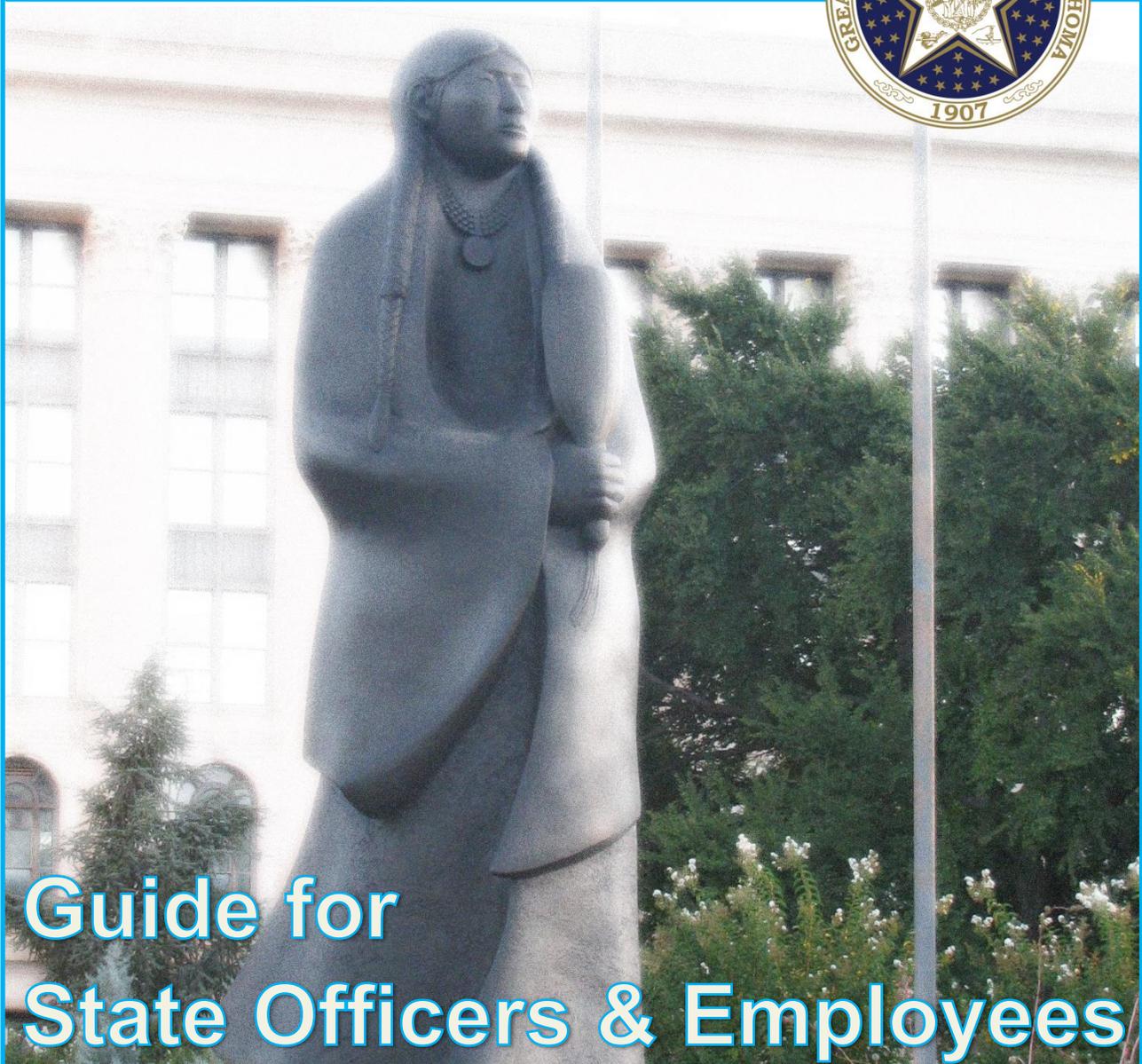


Oklahoma Ethics Commission

FAIR RULES. FIRM ENFORCEMENT.



