

**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 3-6-305, and 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. §§ 3-6-103(a)(1), 3-6-107(1), and 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. §§ 2-10-310(a)(2), 3-6-107(1), 3-6-301(12), 3-6-304 through 3-6-305, and 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), and 3-6-308. **Administrative History:** Original rule filed February 3, 2009; effective June 26, 2009.