



**MANUAL FOR LOBBYISTS AND EMPLOYERS OF
LOBBYISTS**

(REVISED 2/2011)

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INTRODUCTION

Pursuant to T.C.A. § 3-6-114, the Tennessee Ethics Commission (Commission) is required to publish a manual for lobbyists and employer of lobbyists concerning compliance with the statutes enforced by the Commission. This manual is required to include ethics statutes and regulations, explanations of statutes, requirements of the statutes, examples of applications of the statutes and summary of advisory opinions.

In addition to this manual, the Commission is required to provide an annual ethics course, for lobbyists, concerning compliance with the statutes enforced by the Commission. The Commission has determined that the most effective and efficient method of providing this training class is through a web based training program.

Please note that the examples used in this manual are not meant to be legal advice. After reviewing the manual, if you have questions concerning a specific situation you are encouraged to contact the Commission.

TENNESSEE ETHICS COMMISSION

The Tennessee Ethics Commission was created with the passage of the *Comprehensive Governmental Ethics Reform Act of 2006*, signed into law by Governor Bredesen on February 15, 2006. The Commission's jurisdiction was effective October 1, 2006. Among its many mandates, the Commission has the responsibility to:

- Promulgate rules and regulations (pursuant to the Uniform Administrative Procedures Act) to implement the provisions of the Act;
- Recommend "Guiding Principles of Ethical Conduct" for the General Assembly, the executive agencies, lobbyists, and employers of lobbyists;
- Receive complaints and conduct investigations, in conjunction with the Tennessee Attorney General's office;
- Compel the attendance of witnesses and the production of documents as needed to conduct its investigations;
- Conduct an annual ethics course for supervisory personnel of the Executive Branch, the General Assembly, and lobbyists;
- Provide an ethics manual for lobbyists and employers of lobbyists with the employer of the lobbyist, on its initial Lobbyist Registration Statement, being required to verify receipt of the manual;
- Collect and disseminate Disclosure of Interests Statements for the General Assembly, Governor, Governor's Cabinet, the Constitutional Officers, other state officials, local elected officials and candidates and appointees to such positions;
- Provide public access to the documents and forms filed with the Commission to the extent financially and technologically practical; and
- Provide an annual report to the Governor and the General Assembly by February 1st concerning the administration and enforcement of laws under the jurisdiction of the Commission, including the necessity, or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of the law.

In 2009, the Bureau of Ethics and Campaign Finance was created in order to consolidate management and administrative functions of the Tennessee Ethics Commission and the Registry of Election Finance, in order to save the taxpayers of Tennessee and the regulated entities several hundred thousand dollars per year. The separate six-member boards of the Commission and the Registry continue to exist, with no change in their respective jurisdictions, powers, duties and authority.

SEEKING ADVICE

If you have questions concerning a specific situation after you review the manual you may seek assistance from the Ethics Commission in several ways:

- For simple questions, you may contact the Ethics Commission by e-mail, ethics.counsel@tn.gov, or telephone, (615) 741-7959.
- For a more detailed question, you may request an informal response (IR). (Please note that the Commission may be required to issue an IR, even if not requested, because of the nature of the question.) The facts of the situation must be provided in writing (e-mail or letter). The Commission will respond with an answer, by e-mail, usually within 24 hours. (T.C.A. § 3-6-117)
- For a question that deals with a statute that is subject to interpretation, the Commission must issue a formal advisory opinion (AO). The facts of the situation must be provided in writing. Because AOs are more complex and are issued by the Commission, the response time is longer than for an IR. You may view past AOs by clicking on the link at the bottom left of the training site.

In addition to seeking advice from the Commission, the Commission's website (www.tn.gov/sos/tec) can provide answers to many questions. For example, because lobbyists and employer of lobbyists are subject to gift prohibitions (we will cover this in more detail later) you may want to go to the Commission's website to determine if someone is a lobbyist or employer of a lobbyist.

LOBBYISTS AND EMPLOYERS

Definitions

Below are summaries of important definitions concerning lobbyists and employer of lobbyists. For a complete definition please see the site reference following each summary.

Lobbyist

A lobbyist is a person who communicates, directly or indirectly, with state government officials for the purpose of influencing action by the official for compensation. (T.C.A. § 3-6-301(16) and (18))

The term lobbyist does not include an employee of a governmental entity. However, a third party contracted to lobby for governmental entity is included in the definition of lobbyist. (T.C.A. § 3-6-301(16))

Employer of a Lobbyist (Employer)

Employer of a lobbyist or employer is any person or entity that employs, retains, or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. T.C.A. § 3-6-301(8).

Entities **not** included in the definition of “employer” for registration purposes include:

- Governmental entities. (T.C.A. §3-6-301(16))
- A person or entity that utilizes the services of a volunteer lobbyist whose reimbursement for out-of-pocket expenditures does not exceed ten (10) days.

Compensation

Compensation is “any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, “compensation” does not include salary or reimbursement of an individual whose lobbying is incidental to that person’s regular employment. (T.C.A. § 3-6-301(7))

Volunteer Lobbyist

A volunteer lobbyist is a person who does not receive any compensation for his or her services other than reimbursement of actual out-of-pocket expenses and the reimbursement does not exceed ten (10) days. A volunteer lobbyist is not required to register as a lobbyist. (T.C.A. § 3-6-307(a))

A person who does not receive any compensation for services other than reimbursement of actual out-of-pocket expenses and the reimbursement exceeds ten (10) days is required to register, but is not required to pay the registration fee. (T.C.A. § 3-6-307(b)) The employer of such lobbyist must also register. (T.C.A. § 3-6-307(c))

LOBBYISTS AND EMPLOYERS

Lobbying Firm

A lobbying firm is any corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation. (T.C.A. § 3-6-301(17))

Each individual lobbyist within the firm must register for each “employer”, but the firm is not considered an “employer” of any lobbyist within the firm for employer registration purposes.

Lobbyist Registration

Lobbyists are required to register, each calendar year, not later than seven (7) days after becoming a lobbyist. A lobbyist must register for each employer that hires him or her. Each lobbyist is required to pay a \$150 registration fee for each registration within 30 days after registration. In addition, each lobbyist must pay an annual training fee of \$40 along with his or her first registration. (T.C.A. § 3-6-302)

The registration process for lobbyists is completed on-line. The Commission maintains a website at <https://apps.tn.gov/ilobby/> where lobbyists must complete the registration process. The information listed below is required at the time of registration.

Lobbyist registration information includes:

- His or her full contact information. The lobbyist must also report whether he or she has an immediate family member who is a legislative or executive branch official and whether he or she has any business arrangements with such officials.
- A current photographic portrait, which must be submitted to the Commission within thirty (30) calendar days after registration. This portrait should be submitted in jpeg or gif format, be smaller than 5 megabytes in size, and for best appearance, be 180 by 255 pixels. Portraits should be e-mailed to the Commission at ethics.pics@tn.gov.
- Identifying information concerning the lobbyist’s employers.

The \$150 registration fee, required for each registration, may be paid on-line at the time of registration by credit card, or it may be submitted within 30 days by check or money order. In addition, the annual lobbyist training fee of \$40 must be paid at the time of the first registration.

Lobbyists must update their registration statements within seven (7) days of any event or circumstance that occurs that renders the registration statement inaccurate or incomplete (such as withdrawal). (T.C.A. § 3-6-302(c))

LOBBYISTS AND EMPLOYERS

Employer Registration

Employers of lobbyists are required to register, each calendar year, not later than seven (7) days after becoming an employer. An employer must register for each lobbyist they hire. Each employer is required to pay a \$150 registration fee for each registration within 30 days of registration. (T.C.A. § 3-6-302)

Note that it is not an act of lobbying which triggers the requirement to register, but the act of accepting employment/retainer of employment. (See Advisory Opinion 06-01.) For the purpose of employer registration requirements, the lobbyist has been employed whether the engagement is formal or informal, written or oral.

The registration process for both lobbyists and employers is completed on-line. The Commission maintains a website at <https://apps.tn.gov/ilobby/> where lobbyists/employers must complete the registration process. The information listed below is required at the time of registration.

- The employer's name, address, telephone number, and e-mail address. Note that the names of the individuals performing the functions of chief executive officer and chief financial officer (or equivalent executive) are also required.
- The name and contact information of each Lobbyist authorized to represent the employer are also required; and
- The date that the employer received or downloaded a copy of the Commission's manual for lobbyists and employers of lobbyists must be entered. To meet this requirement, Employers may download the Manual from the Commission's website. Employers with multiple lobbyists need download the manual only once.

The \$150 registration fee, required for each registration, may be paid on-line at the time of registration by credit card, or it may be submitted within 30 days by check or money order.

Employers must update their registration statements within seven (7) days of any event or circumstance that occurs that renders the registration statement inaccurate or incomplete (such as termination of an agreement). (T.C.A. § 3-6-302(c))

Training

Lobbyists are required to complete one (1) ethics course annually. (T.C.A. § 3-6-114(b)). The training is accomplished by an online course accessible through the Commission's website. At the end of the course, there is a certificate of completion that the lobbyist is responsible for

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printing and sending to the Commission. The certificate can also be emailed to ethics.counsel@tn.gov.

Complaint Information

Pursuant to T.C.A. § 3-6-201, the Commission has the authority to receive complaints or initiate complaints on its own. Valid complaints that allege acts within the jurisdiction of the Commission are referred to the Office of Attorney General for investigation. Upon receipt of the report of investigation by the Attorney General, the Commission shall conduct a probable cause hearing which, by statute, is not open to the public. If the Commission finds probable cause, a public hearing must be conducted.

Random Audits of Lobbyist Registrations

The Commission is required to conduct audits each year of no more than 4% of all lobbyists. The overall objective of the audit is to determine whether the statements, amendments, and reports filed concerning the lobbyist were timely, accurate, complete, and otherwise in compliance with the Act. Reports subject to audit include cost reports on all-Legislature in-state events in which the lobbyist participated, as well as reports on lobbyist compensation filed by the lobbyist's employer(s). Finally, the Act specifically provides that total lobbying and lobbying related compensation and expenses paid to the lobbyist by an employer are to be checked against the range of expenditures reported by the employer.

In the course of such audit, the Commission may review employer registrations and reports for the purpose of verifying the lobbyist's registration information. However, the Commission may not audit employers unless there is "probable cause" to do so. (T.C.A. § 3-6-308(a)(7))

Lobbying Expenditure Reports

Each Employer, pursuant to T.C.A. § 3-6-303, must file a "Semi-Annual Lobbying Expenditure Report for Employers of Lobbyists" for the preceding six-month period. Reports are filed electronically.

<i>Reporting Period</i>	<i>Due Date</i>
October 1 st through March 31 st	May 15
April 1 st through September 30	November 14

Each section of the report must be completed. The first two sections, total aggregate lobbyist compensation and lobbying related expenses, are reported in ranges. The third section, aggregate total of in-state events, is the total expenditures for events permissible under T.C.A. § 3-6-305(b)(8). The categories include the following:

- **Total Aggregate Lobbyist Compensation:** This category has monetary ranges from less than \$10,000 to \$400,000. If over \$400,000 the amount to the nearest \$50,000 must be

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reported. Note that the amounts to be reported are for compensation actually paid during the reporting period.

The amount reported should include any taxable fringe benefits paid to the lobbyist(s). In addition, the amount reported should include any reimbursement of expenses paid to the lobbyist(s) by the employer. If only a portion of a lobbyist's time is attributable to lobbying than the total compensation for that lobbyist should be multiplied by the percentage of time spent lobbying.

- **Lobbying Related Expenses:** This category has monetary ranges from less than \$10,000 to \$400,000. If over \$400,000 the amount to the nearest \$50,000 must be reported. The total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, **excluding lobbyist compensation**, must be reported.
- **Aggregate Total of All In-State Events:** The aggregate total amount of expenditures for events sponsored in whole or in part by the employer to which the entire membership of the Tennessee General Assembly has been invited under T.C.A. § 3-6-305(b)(8). If the entire membership was **not** invited, then the expenditures for the event would be included in "Lobbying Related Expenses."

PROHIBITIONS

T.C.A § 3-6-304 provides specific prohibitions on lobbyists, employer of lobbyists (employer), or any person acting at the specific direction of an employer or lobbyist.

