

ENHANCED CODE OF ETHICS

MASSACHUSETTS GAMING COMMISSION

THIRD EDITION

12/17/2020



1. Scope and Purpose

The purpose of this Enhanced Code of Ethics (hereinafter, “Code”) is to help ensure the highest level of public confidence in the integrity of the regulation of all gaming activities in the Commonwealth. Chapters 268A and 268B of the Massachusetts General Laws shall apply to the Commissioners and to all employees of the Massachusetts Gaming Commission (hereinafter, “Commission”). In accordance with G.L. c.23K, §3(m), however, this Code establishes additional ethics rules that extend beyond or are more restrictive than those already applicable to the Commissioners and employees under G.L. c.268A and c.268B.

2. Continuing Obligation

It is the continuing obligation of each Commissioner and employee to review and assess their conduct in light of this Code. Commissioners and employees have an affirmative obligation to request advice from the Office of the General Counsel or their immediate supervisor when they have any question regarding the propriety of their past, present or future conduct, or if they have any question regarding the applicability or meaning of any provision of this Code or any other restriction.

3. Applicability

This Code shall apply to all Commissioners and employees of the Commission.

4. Use of this Code

This Code is intended as a supplement to G.L. c.23K, G.L. c.268A (Conduct of Public Officials and Employees), G.L. c.268B (Financial Disclosure by Certain Public Officials and Employees), and 930 CMR (regulations of the State Ethics Commission). To the extent that any provisions of any of the above referenced authorities conflict with any provision of G.L. c.23K, the applicable provision in G.L. c.23K shall govern. In the event that a provision of this Code addresses a matter covered by G.L. c.268A, G.L. c.268B, or 930 CMR, the provision found in this Code shall control to the extent that it is more restrictive. The provisions of G.L. c.268A, G.L. c.268B, and 930 CMR shall otherwise remain fully applicable.

5. Ethics Training

Although this Code is intended only to enhance and supplement the existing provisions of G.L. c.23K, G.L. c.268A, G.L. c.268B, and 930 CMR, Commissioners and employees must be fairly

and fully apprised of all ethical obligations incumbent upon them. To that end, the Commission shall provide ethics training to all Commissioners and employees. The training program shall be as follows:

A. Within 30 days of appointment or employment with the Commission, and annually thereafter, each Commissioner and employee shall:

- (1) be provided with, or directed to, a copy of this Code, a copy of G.L. c.23K, G.L. c.268A, G.L. c.268B, *Summary of the Conflict of Interest Law for State Employees*, 930 CMR, *Advisory 86-02: Nepotism* issued by the State Ethics Commission, and the *Campaign Finance Guide* published by the Office of Campaign and Political Finance; and
- (2) undergo a program of ethics training administered by the Office of the General Counsel. The program shall cover the provisions of this Code, and the applicable provisions of G.L. c.23K, G.L. c.268A, G.L. c.268B, 930 CMR, and G.L. c.55. The program shall be reviewed and approved by the Executive Director.

The Commission will also provide applicable training relative to G.L. c.268A and 930 CMR to advisory and subcommittee members as deemed necessary.

B. Each Commissioner and employee shall sign a form acknowledging the following:

- (1) receipt of the materials described in paragraph A;
- (2) receipt of the *Summary of the Conflict of Interest Law for State Employees* (annually);
- (3) completion of the *Conflict of Interest Law Online Training* program (every 2 years), and
- (4) completion of the Commission's ethics training program (annually).

6. Annual filing

On an annual basis, each Commissioner and employee shall file the following with the Human Resources department:

- A. A copy of the Ethics Training form required under section 5B of this Code.
- B. A disclosure statement required under section 8 of this Code and G.L. c.23K, §3(v).

7. Definitions

All words and terms in this Code shall be assigned their ordinary meaning as the context requires unless specifically defined by G.L. c.23K, §2 or as follows:

Consultant means a person with whom the Commission has entered into a contract, either directly or through a consulting firm or entity, to provide specifically described advisory services relative to gaming, racing, or regulatory issues within the Commission's jurisdiction. With respect to service contracts with such firms or entities, the Commission may determine by contract which persons, if any, within that firm or entity shall be subject to some or all of the provisions of this Code.

Direct or indirect interest means an ownership, stock ownership, loan, property, leasehold or other beneficial interest or holding office as director, officer or trustee in an entity. The term does not include an individual's interests in less than one percent of publicly traded companies, nor mutual or common investment funds such as employee pension plans and publicly traded mutual funds, unless the individual is involved in the management or investment decisions of such fund or plan or the fund or plan specializes in gaming related issues.