Guide for State Officers & Employees

2016-2017

“This publication is issued by the Oklahoma Ethics Commission as authorized by the Executive Director, Ashley Kemp, pursuant to Ethics Rule 1.8, and is located at the following website(s): www.ethics.ok.gov. This publication has been submitted in compliance with Section 3-114 of Title 65 of the Oklahoma Statutes.” All Guides are updated annually in July. This Guide was updated on July 1, 2016.

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Commissioners

- Jo Pettigrew – Chair, re-appointed by Governor Mary Fallin, term expires July 2017
- John Hawkins – Vice-Chair, appointed by Senate President Pro Tempore Brian Bingman, term expires July 2019
- Karen Long – re-appointed by Speaker of the House Jeff Hickman, term expires July 2019
- Holly Easterling – appointed by Chief Justice John Reif of the Oklahoma Supreme Court, term expires July 2021
- Cathy Stocker – appointed by Attorney General Scott Pruitt, term expires July 2017

I. Introduction

How to Use This Guide

This Guide summarizes Rules of the Oklahoma Ethics Commission as applied to conflicts of interest and related issues for state officers and employees, effective July 1, 2016. It is written by the Commission staff to assist in compliance with the Rules, as authorized by [Rule 1.8](#). This Guide is not a substitute for the law. If there is a conflict between this Guide and the Constitution, statutes or Rules, then the Constitution, statutes or Rules prevail.

Limited Scope

This Guide is not intended to provide comprehensive information about all Ethics Rules and other relevant law concerning the subject matter. State officers and employees should become familiar with the relevant Constitutional and statutory provisions as well as with the Ethics Rules.

This Guide Is Limited to State Government

This Guide only addresses Oklahoma law, especially Rules of the Oklahoma Ethics Commission, and is limited to the conduct of state officers and employees. It does not address similar or identical issues at the federal, county, municipal or school district levels.

Advisory Opinions

[Rule 1.7](#) authorizes the Commission to issue official advisory opinions interpreting its Rules. Such advisory opinions are binding on the Commission. Ordinarily, the Commission will consider an advisory opinion only as it applies to the person requesting the opinion, rather than third parties. Requests for advisory opinions may be sent to the Oklahoma Ethics Commission.

Training and Education Fees

The Executive Director is authorized to establish and collect fees for participation in training and educational seminars, classes, and similar programs and materials [Rule 1.8](#).

Commission Website

Additional information on compliance with the Rules may be found on the Commission's Internet website at www.ethics.ok.gov.

Contacting the Commission

The Ethics Commission office is located in Room B-5 of the State Capitol. The Commission's hours are Monday through Friday from 8:30 a.m. to 5 p.m.

The Ethics Commission contact information is as follows:

- Address: 2300 N. Lincoln Blvd., Rm B-5,
Oklahoma City, OK 73105
- Telephone number: (405) 521-3451
- Fax number: (405) 521-4905
- E-mail: ethics@ethics.ok.gov.

Information regarding the Commissioners, the Ethics Commission staff, and the Commission meeting agenda and minutes may be located on the Commission's Internet website at www.ethics.ok.gov.

II. Ethics Commission Resources

Ethics Rules and Guides

The Ethics Commission provides the Rules and relevant Guides on its website at www.ethics.ok.gov. The Guides provide an overview of the Rules to assist with compliance. The Ethics Laws and Guides are available under the "Ethics Laws, Guides and Forms" tab on the Ethics website.

Ethics Continuing Education Programs

The Ethics Commission also holds several continuing education programs to assist with the understanding of and compliance with the Ethics Rules. More information on the continuing education dates, times, and fees is available on the Ethics website under the "Agency Information & Continuing Education" tab.

Ethics "Helpful Tips"

The Ethics Commission frequently posts "Helpful Tips" on its homepage. These tips provide answers to frequently asked questions.