Anything of Value

No employer, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch, or to the official's immediate family, based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby. (T.C.A § 3-6-304(a))

False Statements

No employer or lobbyist shall make false statement or misrepresentation of the facts concerning any matter for which the lobbyist is registered to lobby to any official in the legislative or executive branch. (T.C.A § 3-6-304(b))

Loans

No lobbyist shall make a loan to a candidate for public office, official in the legislative or executive branch, or to anyone on their behalf. (T.C.A § 3-6-304(d))

Payment for Services or Property

No employer, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business. (T.C.A. § 3-6-304(f))

Credit Card

No employer, lobbyist or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member, or a member of the candidate or official's immediate family, to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control. (T.C.A. § 3-6-304(g))

Lodging Expenses

Except to the extent permissible under § 3-6-305, no employer, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of the official. (T.C.A § 3-6-304(h))

Campaign Contributions

No employer or PAC controlled by an employer shall make any campaign contribution to a candidate for the office of governor or member of the general assembly during any regular annual session or any extraordinary session of the general assembly. (T.C.A § 3-6-304(i))

PROHIBITIONS

No lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative. (T.C.A § 3-6-304(j))

Contingent Fees

No employer shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer. (T.C.A § 3-6-304(k))

Lobbyist Serving in Certain Public Positions

No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission; provided, that this prohibition does not apply to a lobbyist serving on an election commission on February 15, 2006, as long as the lobbyist continuously serves as a member of that commission. (T.C.A. § 3-6-304(m))

GIFTS – IN GENERAL

The general rule is that gifts, direct or indirect, from Employers and Lobbyists to a candidate for public office, an official in the legislative or executive branch (including all employees of both), or the immediate family of the candidate or official **are prohibited**. In addition, these individuals cannot attempt to solicit, directly or indirectly, a gift from a Lobbyist or an Employer. (T.C.A. § 3-6-305)

Over the next several pages, the manual will detail the exemptions to the gift prohibition. When applying these exceptions to the gift ban, you should use caution. If at any time there is a question as to whether a gift qualifies under an exception to the gift ban, you should contact the Commission for advice as detailed in the **Seeking Advice** section of the manual.

EXCEPTIONS TO THE GIFT PROHIBITION

Benefits of Employment

Benefits resulting from business, employment, or other outside activities if such benefits are normally provided to others in similar circumstances and the benefits are not enhanced due to the status of the executive branch employee. (T.C.A. § 3-6-305(b)(1))

Informational Materials

Informational materials in the form of books, articles, periodicals, other forms of written materials, audiotapes, videotapes, or other forms of communications provided to an executive branch employee. (T.C.A. § 3-6-305(b)(2))

Close Personal Friendship

Gifts that are given for a non-business purpose that are motivated by close personal friendship to the extent that the gifts are specifically defined and authorized by the Rules of the Ethics Commission. (T.C.A. § 3-6-305(b)(3))

The Rules of the Commission state that the Commission may consider the following factors when determining if a gift given to an executive branch employee by a lobbyist or employer of a lobbyist is given based on a close personal friendship:

- Whether a lobbyist or an employer of a lobbyist paid for the gift out of their own funds or whether the gift is instead being paid for out of the lobbyist's business account or by an employer of the lobbyist.
- Whether the cost of the gift is taken as a business deduction by the lobbyist or employer of the lobbyist.
- Whether there has been a history of gift giving between the lobbyist or the employer of a lobbyist and the official, candidate or his or her immediate family; and the nature of previous gift giving.
- Whether the official, candidate or immediate family member has reciprocated with a gift to the lobbyist or the employer of the lobbyist in the past, and whether the gift has been of similar value.
- Whether the lobbyist or the employer of a lobbyist provides the same or similar items to other officials, candidates or their immediate families at the same time, who are not close personal friends.
- Whether the timing and circumstances of the gift are appropriate; whether a lobbyist or an employer of a lobbyist has a matter that is currently before the official.
- In the case of a gift given by an individual who works for an employer of a lobbyist, whether the gift-giver is involved in lobbying activities on behalf of the employer.

EXCEPTIONS TO THE GIFT PROHIBITION

Promotional Items

Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or supplies in the ordinary course of business. (T.C.A. § 3-6-305(b)(4))

Honors and Awards

Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, or similar item which may not be readily converted into cash. (T.C.A. § 3-6-305(b)(5))

Benefits Available to the General Public

Opportunities and benefits made available to all members of a class of the general public, including (T.C.A. § 3-6-305(b)(6)):

- Discounts afforded to the general public or specific groups or occupations under normal business conditions.
- Prizes and awards given in public contests
- Benefits of participation in an in-state event sponsored by or for the benefit of a charity provided:
 - The event is open to participation by persons other than executive branch employees, legislative branch employees and their immediate families (benefits received can not be enhanced due to status of the employee) or
 - Invitations are provided to the entire general assembly

Governmental Entities

Expenses for out-of-state travel, if the expenses are paid for by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff. (T.C.A. § 3-6-305(b)(7)(A))

Entertainment, food, refreshments, meals, beverages, amenities, goody bags, health screenings, lodging, admission tickets and promotional items given in the exhibit hall of a conference that are provided as part of a conference if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff. (T.C.A. § 3-6-305(a)(7)(B))

In-State Events for General Assembly

Entertainment, food, refreshments, meals, beverages, or health screenings that are given in connection with an in-state event provided:

- The entire General Assembly is invited

EXCEPTIONS TO THE GIFT PROHIBITION

- An invitation is delivered to each member of the General Assembly at least seven (7) days in advance of the event
- An invitation is delivered to the Ethics Commission at least seven (7) days in advance of the event
- Per person cost of the event (based on the number of persons invited) may not exceed \$55 per person per day, excluding sales tax and gratuity (value of gift may not be reduced by dividing the cost between two or more hosts)

Within 30 days of the event, the employer of the lobbyist hosting the event must report to the Commission the cost of the event. (T.C.A. § 3-6-305(b)(8))

Speaker or Panel Member at In-State Event

Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event provided (T.C.A. § 3-6-305(b)(9)):

- You are a speaker or a panel member at a scheduled meeting of an established and recognized membership organization that has regular meetings
- The entertainment, food, refreshments, meals, amenities, and beverages provided do not exceed \$55 in cost per day

In-State Event Hosted by Employer of Lobbyist

Food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event provided (T.C.A. § 3-6-305(b)(10)):

- The value of the items provided do not exceed \$55 per day (value may not be reduced by dividing by two or more employer of lobbyists)
- If a member of the general assembly attends he or she may not receive per diem on the day of the event and the member may not receive any food or beverages that are not provided to non-members
- An officer or management-level employee of each employer of a lobbyist hosting the event must attend the event

Local Travel

Occasional or incidental local travel for which no fare is ordinarily charged. (T.C.A. § 3-6-305(b)(11))

EXCEPTIONS TO THE GIFT PROHIBITION

Waiver of Registration Fee

The definition of “gift” excludes the waiver of a registration fee for a conference or educational seminar. (T.C.A. § 3-6-301(11))

SAFE HARBOR

If a prohibited gift is received by executive branch employee from a lobbyist or employer of a lobbyist the gift will not be considered a violation if (T.C.A. § 3-6-305(d)):

- The gift is not used and is returned within ten (10) days after receipt of the gift or ten (10) days after learning that the gift is prohibited; or
- The gift is paid for within ten (10) days after receipt of the gift or ten (10) days after learning that the gift is prohibited.

PENALTIES

The Commission may assess a civil penalty against an employer or a lobbyist for failure to timely register or to timely pay a registration fee. The Commission may additionally assess a civil penalty against an employer for failure to timely file an expenditure report. The penalty for a violation of these requirements is up to \$25 per day up to a maximum of \$750.

The Commission may assess a civil penalty of up to \$10,000 against a lobbyist or an employer who knowingly files inaccurate or incomplete statements or reports; an employer who utilizes the services of a lobbyist who is not registered; a lobbyist who lobbies without registering; or a lobbyist or an employer who commits a prohibited act, including campaign contribution restrictions, or violates the gift prohibition.

The Commission may also administratively place on probation status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently (e.g., more than 3 times in a two year period) violates the provisions of T.C.A. §3-6-301 through 308.

Additionally, an intentional violation is a criminal offense and may be prosecuted by the appropriate District Attorney General. The first offense is punishable as a class C misdemeanor, and a violator may face up to 30 days imprisonment and a fine of up to \$50, or both. A second violation is a class B misdemeanor, and a violator may face not more than six months imprisonment and a fine of up to \$500, or both. A third violation is a class A misdemeanor and a violator may face up to eleven months and twenty-nine days imprisonment and a fine of up to \$2,500, or both. (T.C.A. §3-6-306)

SAMPLE QUESTIONS

Below are sample questions involving lobbyists. The answers and explanations to these questions are on the following pages.

Close Personal Friendship

Rep. Smith has been invited to dinner by Margaret, a lobbyist. Rep. Smith and Margaret attended the University of Tennessee together and have remained in touch since graduation. Rep. Smith checks the law and knows that there is an exception for gifts from lobbyists which are for a non-business purpose and based on a close personal friendship subject to the Rules of the Commission. According to the Rules, what is not a factor?

- a. Margaret bills her lobbyist business for dinner.
- b. Dinner is less than \$50.
- c. Rep. Smith and Margaret have a long history of going out to dinner.
- d. Margaret has not discussed bills she is lobbying with Rep. Smith.

Lucky Lobbyist

Janet Chuckles, a registered lobbyist in Tennessee since 2010 with several clients, is randomly selected at the Commission's public meeting for an audit. In preparing for the Commission's audit, what item is not necessary to be provided to the Commission:

- a. Janet's contracts with her employers for the last two years.
- b. Janet's records of receipt of payments from her clients for the last two years.
- c. Janet's records that she paid for and attended mandatory lobbyist training.
- d. Janet's federal tax return for the last two years.

Waiver of Registration Fee

Sen. Hayes has been asked to attend a conference on education issues by the Tennessee Education association (TEA). TEA charges a \$250 registration fee for the daylong event which includes coffee and light refreshments between sessions and a luncheon. Sen. Hayes checks the Commission's website and verifies that TEA is an employer of a lobbyist.

- a. Sen. Hayes may not accept the waiver of the registration fee because it is from an employer of a lobbyist.
- b. Sen. Hayes may not accept the waiver of the registration fee because it exceeds the \$55 prohibition on gifts.
- c. Sen. Hayes may accept the waiver of the registration fee but must pay for the luncheon.
- d. Sen. Hayes may accept the waiver of the registration fee and the luncheon.

SAMPLE QUESTIONS

Tokens of Appreciation

Karen is an attorney for the legislative branch and often speaks to groups on legislation before the legislature. Karen also collects small figurines which are valued at about \$40. Karen will be speaking at the annual meeting of the Tennessee Association of Green Utilities, an employer of a lobbyist, and has let the sponsor know if it wants to give a token of appreciation for her speech, she would prefer a figurine over a plaque.

- a. Karen may not accept the figurine because she has solicited it.
- b. Karen may not accept the figurine because it is readily convertible to cash.
- c. Karen may not accept the figurine because of both a. and b.
- d. Karen may accept the figurine because it less than \$50.

Employer of Lobbyist

Which of the following are not employers of a lobbyist?

- a. A lobbying firm that does not retain its own lobbyist.
- b. Not-for-profit groups.
- c. A Member of an umbrella organization where the umbrella organization employs a lobbyist but the member does not retain its own lobbyist.
- d. Professional associations.
- e. a and c.

ANSWERS TO SAMPLE QUESTIONS

Close Personal Friendship

The correct answer is b.

Explanation:

Under the Commission's Rules, all the other factors would be taken into consideration but not the actual cost of the meal.

Lucky Lobbyist

The correct answer is d.

Explanation:

Janet's contracts are important to verify that she does not have a prohibited contingent fee arrangement with an employer. Answer (b) is sufficient to verify whether the amounts reported on Chuck's employer's semi-annual lobbyist expenditure reports can be verified. Payment and attendance at mandatory lobbyist ethics training is considered as part of the audit.

Waiver of Registration Fee

The correct answer is d.

Explanation:

The definition of gift excludes "the waiver of a registration fee for a conference or educational seminar." (T.C.A. § 3-6-301(11)). In [Advisory Opinion No. 08-06](#), the Commission held that the waiver of a registration fee would also include a meal provided as part of the registration fee.

Tokens of Appreciation

The correct answer is c.

Explanation:

While tokens of appreciation such as awards and plaques are a permissible exception under the ethics law, they must be unsolicited and not be readily convertible to cash. In this case, Gerald requested a figurine and the figurine, unlike most plaques and awards, is readily convertible to cash. (T.C.A. § 3-6-305(b)(5))

Employer of Lobbyist

The correct answer is c.

Explanation:

Not-for-profit groups and professional associations can clearly be employers of lobbyists. In [Advisory Opinion No. 07-01](#), the Commission held that a member organization of an umbrella organization is not an employer of a lobbyist unless the member retains its own lobbyist and even though the umbrella organization is an employer of a lobbyist. A lobbying firm is not the employer of a lobbyist unless they retain a lobbyist to represent the lobbying firm.

APPENDIX A

Title 3. Legislature
Chapter 6. Ethics and Lobbying
Part 1. Tennessee Ethics Commission Act of 2006--Ethics Commission

§ 3-6-101. Short title

Parts 1 and 2 of this chapter shall be known and may be cited as the “Tennessee Ethics Commission Act of 2006.”

§ 3-6-102. Legislative intent; purpose

It is the intent of the general assembly that the integrity of the processes of government be secured and protected from abuse. The general assembly recognizes that a public office is a public trust and that the citizens of Tennessee are entitled to a responsive, accountable, and incorruptible government. The Tennessee ethics commission is established to sustain the public's confidence in government by increasing the integrity and transparency of state and local government through regulation of lobbying activities, financial disclosure requirements, and ethical conduct. A determination of the intent of the general assembly shall be based on the operative statutory provisions, as well as the legislative history pertaining to such statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates.