Employee means:

- (1) a person who is hired by the Commission to perform services for compensation, on a full, regular, part-time, or intermittent basis, but shall not include consultants, vendors, or an individual deemed by law to be a special state employee by virtue of their membership on an advisory board or subcommittee to the Commission; or
- (2) an employee of the Alcoholic Beverages Control Commission who is assigned to the Investigations and Enforcement Bureau under G.L. c.10, §72A; or
- (3) an employee or officer of the Department of the State Police assigned to the Massachusetts State Police gaming enforcement unit under G.L. c. 22C, §70.

Provided, in addition to its use in this Code, this definition shall apply to use of the term *employee* in G.L. c.23K.

Financial Interest means an ownership, stock ownership, loan, property, leasehold or other beneficial interest in an entity, or an interest in one's salary, gratuity, or other compensation or remuneration.

Immediate family means the spouse, parent, child, brother, or sister of an individual.

License means a license issued under G.L. c. 23K, G.L. c.128A, and/or G.L. c.128C.

Licensee means a person or entity granted a license under G.L. c. 23K, G.L. c.128A, and/or G.L. c.128C.

Relative within the third degree of consanguinity means, the parents, grandparents, great grandparents, children, grandchildren, great grandchildren, brothers, sisters, nephews, nieces, uncles, aunts of a person by blood or adoption.

Secretarial and clerical employee means a person whose duties consist primarily of administrative tasks such as scheduling, record keeping, document handling, word processing and typing, and similar tasks.

Significant relationship means:

- (1) a spouse, domestic partner, or life partner;
- (2) a relative within the third degree of consanguinity of a person's spouse, domestic partner, or life partner, i.e., affinity; or
- (3) anyone with whom a person shares an influential or intimate relationship that could reasonably be characterized as important.

8. Disclosure prior to employment

- A. In addition to the disclosure required by G.L. c.23K, §3(n), a prospective employee, prior to commencing employment, shall disclose to the Commission whether they were employed by, presently hold, or previously held any direct or indirect interest in any licensee or current applicant within the period commencing 3 years prior to the date of the employment application. Prior to employment, each candidate shall be provided with a list of the names of all pending applicants for licensure. In the event of an affirmative disclosure relative to a current applicant, the prospective employee may not be employed until such time as the applicant's status is resolved.
- B. In addition to the disclosure required by section 8A, candidates for major policymaking positions as defined in G.L. c.23K, §1, shall, prior to employment, disclose to the Commission whether any immediate family members own, are in the employ of, or own stock in, any business which is a current applicant or holds a license. The Commission shall not employ an individual for a major policymaking position who has immediate family members that own, are in the employ of, or own stock in, any business which is a current applicant or holds a license.

9. Conflicts of Interest

- A. No Commissioner or employee may participate in a particular matter, as defined by

G.L. c.268A, §1, pending before the Commission that may to their knowledge affect their financial interest, the financial interest of a relative within the third degree of consanguinity or a person with whom they have a significant relationship.

- B. No Commissioner or employee may hold an occupational license as an owner, lessor, lessee, or trainer of a horse that is entered in a race in this jurisdiction. Nor may any Commissioner or employee accept or be entitled to a part of the purse or purse supplement to be paid on a contestant in a race held in this jurisdiction.

- C. Commissioners must recuse themselves from any licensing decision in which a potential conflict of interest exists unless an appropriate disclosure or filing is made under G.L. c. 268A and related regulations in 930 CMR. The potential for a conflict shall be dispelled if the individual timely files a “Disclosure Of Appearance Of Conflict Of Interest As Required By G. L. c. 268A, § 23(b)(3)” form with their appointing authority. A Commissioner who files such a disclosure with their appointing authority shall announce such filing at a public meeting of the Commission.

- D. Commissioners and employees must disqualify and recuse themselves, and abstain from participating, taking any action, or voting in any proceeding or activity that could give rise to an appearance of a conflict in which their impartiality may reasonably be questioned, unless an appropriate disclosure or filing is made under G.L. c. 268A and related regulations in 930 CMR. An appearance of a conflict shall be dispelled and the impartiality of a Commissioner or an employee may not be considered reasonably questioned if the individual timely files a “Disclosure Of Appearance Of Conflict Of Interest As Required By G. L. c. 268A, § 23(b)(3)” form with their appointing authority, which in the case of the Executive Director is the Commission. The Executive Director shall maintain such filings of the employees. A Commissioner who files such a disclosure with their appointing authority shall announce such filing at a public meeting of the Commission.