III. Purpose of the Rules

Constitutional Responsibility

Under [Okla. Const. art. XXIX, § 3](#), the Ethics Commission has a duty to promulgate rules of ethical conduct for state officers and employees. In discharging its duty, the Commission has promulgated rules governing misuse of office, conflicts of interest, relations with vendors, relations with executive lobbyists, political activities and financial disclosure. [Okla. Const. art. XXIX, § 3](#).

More Restrictive Rules

Some state agencies have rules or policies that are more restrictive than the Ethics Rules. When that is the case, officers and employees of those agencies must comply with the more restrictive rules or policies. In addition, some agencies are governed by more restrictive statutes. State officers and employees covered by those statutes must comply with the statutes as well as the Ethics Rules. The Commission is only responsible for enforcement of its own Rules. [Rule 4.3](#).

Waiver for Preexisting Relationship

A state officer or employee may apply to the Commission for a waiver of certain Ethics Rules based on a preexisting relationship between the state officer or employee and a person whose status restricts or prohibits certain activities. The Commission has exclusive authority and discretion to grant a waiver on a case-by-case basis, based upon the totality of circumstances and a finding that the purpose of these Rules will not be impeded or hindered by the waiver.

Such a waiver will be prospective in effect and will not be applied to situations that have already occurred.

The Commission may request whatever information it deems appropriate from an applicant, which may include verified statements by the parties involved.

A waiver is unnecessary when the relationship is between two family members. Family members are regarded as having a preexisting relationship. [Rule 4.22](#).

IV. Misuse of Office

Self-Dealing and Favoritism

Unless it is permitted by law or the Ethics Rules, a state officer or employee may not use his or her state position

- (1) for his or her own private gain;
- (2) for the endorsement of a product, service or enterprise;
- (3) for the private gain of a family member;
- (4) for the private gain of persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the state officer or state employee is an officer or member; or
- (5) for the private gain of persons with whom the state officer or employee is seeking employment or business relations.

“Family member” includes a state officer or employee’s spouse, children (including stepchildren), mother, father, sister or brother.

Generally, these prohibitions are designed to prevent a state officer or employee from benefitting privately by virtue of his or her position in state government and from using that position to show favoritism to others. However, there are a number of exceptions.

These prohibitions do not apply to any act or endorsement that is customary for the state officer or employee’s position or that is authorized or permitted by the state officer or employee’s contract of employment. For example, a state university professor may accept a fee for testifying as an expert witness, even though her credentials as an expert witness depend upon her state position.

A state officer or employee may promote or solicit funds for civic or community organizations, including those promoting businesses or industries, and a state officer or employee may

participate in fund-raising events provided he or she receives nothing for doing so. A state officer, for instance, could participate in a ribbon-cutting event for a new business provided he received nothing for doing so. Similarly, a state employee could solicit funds for a civic club provided he received nothing in exchange for doing so.

A state officer or employee may promote or solicit funds for a charitable organization and participate in fund-raising events for charities, provided he or she receives nothing for doing so, except the costs associated with participation in the fund-raising event paid for by the charitable organization. For example, a state officer could participate in a fund-raising golf event for a charity and receive food and refreshments, green fees, cart rentals and similar items that were part of the event for which other participants were charged, as long as the free items were provided by the sponsoring charity. In such a case, no other entity or individual could reimburse the charity for the state officer's costs. [Rules 4.2\(4\)](#) and [4.4](#).

Misuse of Authority

In addition to the prohibitions against using one's state position directly, a state officer or employee may not allow others to engage in actions that would benefit the state officer or employee or show favoritism, unless permitted by law or the Ethics Rules.

Specifically, one may not use or permit the use of his or her office or title or any authority associated with his or her state office in a way that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise,

- (1) to himself or herself;
- (2) to his or her family members; or
- (3) to persons with whom the state officer or employee is affiliated in a non-governmental capacity, unless allowed by law or the Ethics Rules.