§ 3-6-103. Creation; members; penalty

(a)(1) There is created as a division of the bureau of ethics and campaign finance, as provided in title 4, chapter 55, a Tennessee ethics commission. The commission shall be composed of six (6) members appointed as provided in this section.

(2)(A) Appointments shall be made to reflect the broadest possible representation of Tennessee citizens. Of the six (6) members appointed, at least one (1) shall be a female member and one (1) shall be an African-American member. However, an African-American female member shall not satisfy the requirement of one (1) female member and one (1) African-American member. Each member shall:

- (i) Have been a legal resident of this state for five (5) years immediately preceding selection;
- (ii) Be at least thirty (30) years of age;
- (iii) Be a registered voter in Tennessee;
- (iv) Be a person of high ethical standards who has an active interest in promoting ethics in

government; and

(v) Not have been convicted of a felony.

(B) No person shall be appointed to the commission if the person, or any member of the person's immediate family as defined in § 3-6-301, is announced as a candidate for public office, holds public office, or is a member of a political party's state executive committee.

(b) The members of the ethics commission shall also serve as members of the board of directors of the bureau of ethics and campaign finance.

(c)(1) The members of the Tennessee ethics commission shall be selected as follows:

(A) The governor shall appoint one (1) member who is a member of the majority party and one (1) member who is a member of the minority party;

(B) The speaker of the senate shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the senate and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the senate. The speaker of the senate may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates; and

(C) The speaker of the house of representatives shall appoint one (1) candidate from a list of three (3) candidates submitted by the majority caucus of the house of representatives and one (1) candidate from a list of three (3) candidates submitted by the minority caucus of the house of representatives. The speaker of the house of representatives may request a second list of candidates; however, no candidate from the original list of candidates may appear on the second list of candidates.

(2) Each gubernatorial appointee shall be subject to confirmation by a two-thirds ($2/3$) vote of approval by each house of the general assembly and each legislative appointee shall be subject to confirmation by a two-thirds ($2/3$) vote of approval by the appointing authority's house. If the general assembly is in session when an appointment is made, then the appointment shall be subject to confirmation within thirty (30) days of appointment. If the general assembly is not in session when an appointment is made, the appointment shall be subject to confirmation within thirty (30) days after the general assembly next convenes following the appointment. If an appointee is refused confirmation, or is not confirmed during the thirty (30) day period, then the appointing authority of the appointee shall select another appointee for confirmation subject to the requirements of this section. Vacancies shall be filled in the same manner as the vacating member's office was originally filled. Notwithstanding the provisions of this subdivision (c)(2), an appointment to serve on the initial commission shall be made by April 1, 2006.

(d)(1) The initial members' terms of office shall commence upon appointment. For purposes of

calculating the initial terms of the members' offices, the initial appointments shall be deemed to be made on January 1, 2007. The initial members' terms shall be staggered as follows:

(A) The gubernatorial appointees shall serve initial terms of two (2) years;

(B) The senate appointees shall serve initial terms of three (3) years; and

(C) The house of representatives appointees shall serve initial terms of four (4) years.

(2) After the initial terms, members of the commission shall serve four-year terms and are eligible to serve two (2) four-year terms in succession.

(e) The initial chair of the commission shall be appointed by the governor. Every year thereafter the commission shall elect a chair from among its membership. The chair shall serve in that capacity for one (1) year and shall be eligible for reelection. The chair shall preside at all meetings and shall have all the powers and privileges of the other members.

(f) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. Four (4) members of the commission shall constitute a quorum. Except as provided in § 3-6-201, four (4) affirmative votes are required for any commission action. Special meetings shall be called by the chair on the chair's initiative or upon the written request of three (3) members. Members shall receive written notice three (3) days in advance of a special meeting. Notice shall be served personally or left at a member's usual place of residence and shall specify the purpose, time and place of the meeting. No matters unrelated to the specified purpose may be considered without a specific waiver by all members of the commission.

(g) The members of the commission shall receive no compensation; provided, that each member of the commission shall be eligible for reimbursement of expenses and mileage in accordance with the regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(h) No member of the commission or the member's immediate family, as defined in § 3-6-301, shall during such membership:

(1) Be allowed to hold or qualify for elective office to any state or local public office, as defined in § 2-10-102;

(2) Be an employee of the state or any political subdivision of the state;

(3) Be an officer of any political party or political committee;

(4) Permit such person's name to be used or make campaign contributions in support of or in opposition to any candidate or proposition, except that a member's immediate family may make

campaign contributions in support of or in opposition to any candidate or proposition;

(5) Participate in any way in any election campaign;

(6) Lobby or employ a lobbyist; or

(7) Be employed by any elected officeholder, either in an official capacity or as an individual, or be employed by any business in which an elected officeholder has any direct input concerning employment decisions.

(i) An incumbent member of the commission may seek votes for confirmation of the member's appointment to the commission; provided, that the member shall comply with the provisions of subsection (h).

(j) The provisions of subsection (h) shall be applicable for one (1) year subsequent to the removal, vacancy or termination of the term of office of a member of the commission.

(k)(1) Each member of the commission shall, before they proceed to business, take an oath or affirmation to support the constitution of this state and of the United States and the laws of this state and also the following oath: I _____ do solemnly swear (or affirm) that as a member of this commission, I will, in all matters, vote without favor, affection, partiality, or prejudice; and that I will not propose or assent to any action, measure, or resolution which shall appear to me to be contrary to law.

(2) Unless otherwise provided by law, any member of the commission who violates the oath of office for the member's position or participates in any of the activities prohibited by this chapter commits a Class A misdemeanor. If a sworn complaint is made pursuant to § 3-6-209 that a member has violated the oath of office for the position, has participated in any of the activities prohibited by this chapter, or has committed actions inconsistent with the intent of the Comprehensive Governmental Ethics Reform Act of 2006, Acts 2006, ch. 1 of the extraordinary session of the 104th general assembly, then, upon a unanimous vote of the remaining members, the member against whom the sworn allegation is made may be suspended from the commission for such purposes and for such times as the remaining members shall unanimously determine; but no such suspension shall extend beyond final disposition of the sworn complaint pursuant to § 3-6-209. The accused member shall not participate in the suspension vote.

§ 3-6-104. Repealed by 2009 Pub.Acts, c. 556, § 15, eff. July 1, 2009

§ 3-6-105. Jurisdiction; referrals

(a) The Tennessee ethics commission is vested with jurisdiction to administer and enforce the provisions of this chapter, §§ 2-10-115 and 2-10-122--2-10-130, and title 8, chapter 50, part 5.

(b) In addition to the jurisdiction vested in subsection (a), with respect to members of the general assembly, the commission also has jurisdiction to investigate, in accordance with § 3-6-203, complaints alleging acts by a member of the general assembly that constitute misuse of office for personal financial gain; provided, however, that, if a member of the general assembly makes the declaration required by § 2-10-127(d), then the member shall not be deemed to have misused the member's office for personal financial gain based solely upon the member's relationship to a sibling, spouse or child who lobbied for or against the legislative action.

(c) The ethics committee in each house is authorized to refer to the commission for investigation, in accordance with § 3-6-203, any complaint it receives alleging a violation of the provisions of this chapter, §§ 2-10-115 and 2-10-122--2-10-130, title 8, chapter 50, part 5, or misuse of legislative office for personal financial gain.

(d) The governor is authorized to refer to the commission for investigation, in accordance with § 3-6-203, any allegation the governor receives concerning a violation by an officer or staff member of the executive branch subject to the jurisdiction of the commission, pursuant to the provisions of this chapter, §§ 2-10-115 and 2-10-122--2-10-130, title 8, chapter 50, part 5, an executive order related to ethics, or misuse of office for personal financial gain.

(e) The commission shall refer to the registry of election finance for investigation and appropriate action any complaint filed with the commission that is within the jurisdiction of the registry.

(f) The commission is vested with jurisdiction over any violation of the laws administered and enforced by the commission, or any alleged violation referred to the commission pursuant to this section, that occurs within five (5) years prior to the filing of a complaint alleging a violation.

§ 3-6-106. Duties

(a) The duties of the Tennessee ethics commission include the following:

(1) Recommend guiding principles of ethical conduct for consideration and adoption by the legislative or executive branches. The commission shall publish the guiding principles on the commission's web site. Guiding principles of ethical conduct may be recommended for each of the following classifications:

(A) Members of the general assembly;

(B) The governor, secretary of state, treasurer, comptroller of the treasury, members of the governor's cabinet, and cabinet level staff within the governor's office; and

(C) Lobbyists and employers of lobbyists;

(2) Deleted by 2009 Pub.Acts, c. 556, § 17, eff. July 1, 2009.

(3) Develop filing, coding and cross-indexing systems;

(4) Make as many documents filed available for viewing on the Internet as is reasonable based on the commission's financial resources, and make each document filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of the documents; provided, that this subdivision (a)(4) does not apply to those documents required to be confidential pursuant to § 3-6-202;

(5) Review all filed documents to ensure compliance with the laws administered and enforced by the commission. Statements filed with the commission for more than two (2) years shall be deemed to be sufficient, absent a showing of fraud or the existence of an ongoing investigation related to the statement;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Prepare and publish on the commission's web site reports as are deemed to be appropriate and in the public interest by the commission, including quarterly reports listing alphabetically all registered lobbyists and employers of lobbyists, as defined in part 3 of this chapter;

(8) Prepare and publish manuals and guides to facilitate compliance with, and enforcement of, the laws administered and enforced by the commission;

(9) Administer ethics training as provided in this part;

(10) Provide an annual report to the governor and the general assembly by February 1 concerning the administration and enforcement of laws under the jurisdiction of the commission, including the necessity, or lack of necessity, for any additional action or additional legislation that will serve to further the purposes of this chapter;

(11) Investigate any alleged violation, upon sworn complaint or upon its own motion, as provided in § 3-6-201; and

(12) Preserve all filed reports or statements for a period of at least five (5) years from the date of receipt, or longer when there is a pending investigation by the commission or any law enforcement agency, or when there is an ongoing administrative or judicial proceeding related to the information.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the commission upon the request of the executive director or the commission.

§ 3-6-107. Powers

The Tennessee ethics commission possesses power to:

- (1) Deleted by 2009 Pub.Acts, c. 556, § 18, eff. July 1, 2009.
- (2) Subpoena witnesses, compel their attendance and testimony, conduct audits, administer oaths, take evidence and require, by subpoena duces tecum, the production of books, papers, records or other evidence needed for the performance of the commission's duties or exercise of its powers, including its duties and powers of investigation;
- (3) Issue written advisory opinions to any person subject to the jurisdiction of the commission in accordance with §§ 3-6-117 and 3-6-308(a)(4). When issuing any advisory opinion or any other interpretive document, the commission shall review and consider all operative statutory provisions, as well as the legislative history pertaining to the statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates;
- (4) Request legal and investigative assistance from the office of the attorney general and reporter;
- (5) Conduct a hearing to determine if an actual violation has occurred;
- (6) Issue an appropriate order following a determination of an actual violation;
- (7) Assess and collect late filing fees in amounts provided by statute;
- (8) Assess and collect a civil penalty as provided in this chapter, title 8, chapter 50, part 5, and rules promulgated pursuant to this chapter and title 8, chapter 50, part 5; provided, that the commission shall only have the power to assess a civil penalty after notice and opportunity for hearing; and
- (9) Seek injunctive relief in the chancery court of Davidson County to prevent continuing violations of this chapter.

§ 3-6-108. Enforcement

For the purposes of enforcement, this chapter shall be prospective only, and the Tennessee ethics commission shall limit its investigations to acts or omissions that occur on or after October 1, 2006.

§ 3-6-109. Criminal violations

Where the results of an investigation indicate a criminal violation has occurred, the commission

shall refer the matter to the appropriate law enforcement agency.

§ 3-6-110. Chancery court petitions

The Tennessee ethics commission has the authority to petition the chancery court, through the attorney general and reporter or its own legal counsel, for enforcement of any order it has issued. The court's order of enforcement has the same force and effect as a civil judgment.

§ 3-6-111. Repealed by 2009 Pub.Acts, c. 556, § 19, eff. July 1, 2009

§ 3-6-112. Supervisory personnel ethics course; manuals

(a) The Tennessee ethics commission shall provide an annual ethics course concerning compliance with the laws administered and enforced by the commission for supervisory personnel in the executive branch of state government. The commission shall notify administrative departments and divisions in advance of the time and location of the course. The course may be offered on multiple occasions in locations that will make attendance by personnel in the three (3) grand divisions reasonably convenient. The ethics course shall include, but not be limited to, discussion of relevant laws, administrative regulations, advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Administrative departments and divisions shall annually select appropriate supervisory personnel and shall communicate the name, position, and contact information of each individual required to attend the annual course to the commission prior to February 1.

