

Quick Reference to Advisory Board Conflicts, Disclosures and Waivers as Required by The Palm Beach County Code of Ethics

Board Type		Contract Oversight?		Code Requirement
Purely Advisory	+	YES	=	Waiver
Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	NO	=	Disclosure
Not Purely Advisory	+	YES	=	Prohibited

What Type of Board do you serve? Purely Advisory or Not Purely Advisory

Most governments create other boards to assist in various decision making processes. They are often referred to generally as advisory boards, though some of them are not purely advisory. What's the difference?

- A **purely advisory board** is authorized only to make recommendations to some other board, like the governing body, or perhaps a government administrator or hearing officer.
- A board that is **not purely advisory** is authorized to make final decisions. A final decision does not go to any other arm of the government. These decisions can be challenged only in circuit court. Some boards have both functions. We use the term "purely" to emphasize that a board with any measure of final decision making authority is **not** purely advisory. Your staff liaison can answer any question you have regarding the nature of your board.

Does your board have Contract Oversight?

If you, your employer, or your own business has a contract with the government that created your board, you must determine whether your board will have anything to do with this contract. If your board will play any role in the oversight, regulation, management, or policy-setting recommendations regarding this contract, then your board exercises contract oversight for the purposes of this chart. The same considerations apply if you already serve on a board and you, your employer, or you own business seeks to contract with the government. There are exceptions. Page two lists those contracts that are not subject to the requirements of this chart.

What does the Code require? There are three possible outcomes in the above chart. (The exceptions and waiver section of the Code of Ethics is listed on the next page)

- A **waiver** will require the governing body, upon full disclosure of the contract at a public meeting, to waive the conflict. If you were appointed by the entire governing body, a majority plus one is required. If you were appointed by only one board member, that board member alone can waive the conflict.
- **Disclosure** requires only that the existence of the contract is made public. This should occur either at the time of your appointment, or when the subject contract is approved.
- If the chart indicates "**prohibited**" for your situation, you must **decline the appointment or terminate the contract**. If the possibility of the contract occurs after you have been appointed, you must resign from the board or withdraw the offer to contract with the government.

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EXCEPTIONS:

Section 2-443. Prohibited Conduct.

(e) *Exceptions and waiver.*

- (1) The business is awarded under a system of sealed, competitive bidding to the lowest bidder and:
 - a. The official or employee or member of his or her household has in no way participated in the determination of the bid specifications or the determination of the lowest bidder;
 - b. The official or employee or member of his or her household has in no way used or attempted to use the official or employee's influence to persuade the agency, governmental entity or any personnel thereof to enter such a contract other than by the mere submission of the bid; and
 - c. The official or employee, prior to or at the time of the submission of the bid, has filed a statement with the supervisor of elections and the commission on ethics, disclosing the nature of the interest in the outside employer or business submitting the bid.
- (2) An emergency purchase or contract which would otherwise violate a provision of subsection (d) must be made in order to protect the health, safety, or welfare of the citizens of the county or municipality as applicable.
- (3) The outside employer or business involved is the only source of supply within the county or municipality as applicable and there is full disclosure by the official or employee of his or her interest in the outside employer or business to the county or municipality as applicable and the ethics commission prior to the purchase, rental, sale, leasing, or other business being transacted.
- (4) The total amount of the contracts or transactions in the aggregate between the outside employer or business and the county or municipality as applicable does not exceed five hundred dollars (\$500) per calendar year.