



# 2023 ANNUAL ETHICS TRAINING FOR LOBBYISTS

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[www.tn.gov/tec](http://www.tn.gov/tec)

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## CURRENT ORGANIZATIONAL STRUCTURE

- ▶ Bureau of Ethics and Campaign Finance, T.C.A. § 4-55-101 et seq
- ▶ Registry of Election Finance, T.C.A. § 2-10-201 et seq
- ▶ Tennessee Ethics Commission, T.C.A. § 3-6-101 et seq

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## PROHIBITIONS



- ▶ T.C.A § 3-6-304 sets forth specific prohibitions on lobbyists, employers of lobbyists, or any person acting at the specific direction of an employer or lobbyist.
- ▶ Members of the General Assembly may not accept any of the following from a lobbyist, employer of a lobbyist, or any person acting at the specific direction of these individuals:
  - ▶ Anything of value in order to influence official action
  - ▶ Loans or Use of a Credit Card
  - ▶ Payments for Services or Property "substantially in excess of" FMV
  - ▶ Lodging Expenses, except as specifically provided by law.
  - ▶ **Certain Campaign Contributions! More to Come on This!**
- ▶ Family members are also prohibited from accepting these things.

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## CAMPAIGN CONTRIBUTIONS



- ▶ Members of the General Assembly, may not accept any campaign contribution from an employer of a lobbyist, or a PAC controlled by an employer of a lobbyist, during the legislative session. T.C.A. § 3-6-304(i).
  - ▶ They may resume accepting these contributions at the close of session or on June 1, whichever comes first.
- ▶ Lobbyists are not permitted to give campaign contributions to the following individuals at any time: the governor, any judge or chancellor, any member of the GA, or any candidate for the office of governor, GA member, state judge, local judge. T.C.A. § 3-6-304(j).

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## GIFTS PROHIBITED



- ▶ "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." T.C.A. § 3-6-305.
- ▶ The general rule is that gifts, direct or indirect, from Employers of Lobbyists and Lobbyists to a candidates or public officials, or their family members, are **prohibited**.
- ▶ In addition, these individuals cannot attempt to solicit, directly or indirectly, a gift from a Lobbyist or an Employer. T.C.A. § 3-6-304 & -305.

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## EXCEPTIONS TO 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 normally provided to others in similar circumstances and the benefits 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).

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## EXCEPTIONS TO GIFT PROHIBITION

### Close Personal Friendships

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).

- ▶ TENN. COMP. R. & REGS. 0580-01-05-.04. Factors to consider are:
  - ▶ 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.

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## EXCEPTIONS TO 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).

**Note:** This is different than an Honorarium (i.e., payment for an appearance, speech, or article), which is prohibited by T.C.A. § 2-10-116.

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## EXCEPTIONS TO GIFT PROHIBITION



### 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 cannot be enhanced due to status of the employee) or
  - ▶ Invitations are provided to the entire general assembly

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## EXCEPTIONS TO GIFT PROHIBITION



### Governmental Entities and Established Organizations of Public Officials and Staff

- ▶ 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. Any entertainment, food, refreshments, meals, beverages, amenities, goody bags or admission tickets provided at events designated as a state night or other event for attendees shall be deemed to be provided in connection with the conference. T.C.A. § 3-6-305(a)(7)(B).

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## EXCEPTIONS TO GIFT PROHIBITION

### In-State Events for General Assembly

Entertainment, food, refreshments, meals, beverages, or health screenings that are given in connection with an in-state event under T.C.A. § 3-6-305(b)(8) 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 \$65 per person per day (\$130 yearly total), 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. The employer must complete and file an in-state disclosure form regarding the event. This form is on the Ethics Commission's website.
- ▶ Information regarding costs of the event shall be reported to the Commission and promptly posted on the Commission's website.

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## EXCEPTIONS TO GIFT PROHIBITION



### 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:

- ▶ 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 \$65 in cost per day (\$130 yearly total)

T.C.A. § 3-6-305(b)(9).

