

Memorandum to Municipal Clients
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interest from serving on an unpaid board, if no exemption is available. Section 6.02(1)(a) of the Regulations now provides, however, that someone with a pre-existing financial interest in a contract with the municipality may serve in an uncompensated position or volunteer board without needing to meet a §20 exemption.

Chapter 268A, §17 can also restrict volunteer public service options. Section 17(a) prohibits a municipal employee from receiving compensation from anyone other than the municipality in a matter in which the city or town has a direct interest. If an individual's business is involved with a project of interest with a town, for example, he may be prohibited from having a volunteer position to the town because an inadvertent §17 violation can result. Section 6.02(1)(b) of the Regulations provides, however, that a person with compensated non-public employment may serve in an uncompensated office and still receive their compensation, even if it would otherwise violate §17(a).

2. Involvement with Non-Profit Organizations

Section 17(c) prohibits a municipal employee from acting as an "agent or attorney" for anyone other than the municipality in a matter in which the municipality has an interest. One example of how this can cause a conflict is where a public official wishes to serve on a board of a non-profit organization which interacts with municipal government ("Friends of the Public Library," for example), even where the non-profit's articles of organization provide for a municipal representative. The public official would also be prohibited by G.L. c.268A, §19 from participating in matters involving the organization's financial interests. This conflict now has a partial exemption. Section 17(c) will still prevent the municipal employee from acting as agent or spokesperson for the private organization in dealing with the municipality. Section 6.08(2) of the Regulations now provides, however, that if a non-elected city or town official is appointed to the board of a non-profit organization to serve as the municipal agency's representative on that board, he may now act in his public capacity on matters in which the non-profit has a financial interest without violating §19.

3. Conveying Real Property to Municipality

Private property owners may wish, for a variety of reasons, to convey to a municipality either a parcel of real property or a conservation or other use restriction on the parcel, to preserve it as open space, for example. Since G.L. c.268A, §20 prohibits municipal employees from having a financial interest in a contract with their city or town, however, it is difficult for a public official or employee to make such a conveyance, and the statutory exemptions in §20 often do not apply. Section 6.10 of the regulations now provides that such a transaction does not violate §20, provided that the municipal employee "does not participate in or have official responsibility for the agency's process of recommending or selecting properties on which to acquire such [property interests], or for decision-making with respect to such recommendation and selection" and files a written disclosure of the contract with the city or town clerk.