This provision includes using another person, such as another state officer or employee or a private citizen, to engage in coercion or to offer inducements that would lead to the prohibited results. [Rule 4.5](#).

V. Conflicts of Interest

Duty to Be Impartial

State officers and employees are expected to show impartiality when discharging their duties.

The Ethics Rules provide two distinct situations in which state officers and employees must disqualify from participation in a matter (unless required to participate by law or permitted to do so by the Ethics Rules):

- (1) When a state officer or employee or a family member will benefit financially from a particular matter; or
- (2) when the state officer or employee knows that a person with whom he or she has a business relationship (other than a routine consumer transaction) is a party to or represents a party to the matter, and where the state officer or employee determines that

circumstances would cause a reasonable person with knowledge of all the relevant facts to question his or her impartiality in the matter.

Both of these situations require careful analysis.

a. Disqualification for Financial Benefit

The first prohibition occurs when a state officer or employee knows that a particular matter involving specific parties is likely to have a “direct and predictable effect” on the “material financial interests” of the state officer or employee or a family member. “Family member” includes a state officer or employee’s spouse, children (including stepchildren), mother, father, sister or brother.

To analyze whether this prohibition applies, one must determine whether the state officer or employee or family member has a “material financial interest.”

A particular matter has a “direct and predictable effect” on a material financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the material financial interest, even if the effect is not immediate.

There is no “direct and predictable effect” if a chain of causation is attenuated or is contingent on the occurrence of events that are speculative or that are independent of, or unrelated to, the matter.

Further, there is no disqualifying conflict if the effect of the matter applies equally to all members of a profession, occupation or large class of which the state officer or employee is a member.

i. *Material Financial Interest*

A material financial interest means

- An interest that could result in directly or indirectly receiving a substantial pecuniary gain or sustaining a substantial pecuniary loss as a result of a filer’s ownership or interest in a business entity, or as a result of a filer’s salary, gratuity or other compensation or remuneration; or
- An ownership interest in a private business, including but not limited to a closely held corporation, limited liability company, Subchapter S corporation or partnership for which the filer or the filer’s spouse or dependents is a director, officer, owner, manager, employee, or agent or any private business, closely held corporation or limited liability company in which the filer or the filer’s spouse or dependents owns or has owned stock, another form of equity interest, stock options, debt instruments, or has received dividends or income worth Five Thousand Dollars (\$5,000.00) or more at any point during the preceding calendar year; or
- An ownership interest of five percent (5%) or more in a publicly held corporation by a filer or the filer’s spouse; or
- an ownership interest in a publicly held corporation from which dividends of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the filer or the filer’s spouse or dependents; or

- An ownership interest in a Subchapter S corporation or partnership from which income of Fifty Thousand Dollars (\$50,000.00) or more was derived; or
- An interest that arises as a result of the filer's or the filer's spouse or dependents' service as a director, officer, representative, agent or employee of a publicly held corporation during the preceding calendar year.

ii. What a Material Financial Interest Is Not

A material financial interest does not mean

- An interest in a mutual fund or other community investment vehicle in which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings; or
- An interest in a pension plan, 401k, individual retirement account or other retirement investment vehicle that makes diversified investments over which the filer or the filer's spouse or dependents exercises no control over the acquisition or sale of particular holdings. Rule 4.2(6).

b. Disqualification When Impartiality Is Questioned

The second disqualifying situation necessarily involves a business relationship between the state officer or employee and a party involved in the matter or someone who represents a party in the matter. If the circumstances would cause a reasonable person to question the impartiality of the state officer or employee, then the state officer or employee should disqualify. The state officer or employee must use sound judgment in making this determination but may seek assistance from the Ethics Commission in doing so. (See below.)