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## EXCEPTIONS TO GIFT PROHIBITION



### **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:

- ▶ The value of the items provided does not exceed \$65 per day (\$130 yearly total). The value may not be reduced by dividing by two or more employers of lobbyists hosting the in-state event.
- ▶ An officer or management-level employee of each employer of a lobbyist hosting the event must attend the event, except this person can not be a lobbyist.
- ▶ Exception only applies to general assembly members, if the member is not receiving per diem on the day of the event and the member receives the same items as nonmembers.

T.C.A. § 3-6-305(b)(10).

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## EXCEPTIONS TO GIFT PROHIBITION



### **Local Travel**

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

### **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(10).

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## IMPLEMENTATION OF PUBLIC CHAPTER 1087 (2022)



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### INTERIM REPORTS

- ▶ Effective July 1, 2022, all candidates, PACs, and registered tax-exempt organizations are required file an Interim Report containing detailed information concerning major contributions, in-kind contributions, loans, expenditures, and/or obligations occurring during the 10 days immediately preceding Election Day.
- ▶ This report must be filed if a candidate/PAC/tax-exempt organization accepts a contribution, including loans and in-kind contributions, or either makes an expenditure or incurs an obligation of:
  - ▶ \$5,000 in the election of a candidate for statewide office,
  - ▶ \$3,000 in the election of a candidate for the Tennessee Senate, or
  - ▶ \$1,000 in the election of any other State or local public office.
- ▶ The appropriate threshold would be determined based on the PAC's activity.



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## When and where must the Interim Report be filed?

- ▶ Each required report must be filed by the end of the next business day following the day on which the reportable activity occurs. Therefore, these reports must be filed on a rolling basis.
- ▶ PACs reporting information concerning a state election must file this report with the Registry of Election Finance. The Registry has developed a webform to accept Interim Reports through its website and all reports will be made available online to the public.



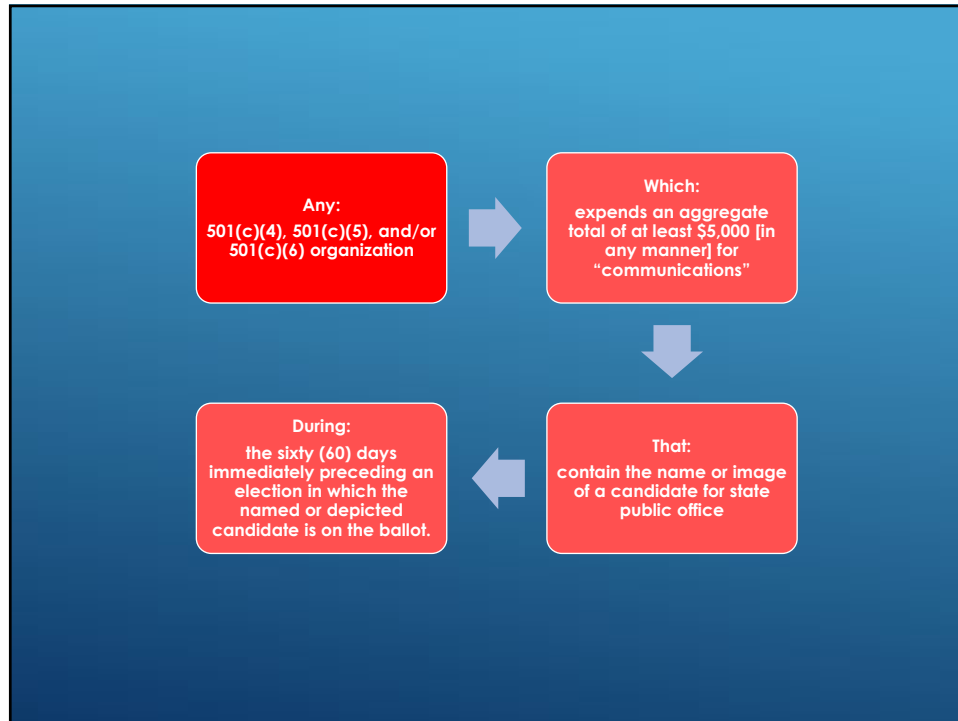
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## TAX EXEMPT ORGANIZATIONS – REGISTRATION AND REPORTING