(c) In addition to any other manuals or guides prepared and published by the commission, the commission shall provide a manual for supervisory personnel of the executive branch that includes ethics statutes and administrative regulations relevant to such personnel, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform supervisory personnel of the executive branch about ethics laws and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to supervisory personnel, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

§ 3-6-113. General assembly ethics course; outside ethics courses; manuals

(a) The Tennessee ethics commission shall provide an annual orientation ethics course concerning compliance with the laws administered and enforced by the commission for members of the general assembly who have not yet taken the orientation ethics course and shall offer an annual current issues course for members of the general assembly who have taken the orientation course. Such courses shall be offered on a date or dates when the general assembly is in session.

The commission shall notify members in advance of the time and location of the courses.

(1) The orientation ethics course shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical applications of ethics laws, and a question-and-answer participatory segment regarding common problems and situations.

(2) The current issues course shall include, but not be limited to, discussion of changes in relevant laws, administrative regulations, new advisory opinions, current ethical issues and situations, and development of problem-solving skills.

(b) Members of the general assembly shall attend the courses provided by the commission pursuant to subsection (a). However, a member may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the current issues course requirement.

(c) In addition to any other manuals or guides prepared and published by the commission, the commission shall provide a manual for members of the general assembly that includes ethics statutes and administrative regulations relevant to members, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform members about ethics laws and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to members of the general assembly, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

§ 3-6-114. Lobbyist and lobbyist employer ethics course; outside ethics courses; manuals

(a) The Tennessee ethics commission shall provide an annual ethics course on multiple dates, both when the general assembly is in session and when the general assembly is not in session for both lobbyists and employers of lobbyists. The training may be offered electronically. Training shall include, but not be limited to, laws administered and enforced by the commission, administrative regulations, relevant internal policies, specific technical and legal requirements, and summaries of advisory opinions. The commission shall impose a fee for attending the ethics course that will enable participation in the course to be funded from the fee.

(b) Each lobbyist shall attend one (1) ethics course annually. A lobbyist may petition the commission to approve an ethics course other than a course offered by the commission to fulfill the ethics course requirement.

(c)(1) In addition to any other manuals or guides prepared and published by the commission, the

commission shall provide a manual for lobbyists and employers of lobbyists that includes ethics statutes and administrative regulations relevant to lobbyists and employers of lobbyists, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of practical applications of the laws and principles, a question-and-answer section regarding common problems and situations, summaries of advisory opinions, and any other information that would inform lobbyists and employers of lobbyists about ethics laws and regulations and assist them in applying those laws and regulations to specific situations. The manual may be distributed to lobbyists and employers of lobbyists, and shall be made available to the public, by posting the manual in pdf format on the commission's web site.

(2) Deleted by 2007 Pub.Acts, c. 413, § 1, eff. June 11, 2007.

§ 3-6-115. Electronic filing

(a) Notwithstanding any other provision of law to the contrary, the Tennessee ethics commission shall:

(1) Develop, with the advice, assistance and approval of the office of information resources, an Internet-based electronic filing process for use by all persons that are required to electronically register or file statements and reports with the commission pursuant to this chapter, §§ 2-10-115 and 2-10-122--2-10-130, and title 8, chapter 50, part 5;

(2) Develop, with the advice, assistance and approval of the office of information resources, a system that provides each person required to register or file statements and reports with the commission secure access to the electronic registration and filing system. The system shall provide adequate safeguards to prevent unauthorized persons from inappropriately tampering with or changing the data and shall provide for secure authentication safeguards for documents such as electronic signatures and electronic notarization;

(3) Provide training to each person required to register or file statements and reports with the commission on the use of the electronic filing system;

(4) Make, with the advice, assistance and approval of the office of information resources, electronically filed reports and statements available for viewing on the commission's web site in a format that is searchable and that may be downloaded and managed by a user with appropriate software; provided, that this subdivision (a)(4) does not apply to those documents required to be confidential pursuant to § 3-6-202. In addition to any other method of information management developed by the commission, conflict of interest disclosures shall be indexed and searchable by county; and

(5) Beginning on October 1, 2006, with the advice, assistance and approval of the office of information resources, provide the public access to lists compiled from the registrations and other

documents filed by employers of lobbyists, lobbyists, and persons required to file conflict of interest disclosures. In addition, the commission shall provide assistance to anyone seeking to access this information on the Internet.

(b) The commission, once the development of the electronic filing system is completed and tested, shall provide public notice that the system is operational and available for filers to commence use.

(c) The commission shall, with the advice, assistance and approval of the office of information resources, implement the electronic filing system for use by October 1, 2006. Any person required to electronically file statements and reports with the commission shall file required statements and reports electronically on or after October 1, 2006. Any required statements and reports filed with the registry of election finance prior to October 1, 2006, shall continue to be filed with the registry until such date.

(d) All information entered by any person required to file statements and reports electronically with the commission shall remain confidential until the information is submitted to the commission.

(e) The commission shall strive to establish electronic filing for all documents required to be filed with the commission; provided, however, that no candidate or appointee to a local public office, as defined in § 2-10-102, shall be required to electronically file documents with the commission.

(1) Except as provided in this subsection (e), the commission, unless otherwise required by law to provide for electronic filing, shall have the discretion to determine when electronic filing is financially feasible and will be an accessible and efficient method of filing.

(2) The commission shall establish rules specifying the manner in which a report, statement or other documents shall be filed. The rules shall be published and posted conspicuously on the commission's web site at least sixty (60) days prior to the due date of any document affected by the rules.

§ 3-6-116. Ethics commission training program

(a) A person who is appointed to the Tennessee ethics commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission until the person completes a training program provided by the office of the attorney general and reporter that complies with this section. This section shall not apply to members who are reappointed to the commission for a subsequent term.

(b) The training program shall provide the person with information regarding:

- (1) The legislation that created the commission;
 - (2) The role and function of the commission;
 - (3) The rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;
 - (4) The current budget for the commission;
 - (5) The results of the most recent formal audit of the commission;
 - (6) The requirements of the laws administrated and enforced by the commission; and
 - (7) Any applicable policies adopted by the commission.
- (c) A person appointed to the commission is entitled to reimbursement for expenses incurred in attending the training program.

§ 3-6-117. Informal advisory opinions; responses to inquiries

- (a) The commission is the only entity authorized to issue formal advisory opinions. All opinions that deal with any statutory provision or provisions that are in any way subject to interpretation, unclear or uncertain, or subject to dispute as to their meaning or application are formal advisory opinions. With respect to an issue addressed in a formal advisory opinion, any person who conforms that person's behavior to the requirements of the advisory opinion shall not be sanctioned if it is later determined that the advisory opinion did not correctly interpret the statute. A person who requests an advisory opinion shall be entitled to withdraw the request at any time before the opinion is issued, in which case the commission shall not issue the opinion.
- (b)(1) Except as provided in this subsection (b), under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, including an informal response.
- (2) A person performing staff duties as the executive director or as an attorney is authorized to give informal responses to any person subject to the jurisdiction of the commission in accordance with this subsection (b).
- (3) The commission shall make and keep records of all inquiries and all informal responses given, including the name and position of the person making the inquiry, the entity, if any, on behalf of which the inquiry is made, the date of the inquiry, the person responding to the inquiry, the precise inquiry, including the facts and background information provided and the section or sections of statute involved, and the answer or response given.

(4) The commission shall compile all of the information in subdivision (b)(3), which shall include a mechanism to ascertain the responses to all inquiries about the same statutory section, so that the responses will be consistent or can be prudently revised if necessary.

(5)(A) An informal response may be given verbally or by electronic mail. Any verbal informal response shall be verified by electronic mail. Whether or not a request for an informal response is answered verbally, all informal responses shall be issued by electronic mail to the person who made the request, with a copy to the members of the commission. Each informal response shall:

(i) Set forth the facts and background information of the inquiry;

(ii) Cite the relevant operative statutory section or sections and the language in the section or sections on which the response is based; and

(iii) Refer to any relevant advisory opinions issued by the commission that relate to the inquiry.

(B) The informal response shall be based on such information, the operative provisions of the cited statute and the legislative history pertaining to the statutory provisions, as evidenced by legislative committee and floor actions, discussions and debates. In addition, the informal response shall indicate whether the statute and any previous opinions are clear or unclear on the issue.

(6) If the person who requested the informal response conforms that person's behavior to the requirements of the informal response, then that person shall not be sanctioned if it is later determined that the informal response was not a correct response or incorrectly interpreted the statutory section or sections or commission advisory opinions on the issue.

(7) Any informal response shall be subject to review or modification by the commission. Any person who disputes the informal response given by the staff employees in subdivision (b)(2) shall have the right to request a formal advisory opinion from the commission.

Title 3. Legislature
Chapter 6. Ethics and Lobbying
Part 2. Tennessee Ethics Commission Act of 2006--Violations

§ 3-6-201. Sworn complaints; required statements; affidavits; complaint upon affirmative vote

(a)(1) Any citizen of Tennessee may file a sworn complaint executed on a form prescribed by the Tennessee ethics commission alleging a violation of laws or rules within the jurisdiction of the commission.

(2) No political party chairman, state or county executive director of a political party, or em-

ployee or agent of a political party acting in that person's official capacity may file a complaint with the commission for a violation of laws or rules within the jurisdiction of the commission. Nothing in this section prohibits a private citizen, acting in a private capacity, from filing a sworn complaint with the commission under this section.

(b) A complaint filed under this section shall set forth in simple, concise, and direct statements:

(1) The name of the complainant;

(2) The street or mailing address of the complainant;

(3) The name of each alleged violator;

(4) The position or title of each alleged violator;

(5) A short and plain statement of the nature of the violation and the law or rule upon which the commission's jurisdiction over the violation depends;

(6) A statement of the facts constituting the alleged violation and the dates on which, or period of time in which, the alleged violation occurred; and

(7) All documents or other material available to the complainant that are relevant to the allegation; a list of all documents or other material within the knowledge of the complainant and available to the complainant that are relevant to the allegation, but that are not in the possession of the complainant, including the location of the documents, if known; and a list of all documents or other material within the knowledge of the complainant that are unavailable to the complainant and that are relevant to the complaint, including the location of the documents, if known.

(c) The complaint shall be accompanied by an affidavit stating that the information contained in the complaint is either correct or that the complainant has good reason to believe and does believe that the violation occurred. If the complaint is based on information and belief, the complaint shall state the source and basis of the information and belief. The complainant may swear to the facts by oath before a notary public.

(d) The commission may initiate a complaint upon an affirmative vote that includes three (3) members of the commission who are members of the same party or two (2) members of the commission who are members of different parties.

(e)(1) Any complaint that is filed against a candidate in any election, as defined in § 2-10-102, during the period from thirty (30) days immediately prior to the election through election day shall be considered filed but not verified by the commission. The commission shall take no action relative to the complaint during this thirty-day period. In addition, the commission shall not initiate a complaint during the thirty-day period.

(2) During the thirty-day period, the commission shall stay any proceedings with regard to an ethics complaint filed against a candidate more than thirty (30) days prior to voting for the election; provided, that the candidate may waive the postponement in writing.

(3) For purposes of this subsection (e), any provisions of this chapter setting time periods for initiating a complaint or for performing any other action are considered tolled until after the election at which the candidate stands for elective office.

(f) Within five (5) days after the filing or initiation of a complaint, the commission shall cause a copy of the complaint to be transmitted by return receipt requested mail to the person alleged to have committed the violation.

§ 3-6-202. Confidentiality

(a)(1) The members and staff of the Tennessee ethics commission shall preserve the confidentiality of all commission proceedings, including records relating to a preliminary investigation. Such records shall be exempt from the provisions of title 10, chapter 7 and shall be confidential until:

(A) The alleged violator requests in writing that the investigation and associated records and meetings be made public;

(B) The commission finds that probable cause exists to believe that a violation has occurred. Upon this determination, the records and proceedings shall be made public on:

(i) The date the public hearing to determine whether a violation has occurred commences; or

(ii) The date the commission refers a matter based upon a finding of probable cause; or

(C) The commission determines that no probable cause exists to believe that a violation has occurred. Upon such determination, the records and proceedings shall be made public sixty (60) days after:

(i) The date the report of the commission's finding is issued, if the complainant does not request a probable cause hearing pursuant to § 3-6-203(b)(1); or

(ii) The date the commission issues its finding of no probable cause from a probable cause hearing.

(2) No personal or professional financial records of the alleged violator shall be disclosed pursuant to this section upon a finding of no probable cause.

(3) A member of the commission or a member of the commission staff may acknowledge receipt of a complaint or may disclose information to the extent necessary to successfully pursue an investigation. In no event shall such information against a candidate in any election, as defined in § 2-10-102, be disclosed during the period from thirty (30) days immediately preceding the commencement of voting for that election through election day, unless the candidate requests in writing the disclosure of the information.

(b) A member of the commission or member of the commission staff who knowingly discloses information in violation of this section commits a Class C misdemeanor. A violation of this section also subjects the person to the civil penalties imposed by § 3-6-205(a)(2). Violation of this section by a member of the commission shall be grounds for removal from office.

