

Legislative Ethics

A Guide to Minnesota Laws and Rules for House Members and Staff

This information brief summarizes Minnesota laws and rules relating to ethical behavior that apply, or may apply, to House members and staff.

The summary does not include: (1) laws or rules on campaign ethics; (2) legislative policies not embodied in laws or official rules; or (3) laws of general application that do not specifically have reference to members or staff in their official capacity as public officials or employees (the crimes of theft or forgery, for example).

The table beginning on page 2 presents a brief summary of these ethics laws and rules.

The left column of the table lists categories of regulated conduct, while the two columns to the right summarize the current Minnesota standards for each category of conduct. The standards are separated into two columns as follows: standards in the center column clearly and expressly apply to House members or staff; standards in the right column may or may not apply to House members and staff, depending on whether they are considered to be part of a larger named group, like “public officials” or “state employees.” Sometimes it is not clear whether the legislative branch is included in the larger named group.

A legal citation is given for each standard. References are to Minnesota Statutes as amended through 2006 and the Rules of the House 2005-2006.

Detailed summaries follow the table, beginning on page 6.

The detailed summaries of the ethics laws and rules are organized in two categories: state statutes (beginning on page 6) and House rules (beginning on page 12). Within each of these categories, the summaries are organized in numerical order so they are easy to look up from the references contained in the table.

All provisions in Minnesota Statutes, chapter 10A, are enforced by the Campaign Finance and Public Disclosure Board. Its advisory opinions, findings in complaints, and other materials are available at www.cfboard.state.mn.us.

Conduct	Clearly Applies <i>These standards clearly apply to or specifically affect members or legislative employees, either because members or employees are directly named or because they are expressly included in the definition of a larger named group.</i>	May Apply <i>These standards may or may not apply to members or legislative employees, depending upon whether they are considered to be part of a larger group named in the law or rule.</i>
Accepting gifts	House members and employees may not accept specified gifts from lobbyists or principals. Specified exceptions from the ban are listed in the statute. Other exceptions have been identified in advisory opinions of the Campaign Finance and Public Disclosure Board. Minn. Stat. § 10A.071	State employees involved in purchasing or contracting decisions may not accept anything of more than nominal value from a supplier. Minn. Stat. § 15.43
Accepting travel and lodging	House members and employees may not accept travel and lodging from a foreign government, private for-profit business, labor union, registered lobbyist, or any association of such entities, except for the expenses of participating in a meeting or conference. This prohibition does not apply to a member acting in the regular course of nonlegislative employment or business. House Rules 9.21	
Accepting honoraria	<i>Legislators and specified legislative staff:</i> lobbyists must report each honorarium, gift, loan, or benefit of over \$5 value to legislators and legislative staff. Minn. Stat. § 10A.04, subd. 4(c)) <i>House member:</i> may not accept an honorarium (expenses excepted) for any service performed for an individual or organization that has a direct interest in the business of the House. The prohibition does not apply to reimbursement for expenses incurred by a member performing a service. Alleged violations of this rule must be referred to the Ethics Committee. A prohibited honorarium must be returned. House Rules 9.20	

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Accepting extra compensation	Public officers or employees may not intentionally ask, receive, or agree to receive compensation (1) in excess of that allowed by law or (2) where no compensation is allowed. Misdemeanor. Minn. Stat. § 609.45	
Lobbying for compensation	House members may not lobby for compensation. House Rules 9.10	
Representing clients for a fee	Legislators and specified legislative staff must disclose representation of a client for a fee before an individual or agency that has rulemaking authority. Minn. Stat. § 10A.08	
Having a private interest in state contracts and purchases		State employees involved in a purchasing or contracting decision may not have a financial interest in or derive a benefit from a supplier or potential supplier. Minn. Stat. § 15.43 Public officers involved in contracting may not voluntarily have a personal interest in or benefit financially from the contract. Minn. Stat. § 471.87
Reporting economic interests; disclosing conflicts of interest	Legislators and specified legislative staff must file an annual report on economic interests and also must disclose when taking a decision or action that would affect personal financial interests. House members with an immediate interest in a question must not vote on it. Minn. Stats. §§ 10A.07, 10A.09; House Rules 2.05	
Misusing state time, property, or funds		State officers or employees may not sell state property to another state or local officer or employee, except under specified conditions and procedures. Minn. Stat. § 15.054 State employees may not use or allow the use of state time, supplies, or property for the employee's private interest, or any other use not in the interests of the state. See, also "House equipment" on page 5. Minn. Stat. § 43A.38, subd. 4