- ▶ Effective July 1, 2022, 501(c)(4), 501(c)(5), and/or 501(c)(6) organizations must file campaign financial disclosure reports with the Registry of Election Finance to report expenditures on quarterly, pre-election, and interim reports if the organization:
  - 1) expends an aggregate total of at least five thousand dollars (\$5,000) in organizational funds, moneys, or credits for communications that expressly contain the name or visually depict the likeness of a state candidate in a primary or general election; and
  - 2) such expenditures or communications occur within sixty (60) days immediately preceding a primary or general election in which the named or visually depicted candidate appears on the ballot.
- ▶ If registration and reporting is required, these organizations must file campaign finance reports for the remainder of the election year in which registration was required.



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► "Communications"

- If the expenditure is paid or the communication occurs during the 60 days preceding the election, registration and reporting are required. If both the expenditure and the issuance of the communication occurs prior to the 60-day period, registration and reporting are not required, provided that the communication was not "actively promoted" or "distributed" by the organization within the 60-day period.
- While a "communication" is not defined by law, the Registry considers the following items to be within the intended scope of the law:
  - mailers, push cards, door hangers, billboards, campaign signs, any form of advertising (regardless of the media), commercials (radio, TV, or otherwise), social media posts, social media videos, email messages, phone calls, phone messages, and text messages.
- This is not an exhaustive list.



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► “Actively Promoted” or “Distributed”

- Whether the communication was “actively promoted” or “distributed” during the 60-day period will be a fact specific determination made on a case-by-case basis. However, in general, the following guidelines apply:
- An organization is not responsible for “shares” or “re-posting” done by third parties, and this activity does not constitute “active promotion”.
  - A press release, editorial, graphic, etc. which is posted on an organization’s website is not considered to be “actively promoted” or “distributed” by virtue of the fact that the item remains on the organization’s website during the 60-day period, absent other circumstances indicating an active effort by the organization to encourage the public to view the item.
  - Any physical communication that is placed in public view for an extended period of time, such as a billboard, campaign sign, or other items of a similar nature, is considered to be actively distributed during the 60-day period even though placed prior to the commencement of the period. Therefore, this activity would require registration and reporting.



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In calculating the cost of a communication, all development and distribution costs, including but not limited to:

- design,
- printing,
- mailing/shipping supplies,
- postage, etc.,

specifically attributable to the communication should be included in the determination of whether the \$5,000 threshold is met.

However, it is not necessary to include costs which would have been incurred regardless of whether the communication were made (i.e., staff pay, office space, office equipment, etc.).



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- ▶ The following types of communications do not trigger registration and reporting requirements:
  - ▶ Any communication sent by any membership organization solely to its members, employees, and/or to any person who has expressly consented to receiving communications from the organization.
  - ▶ Communications made only to officials in the legislative branch or executive branch during any session of the general assembly

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**KEEP IN MIND....**

- ▶ Registration and reporting are not required in the following circumstances:
  - Where the tax-exempt organization is not one of the specified types of tax-exempt organizations (i.e., 501(c)(3) organizations).
  - Where the named or depicted candidate is a candidate for local office.
  - Where the named or depicted candidate is not on the ballot or up for re-election.
  - Where the communication does not contain the name or likeness of any particular candidate in a state election.
  - Where the communication was paid for by a PAC associated with the tax-exempt organization.
  - Where the communication occurred more than 60 days prior to an election and there has been no active promotion or distribution of the communication by the issuer during the 60-days prior to the election. (See above.)
  - Where the cost of the communication does not equal or exceed \$5,000. (See above.)