Again, there is no disqualifying conflict if the effect of the matter applies equally to all members of a profession, occupation or large class of which the party is a member. [Rules 4.2\(4\) and \(6\)](#) and [4.7](#).

c. State Officer or Employee May Seek Advice from Commission

In considering whether the circumstances of a relationship would cause a reasonable person to question his or her impartiality, the state officer or employee may ask for advice from the Ethics Commission.

The Commission may exercise discretion in determining whether or not to provide such advice or may delegate responsibility to the Executive Director to provide such advice.

Such advice, if given by the Commission or the Executive Director, shall bind the Commission.

Failure to seek advice shall have no relevance in any subsequent Ethics Commission proceeding involving that individual. [Rule 4.7](#).

Rules on Representation

a. Representation in Transactions Involving the State

Unless authorized by law, a state officer or employee may not receive or agree to receive compensation to represent or assist another individual or entity in any transaction involving the State of Oklahoma or to represent another individual or other entity before a state agency.

This prohibition does not apply to the practice of law in any court.

Further, this prohibition does not apply to members of boards, commissions, authorities and similar public bodies of state agencies for representation before state agencies other than the agency the member serves. [Rule 4.18](#).

b. Representation Before the Ethics Commission

A state officer or employee may not represent another individual or other entity as an attorney in any matter before the Ethics Commission. [Rule 4.19](#).

c. Representation Before Employing Agency

A state officer or employee may not represent another individual or other entity in a matter before the agency that employs the state officer or employee, unless authorized by law. [Rule 4.19](#).

General Rules on Gifts

a. Gifts from Those Regulated or Licensed by an Agency

Unless permitted by law or the Ethics Rules, a state officer or employee may not accept a gift for himself or herself or a family member from any person or entity that is regulated or licensed by the state officer or employee's agency.

This prohibition does not apply to gifts that are made by a private employer of the state officer or employee or his or her family under circumstances that make it clear that the gift is not motivated by the state officer or employee's status as a state officer or employee. [Rule 4.10](#).

i. Exception for Emergency Relief Efforts

A state officer or employee participating in emergency rescue or relief efforts may accept goods or services that are provided generally to others participating in emergency rescue or relief efforts. [Rule 4.6](#).

b. Permitted Gifts

There are no prohibitions against acceptance of certain gifts by state officers and employees under certain circumstances.

State officers and employees occasionally may accept modest items of food and refreshment from vendors or persons regulated or licensed by the state officer or employee's agency when the item is offered other than as part of a meal. This provision includes such things as coffee, soft drinks, doughnuts or similar items. It does not include beverages containing alcohol. [Rule 4.12](#).

A state officer or employee may accept meals, lodging, transportation and other benefits resulting from the business or employment activities of the state officer or employee's spouse when it is clear that such benefits are not being offered or enhanced as a result of the state officer or employee's status as a state officer or employee. [Rule 4.13](#). Similarly, a state officer or employee may accept meals, lodging, transportation and other benefits resulting from his or her private business or employment activities when such benefits have not been offered or

enhanced as a result of the state officer or employee's status as a state officer or employee. [Rule 4.14.](#)

c. Permitted Gifts at Conferences, Seminars

Certain gifts are permitted when a state officer or employee is attending a conference, seminar or similar event in his or her capacity as a state officer or employee.

A state officer or employee attending a conference, seminar or similar event related to the performance of his or her official duties may accept gratuities and hospitality available to all participants in the event. [Rule 4.11.](#)

When a state officer or employee is approved by the chief administrative officer of the employing agency to represent the agency at a professional, civic or community event, that state officer or employee may accept a meal at the event provided by the sponsoring organization. Political events are excluded, except for the case of employees of elected state officials, who may accept a meal at a political event that he or she attends with the elected state official, provided he or she is not on state time. [Rule 4.16.](#)

Additionally, a state officer or employee at such event may accept a token, souvenir gift, or memento to commemorate the occasion, as long as the item's value corresponds or is proportionate to the event. Further, the item cannot be monetary nor a cash equivalent. This means that the state officer or employee cannot accept cash, a gift card or similar prepaid card used to purchase gifts or services. [Rule 4.16.](#)

d. Permitted Gifts for Speakers, Panel Participants

When a state officer or employee is approved by the chief administrative officer of the employing agency to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event, that employee may accept free attendance from the sponsor of the event on the day of his or her presentation. The approval by a chief administrative officer is not required for elected officials to participate in such events.

