

THE VIRGINIA

CONFLICT OF INTERESTS ACT

UNVARNISHED

2018 VACo County Supervisors
Forum

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So here is COIA

before the show starts

Disclaimer: These slides attempt to highlight key provisions of COIA, which is quite complicated. Excellent resources for interpretation of COIA are the Conflict of Interests & Advisory Council and staff. This presentation by Ms. Pandak, who is a member of the Council, represents only her personal opinion and not that of the Council or its staff.

COIA



Va. Code Sections 2.2-3100 *et seq.*

is real

You violate it at your ethical, personal,
legal, financial, and elective **PERIL.**

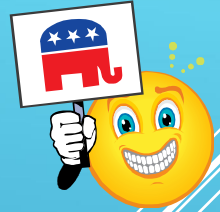
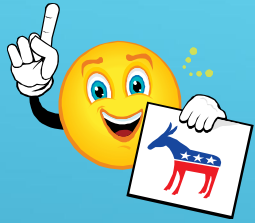
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900 East Main Street, 8th Floor
Richmond, Virginia 23219

RESOURCES:

COL & Ethics Advisory Council staff

- ▶ <http://ethics.dls.virginia.gov>
- ▶ In-person training is available from Council staff upon request as the staff schedule permits at no cost to your agency.

RESOURCES:



YOU WERE ELECTED

- Filed a Disclosure Form of your **PERSONAL INTERESTS** and other information



- Took the oath of office



- ▶ **YET YOU MUST still FILE a DISCLOSURE FORM**

EVERY YEAR

by February 1



- ❑ **Legislative** (aka Governing Body/School Board)
- ❑ **Constitutional Officers**
- ❑ EDA & certain other **Authorities**
- ❑ **Citizen Members** of Boards/Commissions set by ordinance or resolution [only file annually] – ex. PC, BZA
- ❑ **“Persons Occupying Positions of Trust”**
designated by local ordinance & School Board policy – ex. Chief Administrative Officer; Local Govt Attorney.

ROUTINE FILING REQUIREMENTS BASED ON POSITION

THE CLERK TO THE BOARD MAY REMIND YOU

**BUT the Clerk is not your mother –
The Responsibility is YOURS**

There is a \$250 fine for filing late!!!



What Are You
Disclosing Annually?

✓10

•The Linchpin of COIA :



•“Personal Interest” of an official (Yes, You) or employee =

"Personal interest"
includes YOU
(the officer or employee),



your Spouse, whether or not
in the same household ()

AND any other person in the same household for whom the officer or employee provides more than 1/2 of his or her financial support, or who provides more than 1/2 of the officer's or employee's financial support



"Personal Interest" =

- ▶ > \$5,000 in income, compensation, fringe or other benefits annually;
- ▶ Ownership of real or personal property if the interest is > \$5,000, exclusive of other ownership in a business, income or benefits from the property;
- ▶ Personal liability on behalf of a business > 3% of the business' asset value; or
- ▶ An option for ownership of a business or real or personal property if the interest is > 3% or > \$5,000 in a contract or transaction.

ADDITIONAL EXAMPLES:

- **Debts** to creditors of > **\$5000**.
- **Interests in rental property** of > **\$5000**.
- **Payments for representation** by you or your associates of > **\$5000**
- **Payments for services** from businesses which operate in Virginia of > **\$5000**





ADDITIONAL EXAMPLES:



- **COMBINED PAYMENT** for each



Talk,

Meeting,

.... of more than \$100



- ▶ Is it a Gift?
- ▶ Is it prohibited?
- ▶ Reporting requirements for certain gifts
- ▶ Thresholds

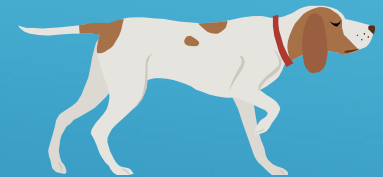


GIFT ISSUES !!!!!

GIFTS FOR WHICH YOU NEITHER PAID NOR RENDERED SERVICES IN EXCHANGE:



- ▶ Combination of Gift or entertainment of more than \$50 in value*
- ▶ [Gifts of >\$100 each or in aggregate from any lobbyist or who is seeking to contract w/ your county are PROHIBITED. (Gifts <\$20 not subject to aggregation here)*]



The “WIDELY ATTENDED EVENT” EXCEPTION

(§2.2-3103.1)



“an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.”

You can accept or receive a gift of food and beverages, entertainment, or the cost of admission >\$100 while in attendance but must report on disclosure form.

