



Frequently Asked Questions: Gifts

Who is covered by the gift provisions?

Legislative and executive branch officials are covered under the law. This includes Members of the Legislature; legislative employees; officials and employees of the executive branch agencies; candidates to statewide positions, and the immediate family members of all of these groups.

Local elected officials are not subject to the gift provisions.

What is a gift?

A gift is defined as any payment, honoraria, subscription, loan, advance, forbearance, rendering of deposit of money or services unless consideration of equal value or greater is received.

What about meals and entertainment?

Meals and entertainment are gifts.

What are other common examples of gifts?

Tickets to sporting events, free passes, and travel.

Are there items that are not gifts?

Campaign contributions, commercially reasonable loans made in the ordinary course of business or a gift from immediate family members and other relatives are not gifts.

What about the waiver of a registration fee for a conference or educational seminar?

These are specifically not gifts under the law. Therefore a Member of the Legislature or an executive branch official may accept the waiver of a registration fee for a conference even if the conference is sponsored by an Employer of a Lobbyist.

Who cannot give gifts?

Lobbyists and those who employ lobbyists (Employers) are restricted from providing gifts to legislative and executive branch officials, and their immediate family members.

If the gift is from a Lobbyist or an Employer, there may be an exception under the law that may apply.

How do I know if the gift giver is a Lobbyist or an Employer?

Check the Commission's website (<http://state.tn.us/sos/tec>) which has an easy to use public search function. You can also call the Commission at (615) 253-8634.

Can a Member of the Legislature accept Gifts from Constituents?

If the gift is not from a Lobbyist or an Employer, then it is not prohibited under the Ethics Law. Therefore, a non-lobbyist constituent can provide a gift to a Member of the Legislature.

So what must I do to figure out if a gift is acceptable?

Go through the following steps:

1. Is the item a gift under the law?
2. If no, then the gift is permissible.
3. If yes, it is a gift, but is the gift giver a Lobbyist or an Employer?
4. If no, then the gift is permissible. If yes, is there an exception that will permit the gift?

Are there many exceptions to the gift law?

Yes, there are at least a dozen specific exceptions. As some of the exceptions are difficult to apply and depend on the particular circumstances, you are encouraged to contact the Commission for further guidance.

What are some of the more common exceptions?

1. Information material in the form of books, articles, periodicals, audio or videotapes, or other forms of communication.
2. Sample merchandise, promotional items, and appreciation tokens if such items are routinely given to customers in the ordinary course of business.
3. Unsolicited tokens or award of appreciation including those in the form of a plaque, trophy, desk item or wall memento provided that the token or award cannot be readily convertible to cash.
4. Opportunities and benefits made available to all members of an appropriate class of the general public.

What about Meals and Entertainment?

Meals and entertainment may have their own exceptions.

1. In-state events to which all Members of the Legislature are invited provided that the value of the event does not exceed \$51/person per day, excluding sales tax and gratuity.
2. In-state events in which the Member or the executive branch official is a speaker or part of a panel discussion at a scheduled meeting of an established and recognized membership organization provided that the value of the event does not exceed \$51/person per day, excluding sales tax and gratuity.
3. In-state events sponsored by an Employer provided that the value of the event does not exceed \$51/person per day, excluding sales tax and gratuity, and do not have a cumulative value of \$102 to the official during a calendar year.

How do I know if it is permissible to attend an in-state event to which all the Members of the Legislature are invited?

The sponsoring Lobbyist or Employer must provide the Commission a copy of the invitation seven days in advance of the event. You can check the Commission's website <http://tnsos.org/tec/events.php> for the invitation.

Are there special rules for the Members of the Legislature?

Yes, with regard to number 3 above, Members may not take their legislative per diem and the gift in the form of the food or refreshments at the in-state event.

What about out-of-state Events?

There are very limited exceptions for out-of-state events and travel.

1. Travel paid by an established and recognized organization of elected or appointed state officials or any other established and recognized organization that is an umbrella organization for state officials.
2. Events at conferences sponsored by organizations listed in the first exception, including "state's nights."

What about a gift from a Lobbyist or Employer who is also a friend?

The law provides an exception for gifts "given for a non-business purpose and motivated by close personal friendship" subject to the rules of the Commission. The Commission is in the process of issuing such rules. In the meanwhile, the Commission has promulgated Guidelines to assist you which are available on the Commission's website at http://state.tn.us/sos/tec/ClosePersonal%20Friends_Gift%20Guidelines.pdf.

How can I get more information about the law?

Check the Commission's website, call the Commission at (615) 253-8634 or email the Commission at ethics.counsel@state.tn.us.