10. (RESERVED)

11. Gifts

- A. Except where permitted by section 11B and 11C, no Commissioner or employee may solicit or directly or indirectly receive any complimentary service, commission,

bonus, discount, gift or reward from an entity regulated by, or then subject to the regulation of, the Commission, or any close associate, holding company, intermediary company or other affiliate thereof. A Commissioner or employee who is offered any such complimentary service, commission, bonus, discount, gift or reward shall disclose such offer to their immediate supervisor and/or the General Counsel, who shall make a record of the disclosure, as soon as reasonably possible.

B. Exceptions to section 11A. A Commissioner or employee may accept the following which shall not be considered gifts:

1. Food or refreshment of nominal value (i.e.- approximately \$10 or less) where a Commissioner or employee attends a function as an invitee, in their official capacity, that is hosted, sponsored, or subsidized by a current applicant, licensee, permittee, holder of a certification or registration or licensed entity representative thereof (*e.g.*, opening ceremonies for licensed slot operator facilities, industry showcases and expositions, symposia, seminars, association meetings, and continuing education programs).
2. Unsolicited advertising or promotional materials of nominal value.

C. Travel expenses. Travel and related expenses accepted by, reimbursed to, or waived on behalf of, a Commissioner or employee in accordance with 930 CMR 5.08 shall not be considered a prohibited gift, provided all relevant disclosures to their appointed authorities and related determinations are made.

D. Use of Employee Cafeteria or Dining Room. A Commission employee who is working on-site at a gaming establishment, racing, or pari-mutuel facility may purchase food in that gaming licensee's employee cafeteria or dining room provided that all such purchases are priced at market rate, the employee follows the process set out in the Commission's Human Resources Policy Manual, and the employee remains mindful of the appearance of unwarranted privileges that may arise.

12. Unwarranted privileges

No Commissioner or employee shall use or attempt to use their official position to secure for themselves or others unwarranted privileges or exemptions which are not available to members of the general public consistent with G.L. c.268A. Any action taken in accordance with section 11D or 15A of this Code shall not be considered an unwarranted privilege.

13. Use of Licensee Facilities

No Commissioner shall stay overnight in a guest room at any hotel owned or operated by a person or entity licensed by the Commission or an Indian tribe with a gaming establishment in Massachusetts. No employee shall stay overnight in a guest room at any hotel owned or operated by a person or entity licensed by the Commission or an Indian tribe with a gaming establishment in Massachusetts, except in the course of their official duties and with the prior approval of the Executive Director. Provided, in the event of a weather emergency, an employee working at a gaming establishment may stay overnight in a guest room with the approval of the Executive Director, Director of the IEB, or Gaming Agents Division Chief. Complimentary provision of such rooms to any employee is prohibited and any approved use shall be at established governmental rates pre-approved by the Commission. The Executive Director shall maintain and make accessible a list of all such prohibited facilities.

14. Wagers and Other Gaming Activity

No Commissioner or employee shall place any wager, including pari-mutuel wager, or receive any prize from a wager in a gaming establishment or at any pari-mutuel facility or through any pari-mutuel system, either within the boundary of Massachusetts or without, owned or operated by a person licensed by the Commission, or owned or operated by an Indian tribe with a gaming establishment in Massachusetts. An employee may make a wager in the performance of their official duties if they obtain prior approval of the Executive Director, the Director of the IEB, or Gaming Agents Division Chief. The Executive Director shall maintain and make accessible a list of all such prohibited facilities. The Commission shall not discipline a person placing a wager or receiving a prize from a facility not on the prohibited list if the Commission later determines that the facility should have been on the prohibited list.

15. Charitable and other outside activities

- A. A Commissioner or employee may not attend any convention, meeting, show, exhibition or other event, eat any meal, drink any beverage, or purchase any thing or service in any Massachusetts gaming establishment or racetrack, commercial or tribal, except in the course of the performance of their official duties. An employee working at a gaming establishment may purchase food or drink within a publicly accessible area of the gaming establishment at posted menu prices provided they remain mindful of the appearance of unwarranted privileges that may arise. Notwithstanding the foregoing, a Commissioner or employee may attend a family or similar social gathering, or a civic, charitable, or professional association function in a Massachusetts gaming establishment or racetrack, provided that:

1. They do not permit payment for any such attendance by any person, other than themselves or the host or sponsoring organization;
2. They do not, directly or indirectly, sponsor or contract for such gathering or function;
3. Prior to the event, they file a statement with the Executive Director identifying the location and circumstances of the event; the cost and manner of payment thereof, if known, and the payor therefor. Such statements shall be maintained by the Executive Director and made available for public inspection;
4. An employee, other than a Commissioner, receives prior approval of the Executive Director or designee. A Commissioner who files such a disclosure with the Executive Director shall announce such filing at a public meeting of the Commission.; and
5. They check-in at the office of the designated State Police unit at the subject establishment.