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Making or paying false claims	<p>Any person who, with intent to defraud, knowingly presents a false claim to a public officer or body is guilty of an attempt to commit theft of public funds. Punishable by up to five years in prison and/or a fine of up to \$10,000. Attempted crimes are subject to one-half of the maximum penalty. (See below, "Theft of public funds.") Minn. Stats. §§ 609.465 and 609.52, subd. 3</p> <p>Public officers or employees may not knowingly allow or pay a false or fraudulent claim against a government agency. Punishable by up to five years in prison and/or a fine of up to \$10,000. Minn. Stat. § 609.455</p>	
Failing to remit state funds	<p>Any person who receives money on behalf of or for the account of a public entity may not intentionally refuse or omit to pay the money to the public entity. Punishable by up to five years in prison and/or a fine of up to \$10,000. Minn. Stat. § 609.445</p>	
Theft of public funds	<p>Any person convicted of theft of any amount of public funds up to \$2,500 may be sentenced to up to five years in prison and/or a fine of up to \$10,000. Thefts in excess of \$2,500 bear heavier penalties. Minn. Stat. § 609.52, subd. 3, (3), (d), (iv)</p>	
Taking or making bribes	<p>Public officers or employees may not be bribed or accept a bribe. Punishable by up to ten years in prison and/or a fine of up to \$20,000. Legislators convicted of bribery forever forfeit the right to hold office. Minn. Stat. § 609.42</p>	
Corruptly influencing	<p>Any person who by menace, deception, concealment of facts, or other corrupt means, attempts to influence a legislator may be sentenced to prison for up to five years and/or a fine of up to \$10,000. Minn. Stat. § 609.425</p>	

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Corrupting the state civil service		State employees or other persons may not engage in specified acts (e.g., paying for an appointment) that relate to defrauding the civil service appointments system. Minn. Stat. § 43A.39
Political activity	A legislator, candidate, candidate's principal campaign committee, or a legislative caucus may not solicit or accept a contribution from a registered lobbyist, political committee or fund, or a dissolving principal campaign committee during the regular legislative session. A political party unit may not solicit or receive contributions from the above sources at an event hosted by a candidate for the legislature or constitutional office during the regular legislative session. Punishable by a civil penalty of up to \$1,000. Minn. Stat. § 10A.273; House Rules 9.10	State employees may not, during hours of employment, solicit or receive political contributions or use official authority to compel political contribution or activity. Minn. Stat. § 43A.32, subd. 1
House equipment and time on campaigns	An employee or member of the House may not use House equipment for campaign activities. An employee of the House may not participate in campaign activity during working hours or be obliged to participate in campaign activities. House Rules 9.05	
Open meeting rule violation	A person may submit a complaint to the speaker regarding a violation of the open meeting rule. The speaker must investigate and may refer the matter to the Committee on Ethics. House Rule 6.23	
Misconduct in office	A public officer or employee may not (1) intentionally fail to perform a known mandatory duty; (2) act knowingly in excess of or contrary to lawful authority; (3) under pretense of authority, intentionally or unlawfully injure another's person, property, or rights; or (4) knowingly make a materially false return, certification, official report, or document. Punishable by up to one year in jail and/or a fine of up to \$3,000. Minn. Stat. § 609.43	

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Holding public office illegally	No person may intentionally and unlawfully assume public office or refuse to surrender office to a successor or other authority. Punishable by up to one year in jail and/or a fine of up to \$3,000. Minn. Stat. § 609.44	
Malfeasance/nonfeasance/serious crime	A recall petition may be filed against a state officer on the grounds of intentional commission of an unlawful or wrongful act in the performance of official duties; intentional, repeated failure to perform required official duties; or conviction of specified misdemeanors or gross misdemeanors. Minn. Stat. §§ 211C.01-211C.09	

Detailed Summaries

State Statute (listed in numerical order)

§ 10A.04, subd. 4(c) Each lobbyist must report to the Campaign Finance and Public Disclosure Board the amount, nature, and recipient of each “gift, item, or benefit,” excluding contributions to a candidate, that is worth \$5 or more, given or paid by the lobbyist, or the lobbyist’s employer or employee, to any “official.”

For the legislature, “official” means members and staff (§ 10A.071, subd. 1).