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## TAX EXEMPT ORGANIZATIONS AND CONTRIBUTIONS



- ▶ These organizations are NOT required to report any form of contributions.
- ▶ These organizations are not deemed to be or defined as PACs, unless the organization's activities otherwise meet the definition of a "political campaign committee" as defined by Tenn. Code Ann. § 2-10-102.
- ▶ Therefore, when completing the Interim Report, these organizations should simply fill in Questions 4-6 with "N/A".

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## REGISTRATION AND REPORTING REQUIREMENTS

- ▶ Any organization that is required to register must file a Certification of Responsible Individuals form with the Registry as soon as the organization becomes aware that it will be required to file campaign financial disclosure reports under these rules.
- ▶ Once registered, the organization must file campaign financial disclosure reports on the standard quarterly, pre-election, and interim report timeline for the remainder of the election year in which registration is required.



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## REGISTRATION REQUIREMENTS FOR PCCs (PACs)

- ▶ Before any monies can be received or spent, each PAC participating in a state election must certify the name and address of its treasurer to the Registry. This is accomplished by completing and filing an Appointment of Political Treasurer and Officers form with the Registry.
- ▶ Before any monies can be received or spent, each PAC participating in a local election must certify the name and address of its political treasurer to the county election commission. This is accomplished by completing and filing the Appointment Of Political Treasurer Form (Local PACs Only) with the appropriate local election commission.



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## HOW HAS THE REGISTRATION PROCESS CHANGED?

- ▶ Each PAC must certify the name and address of all officers and all persons who directly control expenditures. Each PAC must have at least one (1) officer, not including the treasurer, and must have at least one (1) person who directly controls expenditures.
- ▶ It is up to the PAC to determine who should serve as the officers and/or treasurer. These responsibilities can be assigned by the PAC and there is no requirement that the officers of a corporation be identified as the officers of the PAC.
- ▶ However, any single individual with the authority to direct or disburse funds should be identified as an individual who directly controls expenditures, and all such individuals should be identified.
  - ▶ If disbursement decisions are made by committee or majority vote, the members of the committee do not need to be identified; rather, in this case, the PAC would likely designate its treasurer as the person responsible for expenditures.



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## HOW HAS THE REGISTRATION PROCESS CHANGED?

- ▶ The appointment of a treasurer, officers, and responsible individuals is valid for as long as the PAC remains active or until a replacement is made and a new appointment form is filed. Any changes to appointments for officers, treasurers, or responsible individuals must be reported to the Registry by filing a new Appointment form within thirty (30) days of the change.
- ▶ A new appointment form must be filed with either the Registry or the appropriate local election commission in order to update and/or modify the previous appointment of the treasurer, officers, and/or responsible individuals.
- ▶ The Registry is currently conducting a new annual registration process to collect this information. All registration forms and materials should be submitted to the Registry prior to January 31, 2023. Failure to properly submit the documentation may result in the assessment of civil penalties.
- ▶ **WE ARE NO LONGER COLLECTING ANY PAC REGISTRATION FEES. PERMANENTLY. UNTIL THE LEGISLATURE ENACTS A NEW STATUTE, WHICH WE DO NOT CURRENTLY ANTICIPATE TO HAPPEN THIS SESSION/EVER.**



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## PROOF OF IDENTIFICATION



- ▶ Proper proof of identification includes any document identified by Tenn. Code Ann. 2-7-112(c), including
  - ▶ a Tennessee driver's license,
  - ▶ a valid identification card issued by the State of Tennessee or the United States (provided that such identification includes a photograph of the individual),
  - ▶ a valid identification card issued pursuant to Tenn. Code Ann. § 55-50-336 (photo identification licenses),
  - ▶ a valid U.S. Passport,
  - ▶ a valid employee identification card issued by the State of Tennessee or the United States (provided that such identification includes a photograph of the individual),
  - ▶ a valid US military identification card,
  - ▶ an employee identification card for retired state employees authorized pursuant to Tenn. Code Ann. § 8-50-118, OR
  - ▶ any other equivalent identification issued by another state of the United States.

