

AVOIDING THE \$10,000.00 FINE

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SOUTH CAROLINA ETHICS COMMISSION

PRIOR TO APRIL, 2017

Nine commissioners appointed by the governor.

The commission had no authority over members of the General Assembly.

CURRENT COMPOSITION

8 commissioners appointed; 4 by the Governor, 1 by House Democrats, 1 by Senate Democrats, 1 by House Republicans and 1 by Senate Republicans.

The commission has the authority to investigate complaints against members of the General Assembly.

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Who Does the Act Cover?

- Public Officials
 - Any elected or appointed official of the state (excluding judges) and any candidate for such office.
- Public Members
 - An individual appointed to a noncompensated, part-time position on a board, commission or council.
- Public Employees
 - Any person employed by the state.

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STATEMENTS OF ECONOMIC INTERESTS

Every school board member *must* file an SEI every year.

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WHEN TO FILE YOUR SEI

- WHEN FIRST ELECTED: FILE BEFORE ASSUMING YOUR RESPONSIBILITIES.
- EVERY YEAR THAT YOU'RE ON THE BOARD: FILE BY MARCH 30TH.

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Information Required On Your SEI

- The source, type, and amount or value of income, not to include tax refunds, of substantial monetary value received from a governmental entity by the filer or the filer's immediate family.
- Description, value and location of real property owned/options to purchase real property by filer or immediate family if:
 - Public improvements were made in excess of \$200.00
 - OR
 - The interest can reasonably be expected to be the subject of a conflict of interest.
 - If a sale, lease, or rental of personal property is to a state, county or municipal instrumentality of government, a copy of the contract, lease or rental agreement must be attached to the SEI.

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Information Required On Your SEI

The name of each organization which paid for or reimbursed actual expenses of the filer for speaking before a public or private group, the amount of such payment or reimbursement, and the purpose, date and location of the speaking engagement.

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The screenshot displays the SC State Ethics Commission's public disclosure page for a Statement of Economic Interests Report. The report is for Nikki R. Haley, filed in 2012. The 'Income & Benefits' tab is selected, showing a table with the following data:

| Source | Type | Amount / Value | Miscellaneous |
|-------------------------|---|----------------|-----------------|
| State of South Carolina | Income State or Local Government | \$94,147.51 | Personal Income |
| State of South Carolina | use of state car State or Local Government | \$1.00 | Personal Income |
| State of South Carolina | use of state plane State or Local Government | \$1.00 | Personal Income |
| State of South Carolina | use of state residence State or Local Government | \$1.00 | Personal Income |
| Penguin Group USA | book advance State or Local Government | \$200,000.00 | Personal Income |

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QUARTERLY CAMPAIGN DISCLOSURES

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REQUIRED INFORMATION ON CAMPAIGN DISCLOSURES

- Total amount of contributions accepted.
 - Date and amount of each contribution.
 - Name, address and occupation of each person making a contribution.
- Total amount of expenditures made.
 - Name and address of each person/entity to whom an expenditure is made.
 - The date, amount and purpose of each beneficiary of an expenditure.

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Campaign Expenditures and Cash

8-13-1348

A campaign expenditure more than \$25 must be made by (1) written instrument, (b) debit card, or (c) an online transfer.

A campaign expenditure of less than \$25 must be account for “by a written receipt or written record.”

A candidate may not withdraw more than \$100 from a campaign account to establish or replenish a petty cash fund. At no time may a petty cash fund exceed \$100.

Expenditures from a petty cash fund may only be used for office supplies, food, transportation expenses, and “other necessities” and may not exceed \$25 for each expenditure.

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WHEN TO FILE A CAMPAIGN DISCLOSURE

- When you raise and/or expend five hundred dollars or more, you must file an initial certified campaign report.
- After filing an initial report, campaign reports must be filed within ten days following the end of each calendar quarter.
- Campaign reports must be filed for each quarter in which contributions are received or expenditures are made until a campaign account undergoes final disbursement.
- At least fifteen days, but not more that twenty days, before an election a candidate must file a campaign report showing contributions of more than one hundred dollars and expenditures for the period ending twenty days before the election.

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The screenshot shows the South Carolina State Ethics Commission website. The main heading is "SOUTH CAROLINA State Ethics Commission Public Disclosure and Accountability Reporting System". The page is titled "Individual Reports Candidate Campaign Disclosure" and shows a "2017, January 10th Report" for candidate Haley, Nikki. The report details include: Position Sought: Governor, Election Type: General, Election Date: 06/10/2014, Filing Type: Original, and Filing Date: 01/17/2017. A message states: "*** No Contributions Reported. ***". Navigation options include "Back" and "Open Full Report >".

Quarterly Campaign Disclosure

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CLOSING YOUR CAMPAIGN ACCOUNT

- You must file quarterly campaign disclosures until you close down your campaign account.
- You can close down your campaign account when you have a zero balance in your account. You can achieve a zero balance in the following ways:
 - Contribute to the Children’s Trust Fund or another 501(c)(3).
 - Returned pro rata to all contributors
 - Contributed to the state’s general fund

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NONCOMPLIANCE

- Remember that this covers information from the previous year.
- Due upon assumption of official duties and then by March 30th of each calendar year.