The “APPROVED IN ADVANCE” EXCEPTION (§2.2-3103.1)

**Must make a request of Council
and receive Approval of Council**



▶ Your personal business entertainment



▶ Gifts from a relative or personal friend

▶ Campaign contributions reported pursuant to election law

INFORMATION WHICH
CAN BE EXCLUDED:



TRANSACTIONAL DISCLOSURES:



These relate to specific actions or inactions and are in addition to the annual disclosures.

disclose [dɪsˈkləʊz]

verb (tr)

1. to make (information) known
2. to allow to be seen; lay bare

Source: thefreedictionary.com

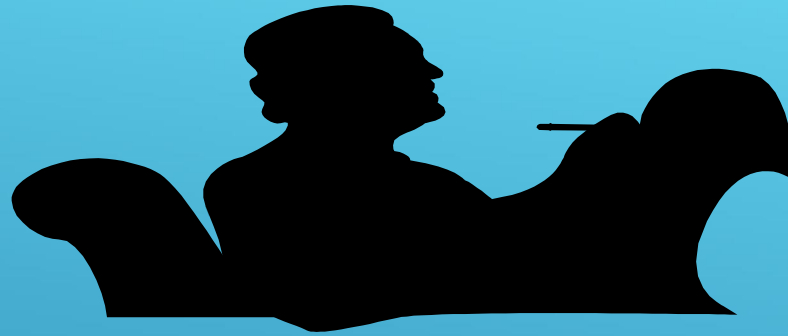
Officials & employees, who are not required to make annual disclosures, may be required to make a transactional disclosure or abstain on a matter.

Premises of COIA:



1. **Don't** take bribes or use influence for financial gain.

Don't participate in prohibited contracts.



2.If you have a **personal interest**, you may have to **disclose before** acting





3. If your **personal interest** is the **only** interest or you have a personal interest and **cannot disclose**,

you will likely have to **disqualify** yourself from acting.

- ▶ DISCLOSE in writing and verbally but not vote because you are legally DISQUALIFIED –
 - ▶ as a matter of law
 - ▶ because you cannot vote objectively & in the public interest

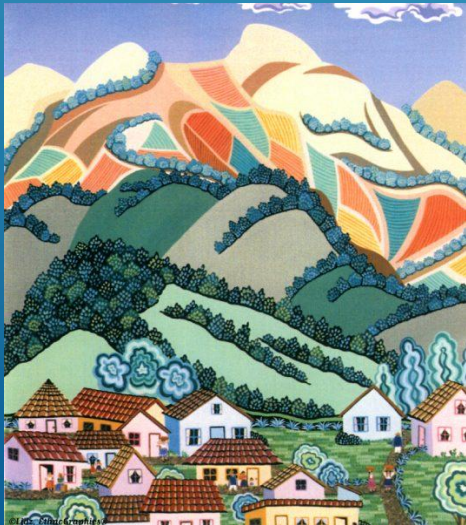
- ▶ DISCLOSE in writing and verbally if you have a conflict that you can declare and then vote on objectively & in the public interest



IN SUM - YOU MUST EITHER



WHAT IF YOUR PERSONAL INTEREST IS THE SAME AS THAT OF A GROUP?





**WHEN
IN
DOUBT**

Your County Attorney,
your
Commonwealth's Attorney
or
the COIA & Ethics
Advisory Council
staff Hotline



CALL

- ▶ **Criminal Penalties**
- ▶ **Civil Penalties**
- ▶ **None, if** w/in reasonable time
 - If gift not used & paid for or returned or delivered to charity
 - Paid to reduce value of gift to less than \$100

PENALTIES

✓ 30



SO YOU HAVE

A



CONFLICT ...



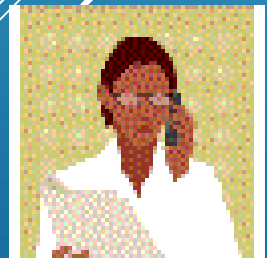


WILL YOU DARE TO ASK BEFORE
IT IS TOO LATE?



**Avoid penalties, embarrassment,
loss of office.**

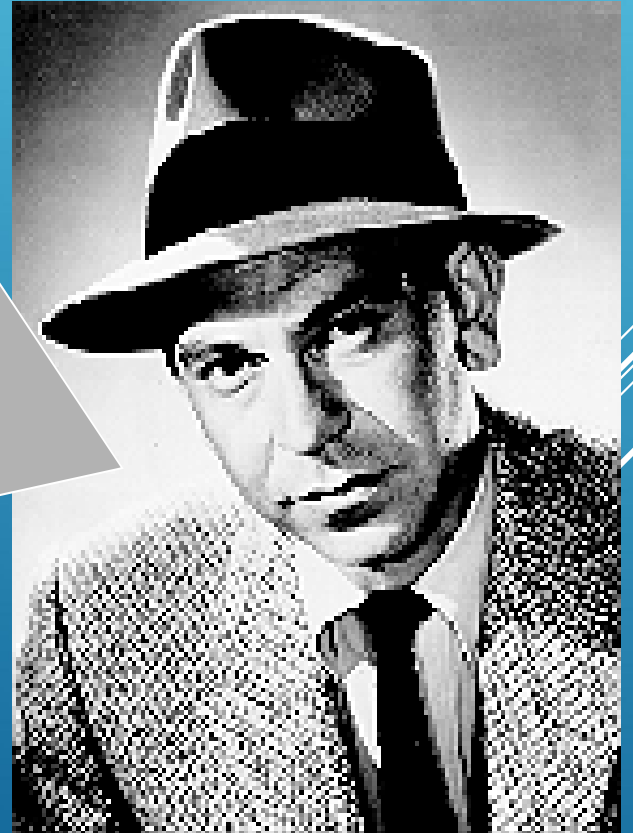
Call **early and **as often** as necessary.**





Let the Show Begin...