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## LIABILITY FOR CIVIL PENALTIES

- ▶ Effective July 1, 2022, each designated individual who directly controls expenditures (i.e., Responsible Individuals) for a PAC and each candidate who was named as an officer, or who directly or constructively controlled expenditures for a PAC, will be personally liable for any civil penalty assessed by the Registry of Election Finance.
- ▶ Further, effective July 1, 2022, any civil penalty for a Class 2 Offense cannot be paid using PAC funds.
- ▶ Those individuals who are personally liable are considered jointly and severally liable and the Registry will not be involved in any determination as to how the liability for the payment should be shared or from where the payment will be made. There is no prohibition against the payment of these civil penalties from corporate funds.



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## SEGREGATION OF CAMPAIGN FUNDS



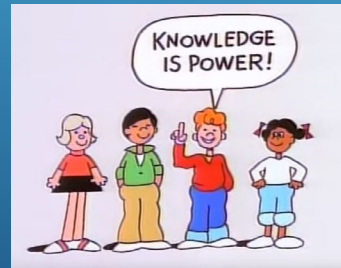
- ▶ Effective July 1, 2022, All PAC funds must be maintained in a separate account segregated from other funds (i.e., corporate funds, charitable funds, etc.).
- ▶ Any comingling of fund is a Class 2 offense subject to assessment of a civil penalty.
- ▶ Existing PACs should take steps to begin the process of establishing this new required bank account immediately; however, proof that the account has been opened will not be required to be submitted to the Registry until January 31, 2023.
- ▶ Corporate PACs should create a separate and segregated bank account for purposes of campaign funds, which are to be maintained separately from other corporate and organizational funds. This account does not need to be funded at all times, but all activity should run through this account.
- ▶ PACs registered at the federal level and/or in two or more states of the United States do not need to establish a bank account dedicated for Tennessee funds, provided that all campaign funds are segregated from other funds and all other regulations relating to campaign funds in Tennessee are observed. T.C.A. § 2-10-106(b) (2022).

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## CHANGES TO CAMPAIGN FINANCE REPORTING REQUIREMENTS, EFFECTIVE JANUARY 16, 2023

- ▶ Unitemized Expenditures eliminated; expenditures must be listed by category and amount
- ▶ \$2,000 cap on unitemized contributions.
  - ▶ Note: As of this date, contribution audits will be automatic for any candidate that files a contribution statement with more than 30% of the candidates' reported contributions reported as unitemized contributions. Therefore, it is probably better for the candidate to itemize all contributions.
- ▶ New forms have been created and will be posted online, along with instructions and sample documents. However, for most of you, you will not need to use the new forms until July 2023. We are also working to modify our online filing system, which will automatically incorporate all the necessary changes.



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## LEADERSHIP PACS



- ▶ Many more officeholders are utilizing what are commonly called "Leadership PACs" than ever before.
- ▶ These PACs are treated just like any other PAC and are required to register and file reports, but their typical hallmark is that they are created and controlled by a candidate/officeholder for purposes of supporting other candidates.
- ▶ Although there are very few prohibitions on the ways that a PAC can use its funds, Leadership PACs should be careful when supporting its controlling candidate.
  - ▶ Any expenditures disbursed for the benefit of this candidate will be a contribution or in-kind contribution. These expenditures will not be considered independent expenditures. Thus, contribution limits are applicable.
  - ▶ The PACs funds cannot be used to make expenditures for a candidate that would not otherwise be an allowable expenditure by the candidate.
  - ▶ Cannot use a PAC as a conduit to avoid contribution limits.

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## DISCLOSURE OF RELATIVE LOBBYISTS

- ▶ Tenn. Code Ann. 2-10-127 requires the Governor, all General Assembly members (and members-elect), all Cabinet members, the Secretary of State, the Comptroller, and the Treasurer to file a Disclosure identifying if a sibling, spouse, or child is required to register as a lobbyist.
- ▶ Disclosure must be filed by February 1 of each year.



