

INTERPRETIVE RULING 2025-5
Ethics Scenarios
(April 7, 2025)

The Committee believes that the following hypothetical scenarios may be helpful in understanding the conflict of interest disclosure procedure and recusal requirements and knowing when disclosing financial interests on the Financial Disclosure Form, filing a Declaration of Intent Form, making a verbal disclosure, or recusing are required. *The Committee is issuing these scenarios to provide general guidance. Individual circumstances may dictate specific responses that differ from those presented below. The Committee is available to provide advice with respect to specific situations as they arise.*

(1) A legislator is a retired state employee belonging to Group 1 of the New Hampshire Retirement System (“NHRS”). A bill would provide a cost of living adjustment (“COLA”) to all NHRS retirees for amounts up to \$50,000 but not affecting contribution levels or future expected benefits of members who have not yet retired.

Financial Disclosure Form’s “Checklist”? - Yes. The Committee has previously held that legislators, or legislators who have a household member, who are retired NHRS members collecting benefits or active members making contributions, have a financial interest which must be disclosed on the Financial Disclosure Form filed at the beginning of the legislative biennium. The membership should be reported under “(g) The New Hampshire Retirement System.”

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes. The legislator is required to report recusal.

Recusal? – Yes. As the retired legislator would qualify to receive the proposed COLA, the legislator could reasonably be expected to incur a direct and substantial financial benefit. Recusal would be required by RSA 14-C:4-a, I, and the legislator would be required to refrain from participating in any legislative activities involving the bill.

(2) A legislator is the parent of a child who is currently enrolled in the New Hampshire public school system. Under current law, the legislator’s income exceeds the threshold that allows participation in the Education Freedom Account (“EFA”) program. A bill would remove that income cap and allow the legislator’s child to become eligible to participate in the EFA program.

Financial Disclosure Form’s “Checklist”? – No.

Verbal disclosure? – No.

Declaration of Intent? – No.

Recusal? No. Parents who have children attending NH public schools constitute a sufficiently broad cross-section of society. The legislator’s financial interest would not be considered *distinct from* nor *greater than* the public at large.

(3) A legislator serves on the governing board of nonprofit entity. The legislator receives no compensation for serving on the board. The nonprofit receives revenue from charitable gaming. There is a bill that caps charitable gaming grants to such entities at \$50,000 per year.

Financial Disclosure Form’s “Checklist”? – No. Only “financial interests” are required to be reported on the Financial Disclosure Form. In this example, the legislator is not compensated for serving on the board and therefore has no financial interest. However, the legislator presumably has a **fiduciary** responsibility for the welfare of the nonprofit entity. This creates a **non-financial personal interest** in the outcome of the legislation. The legislator would be required to either disclose this non-financial personal interest on the **General Disclosure of Non-Financial Personal Interests Form** or file a **Declaration of Intent Form** prior to participating in official activities related to the bill.

Verbal disclosure? – Yes. When a legislator becomes aware of a non-financial personal interest in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? -Yes, if the legislator had not previously reported the non-financial personal interest on the General Disclosure of Non-Financial Personal Interests Form.

Recusal? – No. Recusal is not required for non-financial personal interests.

(4) A legislator serves in an uncompensated capacity on the board of a for-profit nursing home. A bill increases Medicaid rates for long term care.

Financial Disclosure Form’s “Checklist”? – No, because the legislator is not compensated for serving on the board. The legislator does not have a financial interest but may have a non-financial personal interest that could be reported on the General Disclosure of Non-Financial Personal Interests Form.

Verbal disclosure? – Yes. When a legislator becomes aware of a non-financial personal interest in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? Yes, if the legislator had not previously reported the non-financial personal interest on the General Disclosure of Non-Financial Personal Interests Form.

Recusal? - No. Recusal is not required for non-financial personal interests.

(5) A legislator owns rental properties in NH. A bill would require landlords to give at-will tenants a 60-day notice of intent to evict.

Financial Disclosure Form’s “Checklist”? – Yes. The ownership should be reported under “(d) Real estate, including brokers, agents, developers, and landlords.”

Verbal disclosure? – Yes. When a legislator becomes aware of a financial interest in the outcome of a matter the legislator is required to make a verbal disclosure prior to engaging in verbal advocacy at any meeting of the general court or county delegation.

Declaration of Intent? – No. A declaration of intent form is not required if no benefit or detriment could reasonably be expected to accrue to the legislator, or the legislator's household member, as a member of a business, profession, occupation, or other group, to any greater extent than to any other member of such business, profession, occupation, or other group, provided that disclosure of the legislator's or household member's membership is made in the Financial Disclosure Form.

Recusal? – No. In this scenario, although the legislator-landlord might incur a financial detriment if prevented from executing immediate eviction of a tenant, the potential financial detriment cannot be “reasonably expected” as is required for making recusal mandatory pursuant to RSA 14-C: 4-a, I.

(6) A legislator owns several rental properties in NH. A bill would limit annual rent increases to the rate of inflation, as calculated by the US Bureau of Labor Statistics.

Financial Disclosure Form’s “Checklist”? – Yes. The ownership should be reported under “(d) Real estate, including brokers, agents, developers, and landlords.”

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Holding several units of rental units in the state would likely result in a direct and substantial benefit or detriment and recusal would be required.

(7) A legislator holds title to property subject to current use taxation. There is a bill that would change the formula for taxation, decreasing the amount of taxes to be paid.

Financial Disclosure Form’s “Checklist”? – Yes. The ownership should be reported under “(h) The current use land assessment program.”

Verbal disclosure? – No. The legislator will recuse and will not be participating in verbal advocacy.

Declaration of Intent? – Yes, to report recusal.

Recusal? – Yes. The Committee has previously held that the current use tax system constitutes a financial interest, and therefore a potential conflict of interest, with respect to any official activity pertaining to the tax. The bill can be expected to have a “direct and substantial” financial impact on the legislator, making recusal mandatory.

However, not all current use bills would necessarily require recusal. For example, a change in property classifications, type of vegetation, or method for filing current use liens would probably not have a direct or substantial financial impact. Recusal might not be required in those circumstances, although the legislator would still have a duty to disclose.

For the Committee,
Edward M. Gordon
Chairman