§ 3-6-203. Preliminary investigation; referral to attorney general

(a) The commission shall initiate a preliminary investigation of each sworn complaint that complies with § 3-6-201. If the commission determines that the sworn complaint does not comply with § 3-6-201, then the commission shall dismiss the complaint and notify the complainant. In the notification sent to the complainant, the commission shall state with particularity why the complaint does not comply with § 3-6-201. If the commission has referred the complaint to the registry of election finance, then the commission shall also notify the complainant of the referral.

(b) The commission shall refer a factually and legally sufficient complaint to the office of the attorney general and reporter, who shall conduct a preliminary investigation. The commission shall make a probable cause determination after the office of the attorney general and reporter completes its investigation and reports its findings to the commission. Both the alleged violator and the complainant shall be entitled, upon request, to present evidence before the commission prior to the commission's probable cause determination. The commission shall have notice that evidence will be presented to the commission personally served upon, or sent by return receipt requested mail, to the alleged violator and the complainant. The commission has discretion to determine the appropriate procedure for the presenting of evidence.

(1) If the commission determines that no probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall dismiss the complaint by issuing a report to the complainant and the alleged violator, stating with particularity its reasons for dismissal of the complaint. A complainant may request a hearing upon a determination of no probable cause. If after the hearing the commission determines that there is no probable cause, the commission may order the complainant to reimburse the alleged violator for any reasonable costs and reasonable attorney fees the alleged violator has incurred.

(2) If the commission determines that probable cause exists to believe a violation of any law or rule administered and enforced by the commission occurred, the commission shall conduct a public hearing and, if the alleged violator is a member of the general assembly, shall notify the

ethics committee of the appropriate house of the probable cause determination. Both the alleged violator and the complainant shall receive, by personal service or return receipt requested mail, notice of the time, date, and location of the hearing.

§ 3-6-204. Subpoenas; judicial review

(a) The Tennessee ethics commission, on its own motion or at the request of the alleged violator, may issue subpoenas in accordance with the Tennessee Rules of Civil Procedure, except that service may be by certified mail, in addition to the means of service provided by the Tennessee Rules of Civil Procedure. Witnesses under subpoena shall be entitled to the same fees as are now or may hereafter be provided by law or by action of the commission. The party requesting the subpoenas shall bear the cost of paying the fees to the witnesses subpoenaed.

(b) A person who is aggrieved by a final disposition of the commission shall be entitled to judicial review.

(1) Proceedings for review shall be instituted by filing a petition for review in the chancery court of Davidson County, unless another court is specified by statute. The petition shall be filed within sixty (60) days after the entry of the commission's final disposition on the complaint. Copies of the petition shall be served upon the commission, the complainant and all parties of record, including the attorney general and reporter, in accordance with the provisions of the Tennessee Rules of Civil Procedure pertaining to service of process.

(2) The provision of § 4-5-322 relating to judicial review of agency decisions shall apply to a petition of review filed pursuant to this section.

§ 3-6-205. Penalties

(a) The Tennessee ethics commission may impose a civil penalty for a violation of title 8, chapter 50, part 5.

(1) "Class 1 offense" means the late filing of any report or statement required by title 8, chapter 50, part 5. A Class 1 offense shall be punishable by a civil penalty of not more than twenty-five dollars (\$25.00) per day, up to a maximum of seven hundred fifty dollars (\$750).

(A) The Tennessee ethics commission shall have personally served upon, or sent by return receipt requested mail, an assessment letter to any person required to file, upon the commission's discovery that a due report has not been filed. A civil penalty of twenty-five dollars (\$25.00) per day shall begin to accrue five (5) days after personal service or receipt of the letter and shall continue to accrue until the report is filed, or for thirty (30) days, whichever occurs first.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 1 offense, a person shall file a petition with the commission.

(2) “Class 2 offense” means failing to file a report required by title 8, chapter 50, part 5, within thirty-five (35) days after service of process or receipt of notice by registered or certified mail of an assessment or any other violation of the requirements of title 8, chapter 50, part 5, except where another penalty is prescribed by law. A Class 2 offense is punishable by a maximum civil penalty of not more than ten thousand dollars (\$10,000).

(A) For any Class 2 offense, the Tennessee ethics commission shall send an assessment letter to a person required to file, in a form sufficient to advise the person required to file, of the factual basis of the violation, the maximum penalty and the date a response to the letter must be filed. If a disclosure report is returned to a person required to file for correction, a copy of the original shall be retained on file until the corrected report is returned to the Tennessee ethics commission. If the original filing was in compliance with the intent of the law and minor errors are corrected within the date set for a response, no penalty shall be assessed.

(B) To request a waiver, reduction, or to in any way contest a penalty imposed by the Tennessee ethics commission for a Class 2 offense, a person shall file a petition with the commission.

(b) Any candidate for state public office who fails to file any statement or report required by title 8, chapter 50, part 5, shall be ineligible to qualify for election to any state public office until the statement or report is filed with the commission.

§ 3-6-206. Assessment of penalties

(a) The Tennessee ethics commission shall maintain a register of all civil penalties imposed under this chapter and remaining unpaid.

(b) If a civil penalty lawfully assessed and any lawfully assessed cost attendant to the penalty are not paid within thirty (30) days after the assessment becomes final, any candidate owing a civil penalty shall be ineligible to qualify for election to any state public office until the penalty and costs are paid.

(c) If a civil penalty authorized by this section is imposed, it shall be considered a personal judgment against the person subject to the civil penalty.

§ 3-6-207. Misuse of office for personal financial gain

Notwithstanding the provisions of § 3-6-203, if the commission determines that probable cause exists to believe that a member of the general assembly has committed an act constituting misuse of office for personal financial gain, then, except as otherwise provided in § 3-6-306(a)(3), no civil penalty shall be imposed and the commission shall instead report its determination and findings to the ethics committee of the appropriate house of the general assembly.

§ 3-6-208. Sanctions

(a) If the commission determines that a person:

(1) Filed a complaint or provided information that resulted in an investigation knowing that the material statements in the complaint or the information provided was not true;

(2) Filed an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Filed one (1) or more unsubstantiated complaints that constituted abuse of process, then the complainant is subject to the civil penalties authorized by § 3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The commission may also decline to consider any further complaints brought by the complainant.

(b) The sanctions authorized by subsection (a) are not exclusive and do not preclude any other remedies or rights of action the alleged violator may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency that gives credible information that results in a formal complaint filed by the commission is immune from any civil liability that otherwise might result by reason of such actions.

§ 3-6-209. Sworn complaints against commission member or employees

(a) An individual who is within the jurisdiction of the commission may file a sworn complaint against any member or employee of the commission alleging a violation of this chapter, including allegations of arbitrary and capricious actions of the commission against the individual. The complaint shall state with specificity such allegation. Such complaint shall be filed with the speaker of the senate and the speaker of the house of representatives. Each speaker shall, after determining that there are sufficient grounds for review, appoint four (4) members of their respective bodies to a special joint committee, which shall investigate the complaint. Two (2) members of the majority party and two (2) members of the minority party shall be appointed to the committee by each speaker. The special joint committee shall appoint a chair and other officers deemed necessary. An affirmative vote of five (5) members of the committee shall be required for any committee action.

(b) If the special joint committee finds insufficient evidence to establish probable cause to believe a violation has occurred, it shall dismiss the complaint.

(c) If, upon completion of its preliminary investigation, the committee finds sufficient evidence to establish probable cause to believe a violation has occurred, the chair of the committee shall transmit the findings to the governor, who shall convene a meeting of the governor, the speaker of the senate and the speaker of the house of representatives to take such final action on the

complaint as they shall deem appropriate consistent with penalties imposed pursuant to this chapter, including referring the matter to the office of the attorney general and reporter or removing the member of the commission from office and declaring the office vacant.

(d) Upon request of a majority of the governor, the speaker of the senate and the speaker of the house of representatives, the special joint committee shall submit a recommendation as to what penalty, if any, should be imposed.

(e) If a person:

(1) Files a complaint against a member of the commission pursuant to this section that results in an investigation, knowing that the material statements in the complaint or the information provided was not true;

(2) Files an unsubstantiated complaint in reckless disregard of the truth or falsity of the statements contained in the complaint; or

(3) Files one (1) or more unsubstantiated complaints that constitute abuse of process,

then the complainant is subject to the civil penalties authorized by § 3-6-205(a)(2) and may be liable for any reasonable costs and reasonable attorney fees the alleged violator has incurred. The sanctions authorized by this subsection (e) are not exclusive and do not preclude any other remedies or rights of action the member may have against the complainant or informant under the law; provided, that any person who in good faith files a verified complaint or any person, official, or agency who gives credible information that results in an investigation is immune from any civil liability that otherwise might result by reason of such actions.

§ 3-6-210. Application of §§ 3-6-201 through 3-6-203; authority to investigate alleged violation of title 8, chapter 50, part 5

(a) Except as provided in subdivision (b)(1), §§ 3-6-201--3-6-203 shall only apply to a complaint alleging a violation of this chapter.

(b)(1) The commission has the authority to investigate any alleged violation of title 8, chapter 50, part 5, upon a sworn complaint by a citizen of this state that meets the requirements of § 3-6-201(b) or upon its own motion. The commission shall only have the power to assess a civil penalty after notice and opportunity for hearing.

(2) A petition filed pursuant to § 3-6-205(a)(1)(B) or (a)(2)(B) may be considered as a contested case under the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

Title 3. Legislature
Chapter 6. Ethics and Lobbying
Part 3. Lobbyists

§ 3-6-301. Definitions

As used in this part, unless the context otherwise requires:

- (1) “Administrative action” means the taking of any recommendation, report or nonministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, “administration action” does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of state government;
- (2) “Association” means any union, league, chamber of commerce, committee, club, or other membership organization;
- (3) “Attorney general” means the attorney general and reporter;
- (4) Deleted by 2008 Pub.Acts, c. 697, § 3, eff. April 7, 2008.
- (5) “Campaign contribution” means any contribution as defined by § 2-10-102(4);
- (6) “Candidate for public office” means any individual who has made a formal announcement of candidacy or who qualified under the law of this state to seek nomination for election or elections to any state public office, or has received contributions or made expenditures, except for incidental expenditures to determine if one shall be a candidate, or has given consent for a campaign committee to receive contributions or make expenditures, with a view to bringing about that person's nomination for election or the election to state public office, and any individual who has been nominated for appointment as an official in the legislative or executive branch;
- (7) “Compensation” means any salary, fee, payment, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received; however, “compensation” does not include the salary or reimbursement of an individual whose lobbying is incidental to that person's regular employment;
- (8) “Employer of a lobbyist” or “employer” means any person or entity that employs, retains or otherwise arranges for a lobbyist to engage in lobbying on behalf of the person or entity for compensation. “Employer of a lobbyist” or “employer” specifically includes any such person or entity notwithstanding the lobbyist's status as an employee, agent, contractor, subcontractor or other representative lobbying on behalf of such person or entity for compensation. “Employer of

a lobbyist” or “employer” does not include the individual employees, officers, directors, or members of a corporation, labor organization, association, or membership organization other than the chief executive officer and the chief financial officer or comparable individuals within such corporation, labor organization, association, or membership organization. For purposes of employer registration and disclosure pursuant to this part, a lobbying firm is not deemed to be the employer of any lobbyist within the firm;

(9) “Executive agency” means any commission, board, agency, or other entity in the executive branch of the state government or any independent entity of the state government that is not a part of the legislative or judicial branch;

(10) “Expenditure” means any advance, conveyance, deposit, distribution, transfer of funds, loan, payment, pledge, or subscription of money or anything of value, and any contract, agreement, promise, or other obligation, whether or not legally enforceable, to make an expenditure;

(11) “Gift” means any payment, honorarium, subscription, loan, advance, forbearance, rendering or deposit of money or services, unless consideration of equal or greater value is received. “Gift” does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a gift received from a member of the person's immediate family or from a relative within the third degree of consanguinity of the person or of the person's spouse, or from the spouse of any such relative. “Gift” does not include the waiver of a registration fee for a conference or educational seminar;

(12) “Immediate family” means a spouse or minor child living in the household;

(13) “Influencing legislative or administrative action” means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to that official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(14) “Investigatory audit information” means data obtained pursuant to a finding of probable cause to believe that an employer or lobbyist has violated this part, including information pertaining to the source or amount of employer or lobbyist income, expenditures, receipts, assets, liabilities, net worth, or related financial or proprietary information that is received by, recorded by, prepared by, or collected by or on behalf of the ethics commission during the course of any audit, investigation or other examination undertaken for the purpose of ensuring compliance with, or imposing civil or criminal sanctions for violation of, this part. “Investigatory audit information” does not include data in a form that cannot, either directly or indirectly, be associated with, or otherwise be used to identify, directly or indirectly, a particular employer or lobbyist;

(15) “Legislative action” means introduction, sponsorship, debate, voting or any other nonministerial official action or nonaction on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(16)(A) “Lobby” means to communicate, directly or indirectly, with any official in the legislative branch or executive branch for the purpose of influencing any legislative action or administrative action;