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## WHERE TO FIND INFO

### Tennessee Ethics Commission Website

- ▶ Advisory Opinions: <https://www.tn.gov/tec/advisory-opinions.html>
- ▶ [Lobbyist and Employer of Lobbyist Manual](#)
- ▶ [Guiding Principles of Ethical Conduct](#)

Ethics Rules: <https://www.tn.gov/tec/rules---laws.html>

E-mail: [ethics.counsel@tn.gov](mailto:ethics.counsel@tn.gov)

For Registration Help or Questions, Contact:

- ▶ Emily Alexander: [emily.alexander@tn.gov](mailto:emily.alexander@tn.gov)

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## FOR GUIDANCE

- Jennafer Russell, PAC Compliance Officer, [jennafer.russell@tn.gov](mailto:jennafer.russell@tn.gov), 615-253-5375
- Morgan Tygret, Ethics Operations Officer (Statement of Interests), [morgan.Tygret@tn.gov](mailto:morgan.Tygret@tn.gov), 615-741-1677
- Emily Alexander, Ethics Operations Officer (Lobbyists), [emily.alexander@tn.gov](mailto:emily.alexander@tn.gov), 615-253-8719
- Janet Williams, Chief of Staff/Compliance Officer, [janet.williams@tn.gov](mailto:janet.williams@tn.gov), 615-253-5372
- Jay Moeck, Director of Audit, [jay.moeck@tn.gov](mailto:jay.moeck@tn.gov), 615-253-5373
- Lauren Topping, General Counsel, [Lauren.Topping@tn.gov](mailto:Lauren.Topping@tn.gov), 615-253-5370
- Lance Frizzell, Assistant Director, [lance.Frizzell@tn.gov](mailto:lance.Frizzell@tn.gov), 615-253-5374
- Bill Young, Executive Director, [William.Young@tn.gov](mailto:William.Young@tn.gov), 615-741-7959

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## QUESTIONS ????????

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

▶ A lobbyist has invited you to dinner and offered to pay. Can you accept the invitation to dinner?

▶ **No, the lobbyist may not pay for your dinner; however, you may attend dinner with the lobbyist and pay for your own meal. As a general rule, a lobbyist may not provide a gift to an official in the legislative or executive branch or their immediate family unless one the gift exception listed in T.C.A. § 3-6-305 applies.**

▶ You are in Nashville while the Legislature is in session (you are receiving per diem) and the CEO of a company which employs a lobbyist invites you to be their guest to dinner. Can you accept the dinner?

▶ **The CEO of a company which employs a lobbyist is considered an "employer of a lobbyist" by definition. Therefore, you may not accept a dinner paid for by the CEO of a company which employs a lobbyist. As a general rule, an employer of a lobbyist may not provide a gift to an official in the legislative or executive branch or their immediate family unless one the gift exceptions listed in T.C.A. § 3-6-305 applies.**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

▶ A constituent, who has been seeking a license from the State, wants to take you out for a meal. You have checked the Commission's website and she has not employed a lobbyist and she verifies that fact. May you accept the invitation?

▶ **Yes, gifts from entities that are neither lobbyists nor employers of lobbyists are permissible.**

▶ A telecommunications company that is the employer of a lobbyist sent you an invitation to attend a football tailgate party. It appears that the invitation has been sent to the entire membership of the General Assembly. You go to the Commission's website (<http://www.tn.gov/sos/tec>) and select In-State Events under Public Searches and see that the invitation has been posted. May you accept the invitation?

▶ **Yes, you may accept the invitation because the tailgate party is an "in-state event" to which all members of the Legislature have been invited and you reasonably believe that the per person cost of the event is less than \$65. See T.C.A. § 3-6-305(b) (8).**

▶ The same situation as above except that you do not see the lobbyist's invitation on the Commission's website and/or you learn that not all members of the Legislature have been invited. Can you accept the invitation to the tailgate party?