PENALTIES

- Initial \$100.00 penalty.
- After certified letter is delivered: \$10.00 dollars a day after ten days.
- After ten days: \$100.00 day until maximum penalty of \$5,000.00 is reached.
- There may also be a complaint filed which means possible additional fines and fees.

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NONDISCLOSURE

- Must disclose all information required in your SEI.
- If you fail to disclose the required information, you may be given a chance to correct the omission.

PENALTIES

- Maximum fine of \$2,000.00
- Complaint can be filed which may mean additional fees.

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INFLUENCING THE OUTCOME OF AN ELECTION

No person may use government funds, property or time to influence the outcome of an election.

This includes using government time and resources to influence the outcome of an election or ballot measure. For purposes of this statute, ballot measure means:

Referendum, proposition, or measure submitted to voters for their approval.

This is not a prohibition against a governmental entity preparing informational materials, conducting public meetings or responding to news media or citizens' inquiries concerning a ballot measure affecting the governmental entity.

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CONFLICTS OF INTEREST

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SELF DEALING AND NEPOTISM

- Section 8-13-700(A)
 - "No public official, public member, or public employee may knowingly use his official office, membership, or employment to obtain an economic interest for himself, a family member, an individual with whom he is associated, or a business with which he is associated."
 - Exception for incidental use not resulting in additional public expense.
- Section 8-13-700(B)
 - "No public official, public member, or public employee may make, participate in making, or in any way attempt to use his office, membership, or employment to influence a governmental decision in which he, a family member, an individual with whom he is associated, or a business with which he is associated has an economic interest."

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FAMILY MEMBERS

Your spouse, parent, brother, sister, child, mother-in-law, son-in-law, brother-in-law, sister-in-law, grandparent or grandchild.

Dictionary defines brother-in-law as:

- a - the husband of one's sibling
- b - the husband of one's spouse's sibling

ECONOMIC INTEREST

An interest distinct from that of the general public in a purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a public official, public member, or public employee may gain an economic benefit of fifty dollars or more.

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PERSON WITH WHOM YOU ARE ASSOCIATED

An individual with whom the person or a member of his immediate family mutually has an interest in any business of which the person or a member of his immediate family is a director, officer, owner, employee, compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

BUSINESS WITH WHICH YOU ARE ASSOCIATED

A business of which the person, or a member of his immediate family, is a director, an officer, owner, employee, a compensated agent, or holder of stock worth one hundred thousand dollars or more at fair market value and which constitutes five percent or more of the total outstanding stock of any class.

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Violations of 740

- Representing a person before any agency, unit or subunit of your board for which the public official has official responsibility except as required by law.
 - Applies unless representation occurs in the normal course of business, is ministerial or is personal in nature.

PENALTIES

- Maximum fine of \$2,000.00

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WHEN IN DOUBT...

If you are unsure of your duties under
the South Carolina Ethics Act...

DO NOT ACT

Take the following steps:

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EVALUATE WHAT, IF ANY, CONFLICT YOU HAVE

- 1) Is there an economic interest for you?
- 2) Is there an economic interest for a family member of yours?
- 3) Is there an economic interest for a person with whom you are associated?
- 4) Is there an economic interest for a business with which you are associated?

IF YOU ARE NOT SURE OF THE ANSWER TO ANY OF THESE QUESTIONS,
CONTACT US AND REQUEST A FORMAL OR INFORMAL OPINION

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IF YOU HAVE A
CONFLICT THEN
YOU **MUST**
RECUSE
YOURSELF!

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HOW TO RECUSE YOURSELF

- 1) Prepare a written statement describing the matter requiring action or decision and the nature of your potential conflict of interest with respect to the action or decision.
- 2) Public Officials: Furnish a copy to the presiding officer of your board, who shall cause the statement to be printed in the minutes and shall require that you be excused from any votes, deliberation and other actions on the matter in question.

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REQUESTING AN OPINION

As a public official, you can request either an informal or formal opinion from the State Ethics Commission.

A formal opinion is issued by the Commission and is binding.

An informal opinion issued by Commission staff is not binding,

For sensitive matters, you may request a confidential formal or informal opinion. Requests must be made in writing.

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Opinions You Need to Know

SEC AO 92-071: The State Ethics Commission would advise that public employees or officials weigh the impact on a case by case basis of offers by vendors who have contracts with a school district to provide meals, golf outings, etc. Vendors may sponsor conference activities in accordance with sponsor solicitation guidelines established in Advisory Opinion SEC AO92-061.

SEC AO 92-134: A family member of a school board member may continue as an employee of the school district without violating the Ethics Reform Act. A family member of a school board member may be hired by the school district provided the member does not cause the employment or participate in the employment of the family member. School board members who have family members employed within the school district may vote on general salary increases for school employees but may not participate in salary raises for the family member which are not general salary increases.

SEC AO 93-072: The spouse of a school board chairman may be hired as a principal within the chairman's district, provided the chairman takes no action regarding the hiring and has no supervisory or management authority over his spouse.

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