(B) “Lobby” does not mean communications with officials of the legislative or executive branches by an elected or appointed public official performing the duties of the office held; a duly licensed attorney at law acting in a representative capacity on behalf of a client appearing before an official of the executive branch for the purpose of determining or obtaining such person's legal rights or obligations in a contested case action, administrative proceeding, or rule making procedure; or an editor or working member of the press, radio or television who, in the ordinary course of business, disseminates news or editorial comment to the general public;

(C) “Lobby” does not mean communications by an incumbent or prospective contractor or vendor, or an employee of the contractor or vendor, while engaged in selling or marketing to the state, or any department or agency of the state, by demonstrating or describing goods or services to be provided or by inquiring about specifications, terms, conditions, timing, or similar commercial information. However, the contractor or vendor, or employee of the contractor or vendor, shall be deemed to be a lobbyist, solely for the purposes of § 3-6-305, if actively engaged in selling or marketing to an official in the executive branch or an official in the legislative branch whose duty it is to vote for, let out, overlook, or in any manner to superintend any work or any contract so marketed or sold;

(D) “Lobby” does not mean communications by an employee of a school board, municipal utility, utility district, or any department, agency or entity of state, county or municipal government; provided, however, that, if the board, utility, district, department, agency or entity employs, retains or otherwise arranges for lobbyist services in this state by a contractor, subcontractor or other representative who is not an employee of such board, utility, district, department, agency or entity, then “lobby” includes communications by the contractor, subcontractor or other representative, and the contractor, subcontractor or other representative shall comply with the lobbying registration and other provisions of this part pertaining to lobbyists; provided further, however, that the board, utility, district, department, agency or entity that employs the contractor, subcontractor or other representative is not deemed to be an employer of a lobbyist for purposes of this part;

(E) “Lobby” does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to the issuance or award of a bond, grant, lease, loan or incentive pursuant to §§ 4-3-701--4-3-733; and

(F) “Lobby” does not mean communications with officials of the executive branch by any person to promote, oppose, or otherwise influence the outcome of a decision related to any component of an economic development incentive package; provided, that any person who is otherwise required to register as a lobbyist under the provisions of the Comprehensive Governmental Ethics Reform Act of 2006, Acts 2006, ch. 1 of the extraordinary session of the 104th general assembly, shall not be deemed to fall within this exception;

(17) “Lobbying firm” means any firm, corporation, partnership or other business entity that regularly supplies lobbying services to others for compensation;

(18) “Lobbyist” means any person who engages in lobbying for compensation;

(19) “Ministerial action” means an action that a person performs in a prescribed manner in obedience to the mandate of legal authority, without regard to, or the exercise of, the person's own judgment upon the propriety of the action being taken;

(20) “Official in the executive branch” means the governor, any member of the governor's staff, any member or employee of a state regulatory commission, including, without limitation, directors of the Tennessee regulatory authority, or any member or employee of any executive department or agency or other state body in the executive branch. “Official in the executive branch” also includes any administrative governmental official or employee of any county exercising the authority set forth in § 8-17-103(b);

(21) “Official in the legislative branch” means any member, member-elect, any staff person or employee of the general assembly or any member of a commission established by and responsible to the general assembly or either house of the general assembly who takes legislative action. “Official in the legislative branch” also includes the secretary of state, treasurer, and comptroller of the treasury and any employee of those offices. “Official in the legislative branch” also includes any legislative governmental official or employee of any county exercising the authority set forth in § 8-17-103(b);

(22) “Person” means any individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons;

(23) “Random audit information ” means information obtained pursuant to an examination of a lobbyist's employment contract, job description or other documentation in order to determine that no contingency fee arrangement prohibited under § 3-6-304(k) is included and that the date of employment as a lobbyist is consistent with the registration statements filed by both the lobbyist and employer. “Random audit information” also means information obtained pursuant to a review of the total lobbying and lobbying-related compensation and expenses paid to the lobbyist by an employer that will be checked against the range of expenditures reported by the employer in a random audit. As provided in § 3-6-106(a)(5), information contained in state-

ments filed with the commission for more than two (2) years shall not serve as the basis for a random audit. Nothing contained in this subdivision (23) shall prevent the commissioner, upon a finding of probable cause to believe that an employer or lobbyist has violated the provisions of this part from initiating an investigatory audit; and

(24) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.

§ 3-6-302. Electronic registration; photograph; statement; fees

(a)(1) Not later than seven (7) days after becoming an employer of a lobbyist, the employer shall electronically register with the Tennessee ethics commission. Each year thereafter, the employer shall register in the same manner, if the employer continues to employ one (1) or more lobbyists.

(2) Not later than seven (7) days after becoming a lobbyist, the lobbyist shall electronically register with the ethics commission. Each year thereafter, the lobbyist shall register in the same manner if the lobbyist continues to engage in lobbying.

(3) Within thirty (30) days after registering, each lobbyist shall provide a current photographic portrait to the ethics commission; however, no lobbyist shall be required to submit more than one (1) portrait during any year.

(b)(1) As a component of the registration process, each employer of a lobbyist shall electronically file a registration statement that includes the following information:

(A) Employer's name, business address, telephone number and e-mail address; and, in the case of a corporation, association or governmental entity, the names of the individuals performing the functions of chief executive officer and chief financial officer;

(B) Name, business address, telephone number and e-mail address of each lobbyist authorized to represent the employer; and

(C) Verification that the employer has downloaded from the commission web site or otherwise obtained the commission's manual for lobbyists and employers of lobbyists.

(2) As a component of the registration process, each lobbyist shall electronically file a registration statement that includes the following information:

(A) Lobbyist's name, business address, telephone number and e-mail address;

(B) Name, business address, telephone number and e-mail address of each employer the lobbyist is authorized to represent;

(C) Subject matters lobbied for such employers during the registration year, to be indicated

among general categories listed by the ethics commission;

(D) Name and business address of any member of the lobbyist's immediate family who is an official within the legislative or executive branch; and

(E) The extent of any direct business arrangement or partnership between the lobbyist and any candidate for public office or any official in the legislative or executive branch.

(c) Throughout the year, by amendment electronically filed with the ethics commission, each employer of a lobbyist and each lobbyist shall update, correct or otherwise modify the employer's or lobbyist's registration statement not later than seven (7) days following the occurrence of any event, action or changed circumstance that renders the registration statement inaccurate or incomplete.

(d) A lobbying firm shall be authorized, by rule promulgated pursuant to § 4-55-103(1), to file consolidated lobbyist registration, registration statements, and registration amendments on behalf of all partners, associates and employees within the firm; however, the partners, associates and employees of the firm shall be individually named and shall remain individually accountable for the timeliness and accuracy of the consolidated filing.

(e) Registration fees for employers of lobbyists and registration fees for lobbyists shall be established by rule, promulgated pursuant to § 4-55-103(1). The registration fee shall be paid not later than thirty (30) days following submission of a registration statement or amendment through which an employer reports a lobbyist or additional lobbyist or through which a lobbyist reports an employer or additional employer.

(f) Employer and lobbyist registration statements, as may be amended, as well as lobbyist photographs, shall be promptly posted on the commission's Internet site.

(g) The initial registration year for lobbyists and employers of lobbyists shall be the period from October 1, 2006, through December 31, 2007. Thereafter, the registration year for lobbyists and employers of lobbyists shall be the period of January 1 through December 31.

§ 3-6-303. Employer disclosure reports; required disclosures

(a) Within forty-five (45) days following conclusion of the six-month periods ending March 31 and September 30, each employer of a lobbyist shall electronically file with the ethics commission the employer disclosure report. For the six-month period, the report shall disclose the following information on a single electronic form:

(1) The aggregate total amount of lobbyist compensation paid by the employer. For purposes of the disclosure, compensation paid to any lobbyist who performs duties for the employer in addition to lobbying and related activities shall be apportioned to reflect the lobbyist's time allo-

cated for lobbying and related activities in this state. The aggregate total amount of such lobbyist compensation shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000;
- (B) At least \$10,000 but less than \$25,000;
- (C) At least \$25,000 but less than \$50,000;
- (D) At least \$50,000 but less than \$100,000;
- (E) At least \$100,000 but less than \$150,000;
- (F) At least \$150,000 but less than \$200,000;
- (G) At least \$200,000 but less than \$250,000;
- (H) At least \$250,000 but less than \$300,000;
- (I) At least \$300,000 but less than \$350,000;
- (J) At least \$350,000 but less than \$400,000; or

(K) \$400,000 or more; provided, however, that, if the aggregate total amount is reported within this range, then the employer shall round the aggregate total amount to the nearest \$50,000 and also report the rounded amount within the disclosure report;

(2) Excluding lobbyist compensation, the aggregate total amount of employer expenditures incurred for the purpose of influencing legislative or administrative action through public opinion or grassroots action, including, but not necessarily limited to, any such expenditures for printing, publishing, advertising, broadcasting, paid announcements, audiotapes, videotapes, compact discs, digital video discs, infomercials, rallies, demonstrations, seminars, lectures, conferences, postage, telephone-related costs, Internet-related services, public relations services, governmental relations services, polling services, travel expenses, grants to issue groups or grassroots organizations, or any similar expense. For purposes of this disclosure, any such expenditure that is made for the purpose of achieving a multistate effect shall be apportioned equally among such states. The aggregate total amount of these employer expenditures shall be reported within one (1) of the following ranges:

- (A) Less than \$10,000;
- (B) At least \$10,000 but less than \$25,000;

- (C) At least \$25,000 but less than \$50,000;
- (D) At least \$50,000 but less than \$100,000;
- (E) At least \$100,000 but less than \$150,000;
- (F) At least \$150,000 but less than \$200,000;
- (G) At least \$200,000 but less than \$250,000;
- (H) At least \$250,000 but less than \$300,000;
- (I) At least \$300,000 but less than \$350,000;
- (J) At least \$350,000 but less than \$400,000; or
- (K) \$400,000 or more; provided, however, if the aggregate total amount is reported within this range, then the employer shall round the aggregate total amount to the nearest \$50,000 and also report the rounded amount within the disclosure report; and

(3) The aggregate total amount of all employer expenditures for any event permissible under § 3-6-305(b)(8).

(b) Employer disclosure reports shall be promptly posted on the commission's web site. Any such posting of an employer's aggregate total expenditures disclosed pursuant to subdivision (a)(3) shall be supplemented by the commission with other information related to such event or events, delivered or reported to the commission pursuant to § 3-6-305(b)(8).

§ 3-6-304. Prohibited conduct

(a) No employer of a lobbyist, lobbyist or any person acting at the specific direction of an employer or lobbyist shall offer or attempt to offer anything of value to an official in the legislative or executive branch, or to the official's immediate family, based on any stated or tacit understanding that the official's vote, official action or judgment would be influenced thereby.

(b) No employer of a lobbyist or lobbyist shall knowingly make or cause to be made any false statement or misrepresentation of the facts concerning any matter for which the lobbyist is registered to lobby to any official in the legislative or executive branch.

(c) No official in the legislative or executive branch, or a member of the official's staff or immediate family, shall solicit or accept anything of value in violation of subsection (a).

(d) No lobbyist shall make a loan of money to a candidate for public office, official in the leg-

islative or executive branch, or to anyone on their behalf.

(e) No candidate for public office, official in the legislative or executive branch, or a member of the official's staff or immediate family, shall solicit or accept a loan in violation of subsection (d).

(f) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay or agree to pay a candidate for public office or official in the legislative or executive branch compensation for property or services substantially in excess of that charged in the ordinary course of business.

(g) No employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall permit a candidate for public office, official in the legislative or executive branch or a staff member, or a member of the candidate or official's immediate family, to use the credit or credit card of the employer or lobbyist or any other credit card over which the employer or the lobbyist has control.

(h) Except to the extent permissible under § 3-6-305, no employer of a lobbyist, lobbyist or any person acting at the direction of an employer or lobbyist shall pay the lodging expenses of an official in the legislative or executive branch or immediate family of the official.

(i) No employer of a lobbyist or multicandidate political campaign committee controlled by an employer of a lobbyist shall make any campaign contribution to a candidate for the office of governor or member of the general assembly during any regular annual session or any extraordinary session of the general assembly.

(j) No lobbyist shall offer or make any campaign contribution, including any in-kind contribution, to or on behalf of the governor or any member of the general assembly or any candidate for the office of governor, state senator or state representative.

(k) No employer of a lobbyist shall offer or pay and no lobbyist shall solicit or accept any fee, compensation or bonus for lobbying wherein the amount of the fee, compensation or bonus is contingent upon achievement of an outcome deemed to be successful for the employer.

(l) No member of the general assembly, elected official in the executive branch, member of the governor's cabinet, or cabinet level staff within the governor's office shall be a lobbyist during the twelve-month period immediately following departure from such office or employment.

(m) No lobbyist shall serve as a member of any board, commission or governmental entity of state government having jurisdiction to regulate the business endeavors or professional activities of any employer of the lobbyist; nor shall any lobbyist serve as a member of the state election commission or any county election commission; provided, that this prohibition does not apply to a lobbyist serving on an election commission on February 15, 2006, as long as the lobbyist

continuously serves as a member of that commission.