§ 10A.07 A public official (defined above, under § 10A.04) “who in the discharge of official duties would be required to take an action or make a decision that would substantially affect the official’s financial interests or those of an associated business” in a manner greater than the effect on other members of the official’s business classification, profession, or occupations, must: (1) prepare a written statement describing the nature of the conflict of interest; (2) deliver copies of the statement to the official’s immediate superior, if any; and (3) if a legislator, deliver a copy to the presiding officer. If time is too short for a written statement, the individual must orally disclose the conflict of interest to the body of service. A member may request to be excused by the body from taking part in the action or decision; staff must be reassigned if possible. An individual who cannot or is not allowed to abstain must file a statement with the Campaign Finance and Public Disclosure Board within a week.

“Associated business” means any group of two or more persons, besides the official’s immediate family, that acts in concert and that compensates the official more than \$50 in a month, apart from expenses, or in which the official holds securities worth \$2,500 or more (§ 10A.01, subds. 5, 6).

§ 10A.071

A public official may not accept any of the following from a lobbyist or principal (individual or entity that hires a lobbyist): money, real or personal property, or a service, loan, forgiveness of debt, or promise of future employment, unless the public official gives equal or greater value in return.

A public official may accept political contributions, services to assist in the performance of official duties, services of insignificant monetary value, a memento recognizing services in a specialty field or for a charity, a trinket costing \$5 or less, informational material of insignificant value, refreshments served because the individual appeared on a program, a gift given by a lobbyist/principal family member (unless given on behalf of someone who is not a family member), or an item received because of membership in a group, the majority of whose members are not officials.

§ 10A.08

A public official (defined above, under § 10A.04) “who represents a client for a fee before any individual, board, commission, or agency that has rulemaking authority in a hearing conducted under chapter 14, shall disclose the official’s participation in the action to the board within 14 days.” Failure to disclose on time is punishable, after notice, by a late filing fee of \$5 per day up to \$100, beginning on the eleventh day after notice is sent; failure to disclose after subsequent notices can result in up to a \$1,000 civil penalty.

§ 10A.09

Each Senate and House candidate and each “public official” (defined above, under § 10A.04) must file a statement of economic interest with the Campaign Finance and Public Disclosure Board within a certain time period. Public officials must file supplementary statements annually. The statements must disclose the individual’s “associated businesses” (defined above, under § 10A.07), honoraria over \$50, and specified interests in property and investments. Failure to file on time results in a late filing fee of \$5 per day up to \$100, beginning on the eleventh day after notice is sent. Failure to file after a second notice from the board may result in a civil penalty up to \$1,000.

§ 10A.273

“A candidate for the legislature..., [a] candidate’s principal campaign committee, or a political committee or party unit established by all or a part of the party organization within a house of the legislature, must not solicit or accept a contribution from a registered lobbyist, political committee, political fund, or dissolving principal campaign committee, or from a party unit established by all or a part of the party organization within a house of the legislature, during a regular session of the legislature.”

A political party unit must not solicit or receive at an event hosted by a candidate for the legislature or for constitutional office a contribution from a lobbyist, political committee, political fund, or party unit during a regular legislative session.

A violator is subject to a civil penalty of up to \$1,000, in an action brought in Ramsey County by the Campaign Finance and Public Disclosure Board or by the county attorney at the request of the board.

The restriction does not apply during a special session or during the interim between the two annual sessions of a biennium. The restriction does not apply to a candidate or a candidate’s principal campaign committee during a legislative special election.

§ 15.054

“No officer or employee of the state or any of its political subdivisions” may sell to any other officer or employee of the state or political subdivision any state property, except under specified conditions. Conditions and procedures for an allowed sale include reasonable public notice at a public auction or by sealed bid to the highest responsible bidder if the purchaser is uninvolved in the auction or bid process. A public employee may purchase not more than one motor vehicle annually. Violation is a misdemeanor.

§ 15.43

“No employee of the state...in direct contact with suppliers or potential suppliers to the state..., or who may directly or indirectly influence a purchasing decision or contract by establishing specification, testing purchased products, evaluating contracted services, or who otherwise has official involvement in the purchasing or contracting process may: (1) have any financial interest or have any personal beneficial interest directly or indirectly in contracts or purchase orders for goods or services used by, or purchased for resale or furnished to a department or agency of the state...; or (2) accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than items of nominal value. No such employee may further accept any promise, obligation, or contract for future reward.” A violation is a misdemeanor.