"Free attendance" may include meals, refreshments, entertainment, instruction and materials made available to other participants.

The sponsor of the event may also provide transportation and lodging to the state officer or employee if transportation and lodging are made available to others participating as speakers, panel participants or presenters.

The spouse of the state officer or employee may accept free attendance and participation in the event, including lodging but not including transportation. This provision does not permit a spouse to accept meals, refreshments, entertainment, transportation or lodging that are collateral to the event or that are not paid for by the sponsor of the event if those gifts would otherwise not be permitted by the Ethics Rules.

No vendor or vendor's agent may pay for, or reimburse the sponsor of the event for, any gifts to the state officer or employee or the state officer or employee's spouse that are part of the free attendance and participation provided to the state officer or employee or spouse. [Rule 4.15\(A\).](#)

e. Intra-Agency Gifts

The Ethics Rules limit gifts that may be made between state officers or employees in the same agency.

A state officer or employee may not, directly or indirectly, give a gift or make a donation toward a gift for the following:

- (1) an official superior in the agency's chain of command or
- (2) solicit a contribution from another employee for a gift to either his or her own or the other employee's official superior, subject to certain exceptions.

For instance, a state officer or employee may make or receive such a gift:

- (1) If they have a personal relationship that would justify the gift.
- (2) Worth no more than \$20.00 on an occasional basis, including occasions such as Christmas or birthdays when gifts are traditionally given or exchanged.
- (3) When items such as food or refreshments are to be shared in the agency among several employees.
- (4) Involving personal hospitality at a residence which is of a type and value customarily provided by the state officer or employee to personal friends, or when the gifts consist of items given in connection with the receipt of personal hospitality of a type and value customarily given on such occasions.
- (5) Appropriate to the occasion in recognition of infrequently occurring occasions of personal significance such as marriage, illness, birth or adoption of a child, retirement, resignation or transfer.

[Rule 4.17.](#)

Scholarships or Grants

State officers and employees may accept a scholarship, similar grant or subsidy to participate in certain educational or training events. Such a scholarship may include the costs of transportation, lodging, meals, refreshments, entertainment, instruction and materials made available to all other participants.

a. When a Report Is Not Required

When the scholarship is provided by a foreign government, the United States government or the government of another State or by an entity to which the State of Oklahoma pays membership dues, such as the National Conference of State Legislatures, then no report is required by the recipient. Membership dues may be paid either for the State agency or an individual state officer or employee.

b. When a Report Is Required

When the scholarship is provided by a bona fide governmental, professional or business organization other than an organization described above, the legislator or staff member must file a report with the Commission within 30 days following the last day of the event. The report includes the date(s) and location of the event, the name of the sponsoring organization(s), the

name and office of the participant, the subject matter of the event, the name of the person providing the scholarship, grant or subsidy and the value of the scholarship, grant or subsidy. [Rule 4.15](#).

The form to report such a scholarship is available on the Commission website at this link [Scholarship Form](#) and should be emailed to the Commission at ethics@ethics.ok.gov.

VI. Political Activities

Several Rules prohibit certain campaign activities in state or other public facilities. In addition, other Rules prohibit the use of state or other public resources for campaign activities.

a. General Prohibitions of Public Funds, Property and Time

No state officer or employee may use or authorize the use of public funds, property or time to solicit, receive or accept funds for a political committee. If unsolicited funds are tendered to a candidate in violation of this Rule, the funds may not be accepted by the intended recipient and must be returned to the sender as soon as possible. [Rule 2.3](#).