✓ The stories which you are about to hear and the characters which you are about to meet are fictional; any relationship or similarity to any person or situation is purely coincidental.



Presented by the

“Never Be Ready for Prime Time Players”



- ▶ *Supervisor Brionne Bake*
- ▶ *Sun Power Executive Eddie Solare*
- ▶ *Supervisor Suzy Shake*
- ▶ *Neighbor Mo Toil*
- ▶ *Planning Director Don Durite*
- ▶ *BOS Chair Ida Rule*

SHAKE AND BAKE

Cast



- ▶ If Sup. Bake has disclosed that she is a trust beneficiary on his annual disclosure, does she need to tell Planning Director Durite and the BOS?
- ▶ Can Sup. Bake meet with Planning Director Durite if Sun Power does not attend?
- ▶ Can Sup. Bake make a motion to expedite the Sun Power application?
- ▶ Can Sup. Bake comment on the project if she discloses her trust interest and speaks at citizens' time?



**QUESTIONS – ARE THESE
ACTIONS PROPER UNDER COIA?**

- ▶ Can Sup. Shake meet with Planning Director Durite and his 7 neighbors to discuss the proposed NASCAR project?
- ▶ Can Sup. Shake make the motion to expedite the SUP application for Fast Track?
- ▶ Can Sup. Shake accept and hand out the season tickets from Fast Track?
- ▶ What disclosure, if any, do Shake and Bake have to make?

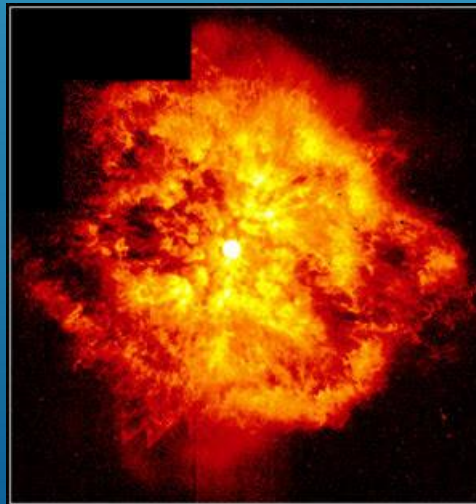


**QUESTIONS – ARE THESE
ACTIONS PROPER UNDER COIA?**

- ▶ Supervisor Jett Pak
- ▶ County Manager Tye Doun
- ▶ Schools Superintendent
- ▶ Shel Cooper

BUILDING TOWARDS THE BIG BANG

Cast



✓39

- ▶ Can Supervisor Pak properly argue for the project with Down?
- ▶ Can Supervisor Pak properly offer the car discount to the Schools?
- ▶ Can County Manager Down return the drone and avoid violation of COIA (2.2-3103.2)
- ▶ Can Supervisor Pak work a discount deal with the Schools?



**QUESTIONS – ARE THESE
ACTIONS PROPER UNDER COIA?**

- ▶ Can Supervisor Pak buy a golf cart from the Schools?
- ▶ What disclosure, if any, does Supervisor Pak have to make?
- ▶ Can Supervisor Pak be involved in Board of Supervisors or Industrial Development Authority discussion of this proposed development? Can she simply speak with County Manager Down?



**QUESTIONS – ARE THESE
ACTIONS PROPER UNDER COIA?**

CATCH ME IF YOU CAN – A GOLDEN CIRCLE

- ▶ Supervisor O.O. Sevin
- ▶ Historic Preservation
Commissioner G. Wash
- ▶ Supervisor Nancy
Nosey
- ▶ County Administrator
M. I. Sixt

Cast



✓ 42

- ▶ Can Sup. Sevin give a suit to Commissioner Wash?
- ▶ Does Comm. Wash have to disclose the gift in his annual disclosure? Or otherwise?
- ▶ If Comm. Wash does not accept the suit, can he still promote Sup. Sevin's idea?
- ▶ Has Sup. Sevin done anything improper in approaching Sup. Nosey?



**QUESTIONS – ARE THESE ACTIONS
PROPER UNDER COIA?**

- ▶ Can Sup. Nosey request the ordinance?
- ▶ Can Sup. Nosey recommend her cousin to Sup. Sevin's niece for a job with her brokerage company?
- ▶ Must Sup. Sevin make any disclosure at this time?
- ▶ Can Sup. Nosey attend the seminar?
- ▶ Must Sup. Nosey make any disclosure at this time?



**QUESTIONS – ARE THESE
ACTIONS PROPER UNDER COIA?**

Enhance citizen confidence in Government...

Avoid being the bad news





QUESTIONS/DISCUSSION

