS

RECEIVED

MAR 23 2011

TO: BOARD OF SELECTMEN/MAYOR/TOWN AND CITY COUNCIL
TOWN MANAGER/TOWN ADMINISTRATOR/EXECUTIVE SECRETARY

Re: Notable New Regulations from the State Ethics Commission

BOARD OF SELECTMEN

On July 1, 2009, several amendments to General Laws Chapter 268A, the Conflict of Interest Law, took effect, including increased civil and criminal penalties, mandatory online training for municipal employees, and establishing local "liaisons" to the State Ethics Commission ("Commission"). Section 3(f) directed the Commission to issue regulations to define the meaning of "substantial value," clarify several issues regarding limitations on public employees giving or accepting gifts, and to establish "additional exclusions for other situations that do not present a genuine risk of a conflict or the appearance of a conflict of interest." The Commission recently issued its initial regulations on these subjects and they are in effect. These regulations, 930 CMR §1.00-7.00 ("the Regulations"), may be viewed at the Commission's website at <http://www.mass.gov/ethics>. While the Regulations cover an extensive range of subjects, there are several sections of particular interest to city and town officials and employees that arise with some regularity, and these will be summarized below. You should remember that the term "municipal employee" as used in Chapter 268A includes virtually anyone performing services for the municipality, whether by election or appointment; paid or unpaid; contract or volunteer; or on a full or part-time basis.

Gifts to Public Employees

While a bribe made to or accepted by a public employee with "corrupt intent" is of course illegal pursuant to G.L. c.268A, §2, a more complicated restriction is set forth in §3. This section prohibits a public employee from accepting a gift of "substantial value" that is offered "for or because of official acts performed or to be performed." The Regulations define "substantial value" as \$50.00 or greater. Section 3 applies to gifts without regard to the intent of the donor, so any gift worth more than \$50 that is merely offered for goodwill or to say "thank you" is still prohibited by §3. If a gift made to a public employee is truly unrelated to the employee's duties or actions, it is not covered by Chapter 268A or the Regulations.

1. **Gifts to Teachers and Others**

One obvious conflict this creates is the long-standing practice of students and/or their parents wishing to make small gifts to a public school teacher. The Regulations now state that a teacher may accept a gift of up to \$150 aggregated value during the school year, provided that the gift is made as