B. Except in the course of their official duties, a Commissioner may not be involved as an officer, director, or fundraiser with any educational, religious, charitable, fraternal, or civic organization that receives any significant funding from any gaming licensee.

C. A Commissioner or employee may speak, write, lecture or participate in other activities concerning the gaming industry, if in so doing the Commissioner or employee does not cast doubt on his or her ability to decide impartially any matter which may come before the Commission, and provided that the Commissioner or employee does not accept compensation or honoraria for any such activity.

D. No Commissioner or employee may accept compensation from any person or entity other than the Commission for published works created as part of their official duties.

E. A Commissioner or employee may participate in any civic or charitable activities, subject to section 15B, and not including bazaars governed by G.L. c.271, §7A, that do not interfere with his or her independence of judgment related to Commission matters.

16. Nepotism

No Commissioner or employee in a major policymaking position may solicit, request, suggest or recommend the employment by the Commission or by any person regulated by the Commission of any of their relatives within the third degree of consanguinity or a person with whom they have a significant relationship.

17. Unlawful Conduct

It is the duty of each employee who has been charged with any felony or misdemeanor, whether within Massachusetts or elsewhere, to promptly report such incident to the Executive Director in writing. Any Commissioner so charged shall report such incident to their appointing authority.

18. Conduct Unbecoming

Commissioners and employees shall conduct themselves at all times in such a manner as to reflect most favorably upon themselves and the Commission. Conduct unbecoming shall include that which brings the Commission into disrepute or reflects discredit upon the person as a member or employee of the Commission, or that which impairs the operation, efficiency, or effectiveness of the Commission or the person.

Employees and Commissioners shall not associate with individuals they know or should know are engaged in criminal activities unless in the performance of duty or upon official Commission business. Employees and Commissioners shall not frequent or remain at any place where they know or should know criminal activity is occurring unless in the performance of their duty or upon official Commission business.

19. Duty to Cooperate

- A. In all matters related to their duties with the Commission, all Commissioners and employees shall cooperate with law enforcement officers in the proper performance of the law enforcement officer's official duties.
- B. In all matters related to their duties with the Commission, all Commissioners and employees shall cooperate with the Commission, the Executive Director, General Counsel, Office of the Attorney General, or State Ethics Commission in all matters relating to the operation and enforcement of this Code or the ethics laws.

20. Duty to Report

It is the duty of all Commissioners and employees to report any conduct that they become aware of in the course of their official duties that a reasonable person would believe to be a violation of the criminal laws or G.L. c.23K. The individual shall report the conduct to the State Police at the gaming establishment where the conduct occurred, the Executive Director, or the Director for Investigations and Enforcement. The identity of the reporting

individual shall be withheld from disclosure in accordance with G. L. c. 4, §7(26)(c) and (f) and/or other applicable exemption to the Public Records Law.

21. Limits on Public Comments

Commissioners shall abstain from public comment about the merits of a pending adjudicatory proceeding, quasi-judicial proceeding, application or other similar proceeding pending before the Commission, except in a duly posted open meeting, or otherwise in the course of their official duties or in explaining for public information the procedures of the Commission.

22. Prohibited Communications

- A. Except during a hearing or meeting conducted in accordance with the Open Meeting Law, G.L. c. 30A, and/or 205 CMR, Commissioners may not engage in communications that a reasonable person would view as likely to affect the Commissioner's judgment regarding an application or other matter pending before it in an adjudicatory proceeding or reasonably likely to come before it in such a proceeding, except for consulting with another Commissioner, Commission employees, or consultants whose function it is to aid the Commission in carrying out its responsibilities, and shall take all reasonable actions necessary to avoid receiving such communications.
- B. Any Commissioner who receives any communication that a reasonable person would view as an improper attempt to influence that Commissioner's official action shall disclose the source and content of the communication to the Executive Director. The Executive Director may investigate or initiate an investigation of the matter to determine if the communication violates this Code. The disclosure under this paragraph and the investigation shall be withheld from disclosure in accordance with the personnel exemption (G. L. c. 4, §7(26)(b)), privacy exemption (G. L. c. 4, §7(26)(c)), investigatory exemption (G. L. c. 4, §7(26)(f)), and/or other applicable exemption to the Public Records Law. Following an investigation, the Executive Director shall advise the Commission of the results of the investigation and may recommend such action as the Executive Director considers appropriate.
- C. No Commissioner or employee may engage in any communication, in any medium, that:
- (1) improperly discloses any confidential information, materials or data of or pertaining to the Commission's activities not legally available to the public, i.e., that reasonably fit within one or more of the exemptions to the definition of

