



MANUAL

FOR LOBBYISTS AND

EMPLOYERS OF LOBBYISTS

JANUARY 2023

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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/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(15) and (17))

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(15))

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(7).

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

- Governmental entities. (T.C.A. §3-6-301(15))
- 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(6))

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(16))

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)

Lobbyists who have a continuing contract with employers of lobbyists are required to register by January 8 of each year.

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.

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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))

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)

Employers of lobbyists who have a continuing contract with lobbyists are required to register by January 8 of each year.

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 and 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))

LOBBYISTS AND EMPLOYERS

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 or by attending an ethics course provided for members of the general assembly. If attending the course provided for members of the general assembly, the lobbyist must sign in with a Commission staff member to receive credit for attending.

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 "Bi-Annual Employer Disclosure Report" for the preceding six-month period. Beginning with 2012, reports will be filed as listed below. Reports are filed electronically.

<i>Reporting Period</i>	<i>Due Date</i>
January 1 through June 30	August 14
July 1 through December 31	February 14

LOBBYISTS AND EMPLOYERS

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 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 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. (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 of money 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 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. (T.C.A. § 3-6-304(f))

Credit Card

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. (T.C.A. § 3-6-304(g))

Lodging Expenses

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. (T.C.A § 3-6-304(h))

Campaign Contributions

No employer of a lobbyist or multi-candidate political campaign committee controlled by an employer of a lobbyist shall make any campaign contribution to a candidate for the

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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))

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

Contingent Fees

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. (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 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. (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. (T.C.A. § 3-6-305(b)(2))

Close Personal Friendship

Gifts that are given for a non-business purpose and motivated by close personal friendship, but only to the extent that such 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, desk item, wall memento and similar items; provided that any such item shall not be in a form that can 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 an appropriate class of the general public, including but not limited to (T.C.A. § 3-6-305(b)(6)):

- 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;
- Prizes and awards given in public contests; and
- Benefits of participation in events held within the state and sponsored by or for the benefit of charitable organizations as defined in T.C.A. § 48-101-501 and provided by an employer of a lobbyist to an official in the executive branch or an official in the legislative branch, if:
 - The event is 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 status of the official); or
 - Invitations are extended to the entire general assembly.

Governmental Entities

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. (T.C.A. § 3-6-305(b)(7)(A))

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 and

EXCEPTIONS TO THE GIFT PROHIBITION

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 a conference shall be deemed to be provided in connection with, and arranged or coordinated through the employees or designated agents of the conference. (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
- 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 \$73 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 or the lobbyist paying for 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 \$73 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)):

EXCEPTIONS TO THE GIFT PROHIBITION

- The value of the items provided do not exceed \$73 per day (\$147 yearly total). The value may not be reduced by dividing by two or more employer of lobbyists.
- An officer or management-level employee of each employer of a lobbyist hosting the event must attend the event. The lobbyist cannot be considered to be the officer or management-level employee of an employer of a lobbyist paying for the event.
- Only applies to general assembly member if member is not receiving per diem on day of event and member receives same food, refreshments, meals, or beverages as non-members in attendance.

Local Travel

Occasional or incidental local travel for which no fare is ordinarily charged. (T.C.A. § 3-6-305(b)(10))

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 no more than \$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 either the Employer or a Lobbyist who commits a prohibited act, including campaign contribution restrictions, or violates the gift prohibition.

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, a second violation is a class B misdemeanor, and the third and subsequent violations are class A misdemeanors. (T.C.A. §3-6-306)

Administrative Actions

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.

T.C.A. §67-4-1704 requires suspension or revocation of a lobbyist registration for two or more nonpayments of the professional privilege tax to the Department of Revenue.

Effective January 1, 2013, the Commission shall suspend, deny or revoke the registration of any lobbyist who has defaulted on a repayment or service obligation under any federal family education loan program, the federal Higher Education Act of 1965, a student loan guaranteed or administered by TSAC, or any other state or federal educational loan or service-conditional scholarship program. (See T.C.A. §3-6-309)

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. Margaret 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 \$65.
- 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 \$65 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

Anna is an attorney for the legislative branch and often speaks to groups on legislation before the legislature. Anna also collects small figurines which are valued at about \$40. Anna 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. Anna may not accept the figurine because she has solicited it.
- b. Anna may not accept the figurine because it is readily convertible to cash.
- c. Anna may not accept the figurine because of both a. and b.
- d. Anna may accept the figurine because it less than \$65.

Employer of Lobbyist

Which of the following are never employers of a lobbyist?

- a. Local governments.
- 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

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 Janet'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, Anna 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. Local governments can also be employers of governments, although they need not register or are subject to the gift ban prohibitions. 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.