No person may use or authorize the use of public funds, property or time to engage in activities designed to influence the results of an election for state office. This prohibition, however, does not prevent an elected state officer from expressing his or her opinion or position on any issue. [Rule 2.4](#).

i. Use of Public Property for Political Purposes

Public meeting rooms, auditoriums, parks, colleges and other educational campuses and similar spaces may be used for political purposes provided that certain conditions are met. If a fee is customarily charged with use of the facility, that fee must be charged for use of the facility for political activities. If the facility is made available to one candidate, it must be made available to all candidates for the same state office in the order in which requests are received. These requirements do not mandate that any public facility be used for political purposes, nor do these requirements limit the use of traditional public forums for political purposes. [Rule 2.8](#).

ii. Use of Public Facilities for Voter Registration Activities

Voter registration activities may be conducted in public facilities, provided those activities are not used in any way to encourage registration in a particular political party or support of or opposition to a candidate or candidates. [Rule 2.10](#).

iii. Solicitation on State of Oklahoma Property That Is Used to Conduct Official State Business

No person may solicit or accept a contribution for a political committee in any area of the state capitol building under any circumstances. Further, no person shall solicit or accept a contribution for a political committee in any office or other space owned, leased, or occupied by the State of Oklahoma that ordinarily is used for the conduct of official state business. This does not include college campuses and public meeting rooms, auditoriums, or similar meeting areas that are available for use by the public at large. [Rule 2.6](#).

iv. Distribution of Campaign Materials on State Property That Is Used to Conduct Official State Business

No materials designed to influence the results of an election for state office or a state question can be posted in the state capitol building or in any office or other space owned, leased or occupied by the State of Oklahoma that ordinarily is used for the conduct of official state business, except as permitted by law or these Rules. However, when state facilities are being

used for political purposes, as provided in these Rules, such materials may be posted for a reasonable period of time. [Rule 2.7.](#)

v. Prohibitions on Campaign Activities During Work Hours and/or in Work Attire

State officers and employees are prohibited from engaging in activities designed to influence the results of an election for state office during work hours. State officers and employees are prohibited from engaging in such activities at any time when wearing a uniform or identification that identifies the person as a state officer or employee. These prohibitions do not apply to an elected state officer. [Rule 2.9.](#)

vi. State-Owned Property and Services Prohibited from Being Used For Campaign Purposes

State officers and employees are prohibited from using a state-owned telephone, state electronic mail or other state equipment, property or services to advocate the election or defeat of a clearly identified candidate for state office. [Rule 2.14.](#)

State officers and employees may not use a state-owned telephone, state electronic mail or other state property or services to make a contribution to a political party, a political action committee, a candidate or a state question campaign. [Rule 2.15.](#)

No Internet social media account maintained in the name of a state officer as a state officer or state agency may be used for political purposes. The prohibition includes the solicitation, receiving or acceptance of contributions. It also prohibits advocating the election or defeat of a clearly identified candidate for any elective office or a vote for or against a state question or other question to be voted upon at an election. Such accounts may not be converted to use by a candidate committee. [Rule 2.16.](#)

A state officer or employee, who is not otherwise prohibited from doing so, may use his or her personal telephone, electronic mail, Internet social media or similar electronic devices or services for campaign communications. Use of such personal equipment is considered as a volunteer service to the campaign. [Rule 2.110.](#)

vii. What to Do If Unsolicited Campaign Communication Received on State Property

When an unsolicited campaign communication is received on a state-owned telephone, state electronic mail (email) or other state equipment or services, the recipient state officer or employee may do one of the following:

1. not respond;
2. if the option is available, unsubscribe; or
3. send a reply that substantially states: "Your message has been sent to a (telephone, electronic mail, etc.) that is the property of the State of Oklahoma. This is a request for you to immediately terminate any such communications." [Rule 2.109.](#)

b. Other Rules Specifically Regarding Elected State Officers and Staff

Elected state officers may use public funds, property or time to electronically or otherwise produce and distribute newsletters or similar informational materials to constituents and others, provided those materials do not advocate the election or defeat of a clearly identified candidate or candidates for any elective office or offices or a vote for or against a state question or other question to be voted upon at an election. [Rule 2.11.](#)