(n) No official in the legislative or executive branch shall accept travel expenses, meals or lodging paid pursuant to § 2-10-116(a), if payment of the travel expenses, meals or lodging violates any provision of this section or constitutes a prohibited gift under the provisions of § 3-6-305.

§ 3-6-305. Gifts; exceptions

(a)(1) No employer of a lobbyist or lobbyist may provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediate family of such candidate or official.

(2) A candidate for public office, an official in the legislative branch, or an official in the executive branch, or the immediate family of such candidate or official, may not solicit or accept, directly or indirectly, a gift from an employer of a lobbyist or a lobbyist.

(b) The following are not subject to the prohibition in subsection (a):

(1) Benefits resulting from business, employment, or other outside activities of a candidate or official or the immediate family of a candidate or official, if such benefits are customarily provided to others in similar circumstances and are not enhanced due to the status of the candidate or official;

(2) Informational materials in the form of books, articles, periodicals, other written materials, audiotapes, videotapes, or other forms of communication;

(3) Gifts that are given for a nonbusiness purpose and motivated by close personal friendship, but only to the extent such gifts are specifically defined and authorized by the rules of the ethics commission;

(4) Sample merchandise, promotional items, and appreciation tokens, if such merchandise, items and tokens are routinely given to customers, suppliers or potential customers or suppliers in the ordinary course of business;

(5) Unsolicited tokens or awards of appreciation, honorary degrees, or bona fide awards in recognition of public service in the form of a plaque, trophy, desk item, wall memento and similar items; provided, that any such item shall not be in a form that can be readily converted to cash;

(6) Opportunities and benefits made available to all members of an appropriate class of the general public, including, but not limited to:

(A) Discounts afforded to the general public or specified groups or occupations under normal business conditions, except that such discounts may not be based on the status of the candidate or official;

(B) Prizes and awards given in public contests; and

(C) Benefits of participation in events held within the state and sponsored by, or for the benefit of, charitable organizations as defined in § 48-101-501(1), if provided by an employer of a lobbyist to an official in the executive branch or to an official in the legislative branch; provided, that such events are open to participation by persons other than officials in the executive branch or officials in the legislative branch or the official's immediate family and any benefits received are not enhanced due to the status of the official in the executive or legislative branch; or provided, that invitations are extended to the entire membership of the general assembly;

(7)(A) Expenses for out-of-state travel, if such expenses are paid for or reimbursed by a governmental entity or an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff;

(B) Entertainment, food, refreshments, meals, beverages, amenities, goody bags, exhibitor promotional items given in the exhibit hall to conference attendees, health screenings, lodging, or admission tickets that are provided in connection with, and are arranged or coordinated through the employees or designated agents of, a conference, if the conference is sponsored by an established and recognized organization of elected or appointed state government officials, staff of state government officials or both officials and staff, or any other established and recognized organization that is an umbrella organization for such officials, staff, or both officials and staff. For purposes of this subdivision (b)(7)(B), any entertainment, food, refreshments, meals, beverages, amenities, goody bags, or admission tickets provided at events designated as a state night or other events for attendees of the conference shall be deemed to be provided in connection with, and arranged or coordinated through the employees or designated agents of the conference;

(8) Entertainment, food, refreshments, meals, beverages, or health screenings that are provided in connection with an in-state event to which invitations are extended to the entire membership of the general assembly; however, a copy of the invitation shall be delivered to the ethics commission and to each member of the general assembly at least seven (7) days in advance of the event by the employer or lobbyist paying for the event; provided further, however, that, within thirty (30) days following the event, the employer or lobbyist shall electronically report to the commission the total aggregate cost paid for the event, as well as the per person contractual cost for the event or the per person cost for the event based on the number of persons invited, which shall not exceed fifty dollars (\$50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below the monetary limitation by dividing the cost of

the gift among two (2) or more lobbyists or employers of lobbyists. All such information delivered or reported to the commission shall be promptly posted on the commission's Internet site. The filing of a consolidated report may be authorized by rule, promulgated pursuant to § 4-55-103(1), if the costs of the event are shared by two (2) or more employers or lobbyists; however, any such report shall specify the allocation of the costs among the employers or lobbyists; provided further, however, that the employers or lobbyists shall remain individually accountable for the timeliness and accuracy of the consolidated filing. The fifty dollar (\$50.00) limitation shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1, starting in 2007. The ethics commission shall publish the increased amount on its web site;

(9) Entertainment, food, refreshments, meals, amenities, or beverages that are provided in connection with an in-state event at which a candidate for public office, an official in the legislative branch or an official in the executive branch, or an immediate family member of the candidate or official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization that has regular meetings; however, the cost of the entertainment, food, refreshments, meals, amenities, or beverages shall be paid for or reimbursed by the membership organization and the per person cost of the event, which shall not exceed fifty dollars (\$50.00) per person per day, excluding sales tax and gratuity. The value of any such gift may not be reduced below such monetary limitation by dividing the cost of the gift among two (2) or more lobbyists or employers of lobbyists. The fifty dollar (\$50.00) limitation shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States Department of Labor, Bureau of Labor Statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(10)(A) Food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which invitations are extended to an official or officials in the legislative branch or official or officials in the executive branch; provided, that:

(i) No employer of a lobbyist may provide food, refreshments, meals, or beverages, the value of which to the official exceeds fifty dollars (\$50.00) per event per day, excluding sales tax and gratuity; nor may such employer of a lobbyist provide any such items to any official pursuant to this subdivision (b)(10)(A)(i) that have a cumulative value of more than one hundred dollars (\$100) to the official during a calendar year;

(ii) The value of any such gift may not be reduced below such monetary limitations by dividing the cost of the gift among two (2) or more employers of lobbyists;

(iii) This exception to the prohibition in subsection (a) only applies to a member or members of the general assembly, if the member or members do not receive a per diem allowance pursuant to § 3-1-106, for the day on which the event is held and the member or members do not receive

any food, refreshments, meals or beverages that are provided in connection with the in-state event that are not offered or provided to other nonmembers in attendance at the event; and

(iv) An officer or management-level employee of each employer of a lobbyist paying for the event shall attend the event; however, a lobbyist shall not be considered to be an officer or management-level employee of an employer of the lobbyist paying for the event for purposes of this subdivision (b)(10)(A)(iv).

(B) The fifty dollar (\$50.00) and one hundred dollar (\$100) amounts in subdivision (b)(10)(A)(i) shall be increased to the nearest one dollar (\$1.00) amount to reflect the percentage of change in the average consumer price index (all items-city average) as published by the United States department of labor, bureau of labor statistics, every odd-numbered year on January 1 starting in 2007. The ethics commission shall publish the increased amount on its web site;

(11) Occasional or incidental local travel for which no fare is ordinarily charged; or

(12) Contributions to a fund established and controlled by a 501(c)(3) corporation for the benefit of an extremely ill immediate family member of an employee who is included within the definition of an official in the executive branch; provided, that this subdivision (b)(12) shall expire when the ethics commission promulgates rules pursuant to subdivision (b)(3) concerning gifts for nonbusiness purposes and motivated by close personal friendships.

(c) If an official in the legislative or executive branch attends an event and accepts a gift that is provided by a person or entity not subject to the prohibition set forth in § 3-6-305(a), and if a lobbyist also attends the event and knows or has reason to know that the gift has been provided at the suggestion or direction of the lobbyist, then, within seven (7) days following the event, the lobbyist shall electronically report the following information to the ethics commission:

(1) Name of the official or family member;

(2) Nature and purpose of the event;

(3) Name, address and business of the person or entity that provided the gift;

(4) Description of the gift; and

(5) Cost of the gift; however, if the cost of the gift is unknown and not reasonably discernible by the lobbyist, then the lobbyist shall report a good faith estimate of the cost of the gift.

(d) A gift made contrary to this section, shall not be a violation of this section, if the candidate, official or immediate family member does not use the gift and returns it to the donor within the latter of ten (10) days of receipt or ten (10) days of having knowledge that the gift was a violation or pays consideration of equal or greater value within the latter of ten (10) days of receipt or ten

(10) days of having knowledge that the gift was a violation.

§ 3-6-306. Penalties

(a) Notwithstanding the provisions of any law to the contrary:

(1)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750) if an employer of a lobbyist:

(i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the employer's registration statement;

(ii) Fails, without good cause, to timely pay registration fees;

(iii) Fails, without good cause, to timely file the employer disclosure report;

(B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if an employer of a lobbyist:

(i) Files information with the commission knowing or having reason to know that the information is inaccurate or incomplete;

(ii) Utilizes the services of a lobbyist knowing or having reason to know that the lobbyist has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(iii) Knowingly violates any provision of § 3-6-304 or § 3-6-305; provided, that for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00), whichever is greater;

(2)(A) The ethics commission may administratively assess a civil penalty of not more than twenty-five dollars (\$25.00) per day up to a maximum of seven hundred fifty dollars (\$750) if a lobbyist:

(i) Fails, without good cause, to timely register or to timely update, correct or otherwise modify the lobbyist's registration statement; or

(ii) Fails, without good cause, to timely pay a registration fee;

(B) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if a lobbyist:

(i) Files information with the commission knowing or having reason to know that the information is inaccurate or incomplete;

(ii) Engages in lobbying on behalf of an employer knowing or having reason to know that the employer has not registered or that the lobbyist's registration has expired without renewal or has been rejected, suspended or revoked by the ethics commission; or

(iii) Knowingly violates any provision of § 3-6-304 or § 3-6-305; provided, that, for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00), whichever is greater; and

(3)(A) The ethics commission may administratively assess a civil penalty, not to exceed ten thousand dollars (\$10,000), if any candidate for public office, official in the legislative or executive branch, or an immediate family member of the candidate or official knowingly violates any provision of § 3-6-304 or § 3-6-305; provided, that, for an initial violation of § 3-6-305, the commission may only assess a civil penalty up to two hundred percent (200%) of the value of any gift or twenty-five dollars (\$25.00), whichever is greater. Additionally, if the commission determines that an egregious violation of either § 3-6-304 or § 3-6-305 has been committed by a member of the general assembly, then it may report its findings and actions to the ethics committee of the appropriate house of the general assembly.

(B)(i) Notwithstanding subdivision (a)(3)(A), no civil penalty shall be imposed by the ethics commission on any staff person or employee of the general assembly or any employee of any executive department or agency or other state body in the executive branch for a violation of this part. The ethics commission shall instead refer the commission's findings and recommendations for appropriate action to the speakers of the senate and of the house of representatives, if the person is a staff person or employee of the general assembly and to the appropriate executive official with supervisory authority over that person if the person is an employee of any executive department or agency or other state body in the executive branch.

(ii) As used in subdivision (a)(3)(B)(i), "staff person" and "employee" shall not be construed to include any person holding any office or position enumerated in § 8-50-501(a).

(b) Notwithstanding the provisions of any law to the contrary, the ethics commission may administratively place on probationary status, suspend, reject, or revoke the registration of any lobbyist who knowingly and persistently violates the provisions of this part. As used in this subsection (b), "persistently" means three (3) or more occasions during a two-year period of any general assembly.

(c)(1) On its Internet site, the ethics commission shall promptly post the names of all employers and lobbyists who are:

(A) Delinquent in filing registration, registration statements or amendments thereto;

(B) Delinquent in filing disclosure reports;

(C) Delinquent in paying registration fees or civil penalties; or

(D) Found to have committed any other violation of this part.

(2) Additionally, the commission shall post the names of all lobbyists having expired, probationary, suspended, rejected, or revoked registration. The commission shall also post the names of any other person found to have knowingly violated any provision of § 3-6-304 or § 3-6-305.

(d) An intentional violation of this part constitutes a criminal offense and is punishable as a Class C misdemeanor for the first offense, as a Class B misdemeanor for the second offense, and as a Class A misdemeanor for the third and subsequent offenses.

(e) In the chancery court of Davidson County, the ethics commission may seek injunctive relief to prevent any employer of a lobbyist, lobbyist, candidate for public office, official in the legislative or executive branch, or the immediate family of the candidate or official from engaging in any continuing violation of this part.

(f) It is a Class B misdemeanor for any person to file with the ethics commission a sworn complaint, alleging a violation of this part, that is known to be false.

§ 3-6-307. Compensation

(a) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if the person receives reimbursement for ten (10) days or less per year, then the person is not a lobbyist for purposes of this chapter or § 67-4-1702(a)(1).

(b) Notwithstanding any provision of this chapter to the contrary, if a person receives as compensation for lobbying only reimbursement for actual out-of-pocket personal expenses, and if the person receives the reimbursement for more than ten (10) days per year, then the person shall register as a lobbyist and shall comply with all lobbyist requirements imposed pursuant to this chapter; provided, however, that the commission shall waive the person's registration fee and the person shall be exempt from payment of the occupational privilege tax on lobbyists imposed by § 67-4-1702(a)(1).

