Ethics and Disclosure Act

What is the overall purpose of the Act?

- To prevent corruption and abuse of public positions.
- “No public official, public member or public employee shall use his office or position for his private benefit.” Wyo. Stat. Ann. § 9-13-103(a).
- “Private benefit” means “the receipt by the public official, public member or public employee of a gift which resulted from his holding that office.” Id. § 9-13-103(b).
Wyoming Statute Annotated § 9-13-102 provides a **comprehensive** list of definitions under this Act.

Definitions are provided for terms including:

- “Anything of value”
- “Compensation”
- “Family member”
- “Gift”
- “Local office”
- “Negotiating” for employment
- “Official responsibility” or “official capacity”
- “Participation”
- “Public employee,” “public member,” and “public official”
- “State entity” and “state office”
Official decisions and votes

- A public official, public member or public employee “shall not make an official decision or vote on an official decision if the public official, public member or public employee has a personal or private interest in the matter.” Wyo. Stat. Ann. § 9-13-106(a).
  - In determining whether he has a personal or private interest in a matter the public official “shall recognize the importance of his right to represent his constituency and shall abstain from voting only in clear cases of a personal or private interest as defined in this subsection.” Id.
  - A public official or public member shall not “vote to give money or any direct financial benefit to himself except for tax reductions affecting the general public.” Id.
Official decisions and votes (continued)

• Under the Act, a personal or private interest:
  o “Is, with respect to the public official, public employee or public member, an interest which is direct and immediate as opposed to speculative and remote.” *Id.* § 9-13-106(a)(i).
  o “Is an interest that provides the public official, public employee or public member, a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.” *Id.* § 9-13-106(a)(ii).
  o If either of these conditions exists, then the public person “shall abstain from voting on the decision and from making any official decision in the matter.” *Id.* § 9-13-106(b).
    ▪ This abstention from voting “must be recorded in the governmental entity's official records.” *Id.*
A public official, public member or public employee “shall not use public funds, time, personnel, facilities or equipment for his private benefit or that of another unless the use is authorized by law.” Wyo. Stat. Ann. § 9-13-105(a).

Or, if the use is “[p]roperly incidental to another activity required or authorized by law and the public official, public employee or public member allocates and reimburses the governmental entity for any additional costs incurred for that portion of the activity not required or authorized by law.” Id. § 9-13-105(b).
A public official, public member or public employee “shall not disseminate to another person official information which the public official, public employee or public member obtains through or in connection with his position, unless the information is available to the general public or unless the dissemination is authorized by law.” Wyo. Stat. Ann. § 9-13-105(c).

- Insider trading, white collar crime, etc.
Nepotism

  - “No public official, public member or public employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member to an office or position of the state, a county, municipality or a school district.”
  - “A public official, public member or public employee shall not supervise or manage a family member who is in an office or position of the state, a county, municipality or school district.”
  - “A public official, public member or public employee, acting in his official capacity, shall not participate in his official responsibility or capacity regarding a matter relating to the employment or discipline of a family member.”
A public official, public member or public employee may not “vote or take an official action in a matter affecting a person with whom the public official, public member or public employee is negotiating for prospective employment.” Wyo. Stat. Ann. § 9-13-107.

- No case law interpreting this, but based upon the language there could be 2 situations that are impermissible:
  - 1. (Most obvious): The public person may not undertake an action for a potential employer (i.e. an employer he recently applied to) in order to “curry favor” from that potential employer.
  - 2. (Perhaps not so obvious): A public person who serves as an employer/hirer shall not undertake an action vis-à-vis someone who has applied to him for a job which could alter the employment-negotiation dynamics.
Penalties

- A number of penalties may result from violations of the Act pursuant, to Wyo. Stat. Ann. § 9-13-109:
  - A misdemeanor conviction, punishable by a fine of not more than $1,000.00.
  - Violation of any provision of the Act “constitutes sufficient cause for termination of a public employee's employment or for removal of a public official or public member from his office or position.”
  - “If any action is prohibited both by this act and any provision of title 6, the provisions of this act shall not apply and the provisions of title 6 shall apply.”
    - Translation: If a person’s action violates **both** the Ethics and Disclosure Act **and** a different criminal statute, then the person will face the **more serious charges.**
      - For example, felony charges for blackmail, fraud, identity theft, etc.