▶ **No, there is no exception for the lobbyist's gift under this scenario.**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► Mary is a member of the General Assembly. Jim, her husband, works for a company that is an employer of a lobbyist, Bob. At Thanksgiving the company customarily provides frozen turkeys to all its employees. Bob delivers the turkeys to the employees. May Jim accept the turkey?

► **Yes, because if a customary gift from the company to its employees. An exception to the gift ban allows officials and their family to receive benefits resulting from employment which are customarily provided to others in similar circumstances and are not enhanced due to the status of the official. See T.C.A. § 3-6-305(b)(1).**

► You're at home in your district after adjournment of the first annual session of the current General Assembly. A company, which employs a lobbyist, invites you to take a tour of their factory. After the tour, the company wants to provide lunch at the factory cafeteria. May you accept the tour and lunch?

► **Yes, an exception to the gift ban allows officials to receive food, refreshments, meals, or beverages that are provided by an employer of a lobbyist in connection with an in-state event to which the official has been invited. For the purposes of a member of the General Assembly, this exception requires an invitation; the gift not exceed \$65.00 per event per day; the employer not exceed an aggregate of \$130 for the official per calendar year; the member not receive legislative per diem on the day of the event; the member not receive gifts not provided to nonmembers in attendance; and, an officer or management-level employee of the employer of the lobbyist attend the event (a lobbyist is not considered an officer or management-level employee for the purposes of this exception). See TCA § 3-6-305(b)(10).**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► Same situation as previous. At the end of the factory tour, the company gives you a goody bag which includes a baseball cap and coffee mug with the company's name on them. The company's representative says that they provide the goody bag to all of its customers and suppliers. May you accept?

► **Yes, the goody bag in this scenario is a promotional item which is routinely provided in the ordinary course of business. See T.C.A. § 3-6-305(b)(4).**

► You are asked to be part of a panel discussion of a membership organization that employs a lobbyist. As part of the event lunch is provided to everyone in attendance. May you accept the lunch?

► **Yes, as a speaker on a panel of a membership organization that holds regular meetings you may accept a meal that does not exceed \$65 in value. See T.C.A. § 3-6-305(b)(9).**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► You would like to provide some of your constituents a holiday bag filled with small trinkets. May you ask companies which employ lobbyists for trinkets to fill the goody bags?

► **No, you may not solicit a gift from an employer of a lobbyist, even if the gift is intended for a third party. See T.C.A. § 3-6-305(a)(2).**

► If I have a long-time friend, who subsequently registers to lobby, what are the limitations on gifts, (Christmas or birthday) and going to dinner or lunch? How does this apply to a family member who is a registered lobbyist?

► **You would have to look at the specifics for each "gift" (including meals). An exception to the gift ban allows certain gifts, as authorized by the Commission, given for a nonbusiness purpose and motivated by a close personal friendship. See T.C.A. § 3-6-305(b)(3). Commission Rule 0508-01-05-.04 provides guidance as to this exception and can be found at Section 4 (above). As to a family member, "gift" does not include a personal 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 the person's spouse or from the spouse of any such relative. See T.C.A. § 3-6-301(10).**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► You would like to provide some of your constituents a holiday bag filled with small trinkets. May you ask companies which employ lobbyists for trinkets to fill the goody bags?

► **No, you may not solicit a gift from an employer of a lobbyist, even if the gift is intended for a third party. See T.C.A. § 3-6-305(a)(2).**

► If I have a long-time friend, who subsequently registers to lobby, what are the limitations on gifts, (Christmas or birthday) and going to dinner or lunch? How does this apply to a family member who is a registered lobbyist?