(c) Notwithstanding any provision of this chapter to the contrary, if an individual or entity employs, retains or otherwise arranges for one or more persons to engage in lobbying for compensation, and if the only compensation paid is reimbursement for actual out-of-pocket personal expenses, and if the reimbursement is not paid for more than ten (10) days per person per year,

then the individual or entity is not an employer of a lobbyist for purposes of this chapter.

(d) For purposes of this section, the term “out-of-pocket personal expenses” includes such things as the lobbyist registration fee, legislative information services material, copying expenses, transportation costs, parking fees, and personal lodging and food expenses incurred while actually engaging in lobbying. Reimbursement for transportation, parking, personal lodging and food costs shall be limited to expenses allowed for those items in the comprehensive state travel regulations. No such reimbursed expenses shall be for the benefit of any public official, except for informational materials delivered to public officials.

§ 3-6-308. Duties of ethics commission

(a) The provisions of this part shall be administered and enforced by the ethics commission. To that end, it is the duty of the ethics commission to:

(1) Develop, with the advice, assistance and approval of the office of information resources, and prescribe electronic forms for registration, registration statements, amendments to registration statements, disclosure reports and other information required to be reported pursuant to this part;

(2) Preserve the registration, registration statements, amendments to registration statements, disclosure reports and other filed information for a period of at least five (5) years, or longer when there is a pending investigation by the commission or any law enforcement agency, or when there is an ongoing administrative or judicial proceeding related to any registration, statements, amendments, reports or information;

(3) Develop a filing, coding and cross-indexing system consonant with the purposes of this part;

(4) Issue and publish, upon proper request from any employer, lobbyist or public official subject to the jurisdiction of the commission, advisory opinions concerning the requirements of this part; however, under no circumstances shall a person performing staff duties as an employee of the commission have the authority to issue an advisory opinion, informal or otherwise, except as provided in § 3-6-117, concerning the authority of a person performing staff duties as the executive director or an attorney to give informal responses in the manner described in § 3-6-117;

(5) Accept the electronic filing of any pertinent information voluntarily supplied that exceeds the requirements of this part;

(6) Review electronic filings submitted pursuant to this part to ensure compliance with the laws administered and enforced by the ethics commission. Filings older than two (2) years shall be deemed to be sufficient, absent a showing of fraud;

(7) Audit each year the registration statements, amendments to registration statements and reports of no more than four percent (4%) of all lobbyists. The attorney general and reporter, or the

attorney general's designee, shall attend the random selection proceeding in order to preserve the integrity of the proceeding. Nothing contained within the provisions of this subdivision (a)(7) shall be construed to prevent the commission, upon finding probable cause to believe that an employer or a lobbyist has violated the provisions of this part, from auditing the registration statements, amendments to registration statements and reports of the employer or lobbyist;

(8)(A) Compile and publish, on the commission's Internet site, the following reports listing:

(i) All registered employers, alphabetically;

(ii) All registered lobbyists, alphabetically; and

(iii) Each subject matter category specified by the ethics commission for purposes of § 3-6-302(b)(2)(C), with each lobbyist listed under the subject matter category who lobbied that subject matter category during the registration year;

(B) The ethics commission may prepare and publish on its web site such other reports as are deemed to be appropriate and in the public interest; and

(9) Deleted by 2009 Pub.Acts, c. 556, § 24, eff. July 1, 2009.

(10) Impose civil penalties and other administrative sanctions in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) It is the duty of the attorney general and reporter to render opinions and give counsel to the ethics commission upon request of the executive director.

(c) Notwithstanding the provisions of any law to the contrary, random audit information and investigatory audit information shall be confidential and shall be maintained as such by the members and employees of the ethics commission and by the officers and employees of the state, in the manner and to the extent that the confidentiality of tax information is maintained by the officers and employees of the department of revenue and the state under the provisions of title 67, chapter 1, part 17.

APPENDIX B

**RULES
OF THE
TENNESSEE ETHICS COMMISSION
CHAPTER 0580-01-05
RULES PERTAINING TO PROHIBITED CONDUCT**

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0580-01-05-.01 PURPOSE AND SCOPE.

These rules are promulgated for the purpose of proscribing prohibited conduct and exceptions to these prohibitions for lobbyists, employers of lobbyists, candidates and officials of the executive and legislative branches, and immediate family members of such candidates and officials, pursuant to T.C.A. §§ 3-6-304 through 3-6-305.

Authority: T.C.A. §§3-6-107(1), 3-6-304 through 305, 3-6-308(a)(9). **Administrative History:** Original rule filed February 3, 2009; effective June 26, 2009.

0580-01-05-.02 DEFINITIONS.

- (1) Commission. The Tennessee Ethics Commission.
- (2) Official. A person who is an “official in the executive branch” of state government, as defined in Tenn. Code Ann. § 3-6-301(19), or a person who is an “official in the legislative branch” of state government, as defined in Tenn. Code Ann. § 3-6-301(20).

Authority: T.C.A. § §3-6-107(1), 3-6-103(a)(1), 3-6-301. **Administrative History:** Original rule filed February 3, 2009; effective June 26, 2009.

0580-01-05-.03 PROHIBITED ACTIVITIES.

- (1) No lobbyist, employer of a lobbyist, Official, or such Official’s immediate family, as those terms are defined in these rules and by T.C.A. § 3-6-301, shall engage in any conduct prohibited by T.C.A. § 3-6-304.
- (2) No lobbyist or employer of a lobbyist shall provide, directly or indirectly, to a candidate for public office, an Official, or the immediate family of such candidate or Official, a gift as prohibited in T.C.A. § 3-6-305, nor shall the candidate, Official, or immediate family thereof accept such a gift, except as allowed by T.C.A. § 3-6-305 or these Rules.
- (3) The ban on campaign contributions set forth in T.C.A. § 3-6-304(j) does not prohibit contributions by a lobbyist to an incumbent legislator or governor that are made in support of his or her election to a federal office.
- (4) Campaign contributions from a lobbyist to an incumbent legislator who is running for a local public office are prohibited.

Authority: T.C.A. §§ 3-6-107(1), 2-10-310(a)(2), 3-6-301(12), 3-6-304 through 3-6-305, 3-6-308(a)(9). **Administrative History:** Original rule filed February 3, 2009; effective June 26, 2009.

0580-01-05-.04 PERSONAL GIFT EXCEPTION.

- (1) Gifts given for a non-business purpose and motivated by a close personal friendship are not subject to the gift ban pursuant to T.C.A. § 3-6-305(b)(3).
- (2) In determining whether a gift is motivated by a close personal friendship, the Commission may consider factors including, but not limited to, the following, giving them such weight as may be appropriate in the facts and circumstances of each case:
 - (a) Whether the lobbyist or individual who is an employer of a lobbyist paid for or provided the gift out of his or her own personal funds or account, or whether the gift is instead being charged to the lobbyist's business account, an employer of the lobbyist, or a lobbying firm.
 - (b) Whether the cost of the gift is taken as a business deduction by the lobbyist, a lobbying firm, or employer of the lobbyist.
 - (c) Whether there has been a history of gift giving between the lobbyist or the employer of a lobbyist, on the one hand, and the candidate, Official, or his or her immediate family, on the other hand; and the nature of the previous gift giving.
 - (d) Whether the candidate, Official, or immediate family member has reciprocated with a gift to the lobbyist or the employer of the lobbyist in the past, and whether the gift has been of similar value.
 - (e) Whether the lobbyist or the employer of a lobbyist provides the same or similar items to other candidates, Officials, or the immediate families of such candidates or Officials at the same time, who are not also close personal friends.
 - (f) Whether the timing and circumstances of the gift are appropriate; whether a lobbyist or an employer of a lobbyist has a matter that is currently before or will shortly be before the Official.
 - (g) In the case of a gift given by an individual who works for an employer of a lobbyist, whether the gift-giver is involved in lobbying activities on behalf of the employer.

Authority: T.C.A. §§ 3-6-107(1); 3-6-305(b)(3), 3-6-308. **Administrative History:** Original rule filed February 3, 2009; effective June 26, 2009.

APPENDIX C

Tennessee Ethics Commission

Advisory Opinions

<http://tn.gov/sos/tec/opinions.htm>

Advisory Opinion	Abstract
Advisory Opinion 09-01	Whether Housing Industry PAC is controlled by an employer of a lobbyist and therefore prohibited from making campaign contributions to a gubernatorial candidate during legislative session pursuant to Tenn. Code. Ann. § 3-6-304(i).
Advisory Opinion 08-09	Whether members of the Tennessee Commission on Uniform Legislation are “officials in the legislative branch” as defined by Tenn. Code Ann. § 3-6-301(20), and if so whether persons communicating with such members for compensation for the purpose of influencing legislative action or administrative action are engaged in “lobbying” as defined in Tenn. Code Ann. § 3-6-301(15) and must therefore register as lobbyists as required by Tenn. Code Ann. § 3-6-302.
Advisory Opinion 08-08	Interpretation of T.C.A. §§ 3-6-305(b)(2), (b)(4) and (b)(7) with respect to whether State Officials may attend a conference partially funded by employers of lobbyists, and accept free materials and promotional items provided by the employers of lobbyists in connection with the conference.
Advisory Opinion 08-07	Interpretation of Tenn. Code Ann. §§ 3-6-117 with regard to whether requests for informal responses are confidential, and whether the responses are public records.
Advisory Opinion 08-06	Interpretation of T.C.A. § 3-6-301(11) with respect to whether an official in the executive branch whose registration fee for a conference or educational seminar is waived by an employer of a lobbyist may receive refreshments incidental to the conference or educational seminar if these refreshments are included in the registration fee.
Advisory Opinion 08-05	Interpretation of T.C.A. §§ 3-6-301 and 3-6-305 with respect to whether the Ethics Reform Act permits an employer of a lobbyist to provide, and a general assembly member to receive, benefits provided in connection with a reception for Tennessee delegates at a national party convention.
Advisory Opinion 08-04, Part II	Interpretation Tenn. Code Ann. §§ 3-6-305(b) with regard to whether any of the exceptions to the gift ban contained therein allow state officials who are members of a non-profit organization to solicit contributions from employers of lobbyists for the purpose of supporting a conference of state government officials.
Advisory Opinion 08-04, Part I	Whether Tenn. Code Ann. § 3-6-305(a)(2), places restrictions on various fundraising activities of a professional association whose membership includes state officials, or upon the participation of those state officials in such activities.

Advisory Opinion 08-03	Interpretation of T.C.A. § 3-6-305 with respect to whether the Act prohibits an employer of a lobbyist from paying the expenses of a “politically active” stroke survivor who is also an official in the executive branch to travel to Washington, D.C. to participate in an annual “Lobby Day.”
Advisory Opinion 08-02	Interpretation of T.C.A. § 3-6-301(8) with respect to acceptance of an award, reimbursement of expenses and an honorarium from a national professional organization
Advisory Opinion 08-01	Interpretation of T.C.A. § 3-6-305 with respect to an employer of a lobbyist providing commemorative bottles of wine and glasses to members of the Legislature in connection with an all-legislative and in-state event.
Advisory Opinion 07-12	Interpretation of T.C.A. §§ 3-6-301, et seq., with respect to whether a lobbyist, employer of a lobbyist, or lobbying firm may host a fundraiser or provide a venue for a fundraising event for a member or candidate for the Tennessee General Assembly.
Advisory Opinion 07-10	Interpretation of T.C.A. § 3-6-301, et seq. regarding lobbyist registration requirements for employees of public relations firms.
Advisory Opinion 07-09	T.C.A. §3-6-301(15); Registration Requirements of Transportation Authority
Advisory Opinion 07-07	Interpretation of T.C.A. §§ 3-6-304 and 3-6-305, with respect to an employer of a lobbyist’s ability to provide travel expenses and otherwise underwrite professional conferences.
Advisory Opinion 07-06	T.C.A. §3-6-301(8); Employer Registration Requirements for Lobbyist Retained w/o Authorization
Advisory Opinion 07-05	T.C.A. §3-6-304(j); Application of Ban on Campaign Contributions to Various Types of Candidates
Advisory Opinion 07-04	T.C.A. §§2-10-122, 125, 126; Requirements for Filing Disclosure of Consulting Services
Advisory Opinion 07-03	Interpretation of § T.C.A. 3-6-304(j) with respect to whether a lobbyist make may campaign contributions in her capacity as an as an officer of a political action committee.
Advisory Opinion 07-02	T.C.A. §3-6-305(b)(6); Participation of General Assembly Members in Charitable Events

Advisory Opinion 07-01	T.C.A. §3-6-301, <i>et seq.</i> ; Application of Gift Ban to Affiliate Members
Advisory Opinion 06-03	T.C.A. §3-6-301, <i>et seq.</i> ; Registration Requirements for Persons Monitoring Legislation
Advisory Opinion 06-02	T.C.A. §§3-6-301(15) & (17); Registration Requirements for Attorneys
Advisory Opinion 06-01	T.C.A. § 3-6-301, <i>et seq.</i> ; Commencement of Lobbyist Registration Deadline