public records as defined by the Public Records Law and/or has been deemed *confidential information* in accordance with 205 CMR, and were acquired by an employee in the course of their official duties; or
(2) is protected from disclosure by a legally recognized privilege.

Public records requests shall be processed in accordance with the Commission's Public Records Request Policy.

23. Character Witness

A Commissioner or employee may not voluntarily testify as a character witness in any matter before the Commission.

24. Violations

- A. If a majority of Commissioners agree that information exists that a reasonable mind might accept as adequate to support a conclusion that another Commissioner: (i) is guilty of malfeasance in office; (ii) has substantially neglected the duties of a Commissioner; (iii) is unable to discharge the powers and duties of the commissioner's office; (iv) committed gross misconduct; (v) has been convicted of a felony or (vi) has committed a material violation of this Code, the remaining Commissioners shall, after providing notice to the Commissioner, refer the matter to the Governor.
- B. An employee, other than an employee assigned to the Investigations and Enforcement Bureau under G.L. c. 10, §72A or G.L. c. 22C, §70, who violates this Code or a provision of G.L. c.23K shall be subject to appropriate disciplinary action, ranging from reprimand to dismissal or, in the case of employees under contract, the termination of said contract.
- C. An employee assigned to the Investigations and Enforcement Bureau under G.L. c. 10, §72A or G.L. c. 22C, §70 who violates this Code shall be subject to appropriate disciplinary action by the Alcoholic Beverages Control Commission or Colonel of the State Police, respectively. Provided, however, that their employment with the Commission may be terminated by the Commission.

25. Post-employment

In addition to the post-employment restrictions pursuant to G.L. c.23K, §3(p), (q), and

(r), no Commissioner or employee shall be employed by a subsidiary of the parent of a gaming licensee for the applicable period of time.

A Commissioner or employee who has been removed, dismissed, or terminated for a violation of this Code, or who violates the post-employment restrictions:

- A. shall be ineligible for future appointment, employment or contracts with the Commission or the IEB, and
- B. may not be approved for a license or registration for a period of two years after the expiration of the applicable post-employment restriction pursuant to G.L. c.23K, §3(p), (q), and (r).

26. Enforcement Actions

The Commission or Executive Director may issue any order necessary to achieve compliance with this Code.

27. Variances

- A. A Commissioner or employee who believes that full compliance with a particular provision of this Code will be overly burdensome in a particular instance may apply to the Commission for a variance. The burden is on the petitioning Commissioner or employee to demonstrate in writing to the Commission that the grant of a variance would not compromise the intent of this Code or undermine public confidence in the integrity of the regulatory process.
- B. No variance may be granted by the Commission from any provision of G.L. c.23K, G.L. c.268A, G.L. c.268B, 930 CMR, or G.L. c.55.
- C. No employee assigned to the Investigations and Enforcement Bureau under G.L. c. 22C, §70 shall apply for a variance, and the Commission shall not grant a variance, unless the employee first receives approval from the Colonel of the State Police or his/her designee.

28. Requests for Advice

Any Commissioner or employee may request a written opinion from the General Counsel relative to the applicability of any provision of this Code and may act in conformance with that opinion. An opinion rendered by the General Counsel, until and unless amended or revoked, shall be a defense in any disciplinary action brought under this Code and shall be binding on the Commission in any proceedings concerning the person who requested the

opinion and who acted in good faith, unless material facts were omitted or misstated by the person in the request for an opinion. Such requests shall be deemed confidential and exempt from disclosure under the personnel and /or privacy exemptions to the Public Records law (See G. L. c. 4, §§ 7(26)(b) and (c)); provided, however, that the Commission may publish such opinions, but the name of the requesting person and any other identifying information shall not be included in such publication unless the requesting person consents to such inclusion.