§ 43A.32, subd. 1 “No employee shall, directly or indirectly, during hours of employment solicit or receive funds for political purposes, or use official authority or influence to compel an employee in the classified service to apply for membership in or become a member of any political organization, to pay or promise to pay any assessment, subscription, or contribution or to take part in any political activity.”

“Employee” is defined in chapter 43A of the statutes to include persons in all three branches of government (§ 43A.02, subds. 10, 21). However, other provisions of chapter 43A (e.g., §§ 43A.32, subds. 2, 3; 43A.39, subd. 1(e)) suggest that this provision may apply only to classified employees. If the provision applies only to classified employees, it does not apply to legislators or legislative staff. A Ramsey County district court judge so ruled in a 1996 case.

§ 43A.38, subd. 4 “An employee shall not use or allow the use of state time, supplies, or state owned or leased property and equipment for the employee’s private interests or any other use not in the interest of the state, except as provided by law.”

This provision probably applies to legislative staff; it may also apply to legislators, though that is less clear. Additional language in the subdivision, not reproduced here, allows limited use of state property for electronic communication and specifically refers to the legislative branch in this regard. Other subdivisions in section 43A.38 use the term “employee in the executive branch,” while subdivision 4 uses the term “employee” unmodified. On the meaning of the term “employee” under chapter 43A, see also section 43A.32, above.

§ 43A.39 “No employee or any other person shall intentionally: (a) Make any false oral or written statement...or report concerning any application...or appointment made under the provisions of this chapter or in any manner commit or attempt to commit any fraud preventing the impartial execution of this chapter; (b) Directly or indirectly, give, render, pay, offer, solicit, or accept any money, service, or other valuable consideration for any appointment...or...promotion to...a position in the civil service; (c) Defeat, deceive, or obstruct any person in rights...under this chapter, or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person...in the classified service....” Violators are subject to discipline and to enforcement action under chapter 609 of the statutes. Conviction of a crime based on violations of chapter 43A bars the person from the civil service for three years.

This provision probably applies to legislative employees; it may also apply to legislators, though that is less clear. On the meaning of the term “employee” under chapter 43A of the statutes, see above, under sections 43A.32 and 43A.38.

**§§ 211C.01-
211C.09**

Intentional commission of an unlawful or wrongful act in the performance of official duties; intentional, repeated failure to perform required official duties; or conviction of specified misdemeanors or gross misdemeanors are grounds for filing a recall petition in sections 211C.01 to 211C.09.

§ 471.87

A “public officer who is authorized to take part in any manner in making any sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract in official capacity shall not voluntarily have a personal financial interest in that sale, lease, or contract or personally benefit financially therefrom.” A violation is a gross misdemeanor. Exceptions to the prohibition are listed in section 471.88.

This provision appears in a chapter of the statutes governing municipalities, but it uses a generic term—“public officer”—which does not exclude state executive and legislative officers.

§ 609.42

“Whoever does any of the following is guilty of bribery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both: (1) offers, gives, or promises to give, directly or indirectly, to any person who is a public officer or employee any benefit, reward, or consideration to which the person is not legally entitled with intent thereby to influence the person’s performance of the powers or duties of such officer or employee; or (2) being a public officer or employee, requests, receives, or agrees to receive, directly or indirectly, any such benefit, reward, or consideration upon the understanding that it will have such an influence....”

“Any public officer who is convicted of [bribery] shall forfeit the public officer’s office and be forever disqualified from holding public office under the state.”¹

For purposes of chapter 609 of the statutes, “public officer” includes legislators, and “public employee” includes employees of the legislature (§ 609.415, subd. 1).

§ 609.425

“Whoever by menace, deception, concealment of facts, or other corrupt means, attempts to influence the vote or other performance of duty of any member of the legislature or person elected thereto may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.”

¹ A statute similar to this was held unconstitutional in *Pavlak v. Growe*, 284 N.W.2d 174 (Minn. 1979).

§ 609.43 “A public officer or employee who does any of the following, for which no other sentence is specifically provided by law, may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both: (1) intentionally fails or refuses to perform a known mandatory, nondiscretionary, ministerial duty of the office or employment within the time or in the manner required by law; or (2) in the capacity of such officer or employee, does an act knowing it is in excess of lawful authority or knowing it is forbidden by law to be done in that capacity; or (3) under pretense or color of official authority intentionally and unlawfully injures another in the other’s person, property, or rights; or (4) in the capacity of such officer or employee, makes a return, certificate, official report, or other like document having knowledge that it is false in any material respect.”