► **You would have to look at the specifics for each "gift" (including meals). An exception to the gift ban allows certain gifts, as authorized by the Commission, given for a nonbusiness purpose and motivated by a close personal friendship. See T.C.A. § 3-6-305(b)(3). Commission Rule 0508-01-05-.04 provides guidance as to this exception and can be found at Section 4 (above). As to a family member, "gift" does not include a personal 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 the person's spouse or from the spouse of any such relative. See T.C.A. § 3-6-301(10).**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► When my school board or mayor and commissioners come and visit the legislature they often invite me to dinner. Is this okay or should I be paying for my own dinner?

► ***They can pay for your meal. Lobbying does not include communications from an elected or appointed public official performing the duties of the office held. In addition, the city or county is specifically exempted from the definition of "employer of a lobbyist" so if they charge the meal back to the city or county it would not be considered a meal paid for by an "employer of a lobbyist". See TCA § 3-6-301(16)(D).***

► NCSL, ALEC AND SLC host meetings throughout the year which are sponsored by corporations who employ lobbyists. Many times, the host organization (NCSL, ALEC, SLC), offers to pay all or part of the expenses for these meetings. Is this allowed?

► ***Yes, TCA § 3-6-305(b)(7)(A) and (B) provides an exemption for this situation.***

► ***States a gift may not be given directly or indirectly by a lobbyist or employer of a lobbyist.***

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

► Often when attending a meeting/conference hosted by NCSL, ALEC, or SLC a company or companies will host a "state night" dinner for attendees (elected officials and staff). The host companies are employers of lobbyists. Is it permissible to attend these dinners?

► ***Yes, TCA § 3-6-305(b)(7)(B) provides an exemption for State Night dinners in this situation.***

► At Christmas, some companies send a tin of nuts, calendar, etc. to my office. These companies do not employ a lobbyist. Is there a prohibition against accepting these items? If a company is a member of an association which employs a lobbyist, is the answer different?

► ***There is no prohibition against accepting these gifts. A company that is a member of an association which employs a lobbyist is not deemed to be the employer of a lobbyist and therefore the gift is still allowable. The exception to this would be if the lobbyist or employer of a lobbyist directed the gift to be given. This would violate T.C.A. § 3-6-305(a)(1) which states a gift may not be given directly or indirectly by a lobbyist or employer of a lobbyist.***

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

▶Mike's law firm purchased a suite for the upcoming hockey season. Mike is the only registered lobbyist in the firm. Mike is not a hockey fan but asks the managing partner to invite several key members of the General Assembly as the firm's guests. The managing partner invites the members Mike suggested. Is this permissible?

▶**No, because Mike may not provide a gift, directly or indirectly, to the invited legislators. A lobbyist may not provide a gift, directly or indirectly, to a candidate for public office, official in the legislative branch, official in the executive branch, or immediately family of such candidate or official. See, T.C.A. § 3-6-305(a)(1). In this instance, while the firm is not an employer of a lobbyist, Mike's involvement makes the event invitation from the firm an indirect gift from a lobbyist to the legislative officials invited.**

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## EXAMPLES OF GIFT & GIFT RELATED QUESTIONS

▶Tom is a member of the General Assembly. After ordering lunch at a downtown sandwich shop, he realizes his wallet is on his desk. Bill, a lobbyist, is next in line and offers to loan Tom \$10.00 for his \$9.58 lunch. Since they're daily sandwich shop regulars, Bill says "just pay me back tomorrow". --/\*Tom knows Bill is a lobbyist. May Tom accept the loan?

▶**No. A lobbyist may not make, and an official may not solicit or accept, a loan from a lobbyist. See T.C.A. § 3-6-304(d) and (e).**

▶My father-in-law resides with my spouse and me. He's an avid golfer and has been invited to attend a professional golf event in Memphis by a company that employs a lobbyist. May he accept the invitation?

▶**Yes, he may accept the invitation. For purposes of the T.C.A. Title 3, Chapter 6, Part 3, "immediately family" means a spouse or minor child living in the household. See T.C.A. § 3-6-301(11).**

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