“Public officer or employee” includes legislators and legislative staff (See above, under § 609.42).

§ 609.44 “Whoever intentionally and without lawful right thereto, exercises a function of a public office or, having held such office and the right thereto having ceased, refuses to surrender the office or its seal, books, papers, or other incidents to a successor or other authority entitled thereto may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.”

§ 609.445 “Whoever receives money on behalf of or for the account of the state or any of its agencies or subdivisions and intentionally refuses or omits to pay the same to the state or its agency or subdivision entitled thereto, or to an officer or agent authorized to receive the same, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.”

§ 609.45 “Whoever is a public officer or public employee and under color of office or employment intentionally asks, receives, or agrees to receive a fee or other compensation in excess of that allowed by law or where no such fee or compensation is allowed, is guilty of a misdemeanor.”

“Public officer” and “public employee” includes legislators and legislative staff (See above, under § 609.42).

§ 609.455 “A public officer or employee who audits, allows, or pays any claim or demand made upon the state or subdivision thereof or other governmental instrumentality within the state which the public officer or employee knows is false or fraudulent in whole or in part, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000 or both.”

“Public officer or employee” includes legislators and legislative staff (See above, under § 609.42).

- § 609.465** “Whoever, with intent to defraud, presents a claim or demand, with knowledge that it is false in whole or in part, for audit, allowance, or payment to a public officer or body authorized to make such audit, allowance, or payment is guilty of an attempt to commit theft of public funds and may be sentenced accordingly” (See below, § 609.52).
- § 609.52, subd. 3** This subdivision prescribes sentences for various categories and amounts of thefts; generally speaking, the severity of the sentences rises with the amount of the theft (less than \$200, \$200-500, \$500-2,500, \$2,500-35,000, over \$35,000). Ordinarily theft of less than \$500 is punishable by up to one year in jail and/or a fine of up to \$3,000 (gross misdemeanor), or less. Subdivision 3, clause (3)(d), however, prescribes an extraordinary sentence for theft of public funds of any amount: imprisonment for up to five years or a fine of up to \$10,000, or both, when “(d) the value of the property or services stolen is not more than \$500, and...(iv) the property consists of public funds belonging to the state or to any political subdivision or agency thereof...”

House Rule (listed in numerical order)

- 2.05** “A member who has an immediate interest in a question must not vote on it.
- Every other member present before the result of a vote is declared by the presiding officer must vote for or against the matter before the House, unless the House excuses the member from voting...”
- 9.05** “An employee of the House must not participate in campaign activity during working hours. An employee must not be obliged to participate in campaign activities as a condition of employment. A member is not an employee of the House for purposes of this Rule. House equipment must not be used for campaign activities. The Committee on Rules and Legislative Administration must define the terms of and implement this Rule.”
- The Committee on Rules and Legislative Administration has adopted a House policy implementing this rule.
- 9.10** “During regular session, a member of the House, the member’s principal campaign committee, a political committee with the member’s name or title, or a committee authorized by the member that benefits the member, must not solicit or accept a contribution from a registered lobbyist, political committee, or political fund.
- A member must not accept compensation for lobbying.”

9.20

“A member must not accept an honorarium for a service performed for an individual or organization that has a direct interest in the business of the House, including but not limited to, a registered lobbyist or an organization a lobbyist represents. The term honorarium does not include reimbursement for expenses incurred and actually paid by a member in performing a service.

Alleged violations of this Rule must be referred to the Committee on Ethics under Rule 6.10. If the Committee on Ethics finds that an honorarium was accepted in violation of this Rule, the Committee must direct its return. If it is not returned, the committee may recommend disciplinary action under Rule 6.10.”

9.21

“A member or employee of the House must not accept travel and lodging from any foreign government, private for-profit business, labor union, registered lobbyist, or any association thereof, except payment permitted by law for expenses that relate to the member’s or employee’s participation as a legislator or legislative employee in a meeting or conference. This Rule does not apply to travel and lodging provided to a member in the regular course of the member’s employment or business.”

For more information about legislative ethics, visit the legislature area of our web site, www.house.leg.state.mn.us/hrd/issinfo/gv_leg.htm or the web site of the Campaign Finance and Public Disclosure Board, www.cfboard.state.mn.us.