Elected state officers, other than judicial officers, may use public funds, property or time to post materials in their offices indicating their opinions or positions on issues, provided these materials do not advocate the election or defeat of a clearly identified candidate for any elective office or a vote for or against a state question or other question to be voted upon at an election. Display of a photograph or similar depiction of a current or former elected federal or state officer, including autographed photographs or similar depictions, is permitted. [Rule 2.12](#).

An elected state officer may not knowingly solicit, directly or indirectly, a contribution to his or her campaign from any state officer or employee employed by the elected state officer's agency or any person who works for the elected state officer's agency through a third-party contract. [Rule 2.5](#).

State employees whose regular duties include scheduling meetings, activities and events for elected state officers may schedule political activities or events for that elected state officer. [Rule 2.13](#).

VII. Relations with Vendors

Vendors and Vendor's Agents

A "vendor" is any seller or prospective seller of property or service to the State of Oklahoma. A "vendor's agent" is a representative of the vendor. [Rule 4.2\(7\) and \(8\)](#).

Distinction Between Purchasing Process and Successful Award of Contract

The Rules draw sharp distinctions between permitted conduct during the purchasing process, when the acceptance of gifts is strictly prohibited for those engaged in the purchasing decision, and after the purchasing process has been completed, when limited exchanges are permitted. [Rule 4.8](#) and [4.9](#).

a. The Purchasing Decision

The "purchasing decision" begins with preparation of request for proposals, bid specifications or similar documents and ends with approval of requisitions for purchase. [Rule 4.8](#).

b. "Engaged in the Purchasing Decision"

A state officer or employee is "engaged in the purchasing decision" by performing functions in the purchasing process for a single purchase in excess of \$50,000.00.

Functions in the purchasing process include, but are not limited to, participation in the following:

- (1) the preparation of requests for proposals, bid specifications or similar documents;
- (2) review and evaluation of proposals, bids or similar responses,;
- (3) recommendations for selection of successful proposals or bids or other similar awards; or
- (4) approval of requisitions for purchase.

State officers or employees performing only nondiscretionary or clerical functions are not "engaged in the purchasing decision." [Rule 4.8](#).

Prohibited Conduct During the Purchasing Decision

While the purchasing decision is being made, a state officer or employee “engaged in the purchasing decision” may not accept any gifts for himself or herself or for his or her family member from any vendor or a vendor’s agent.

A “gift” is property transferred or service provided for another without compensation of equal value. A “family member” is a state officer or employee’s spouse, children (including stepchildren), mother, father, sister or brother.

This prohibition does not apply to a family member if the gift is given for a bona fide reason that is unrelated to the state officer or employee’s status as a state officer or employee, and the state officer or employee receives no direct benefit from the gift. [Rules 4.2\(4\) and \(5\)](#) and [4.8](#).

Relations After the Purchasing Decision

Once a contract involving property or services is awarded to a vendor, certain exchanges between the successful vendor—i.e., the vendor awarded the contract—and state officers and employees of the agency for whom the contract are permitted.

Subject to the restrictions described, state officer and employees may accept the following from vendors doing business with their agency:

- (1) Meals with an aggregate market value of \$20.00 or less per occasion and a maximum of \$50.00 in the aggregate during any calendar year. If the value of a meal exceeds \$20.00, the state officer or employee may not pay the excess value over the \$20.00 in order to qualify. The value of a meal is calculated to include its price, plus any applicable tax, but does not include a gratuity;
- (2) Gifts given under circumstances that make it clear that the gift is motivated by a family relationship or a personal relationship rather than the state officer or employee’s status as a state officer or employee. Relevant factors in making this determination include, but are not limited to, the history and nature of the relationship and whether the family member or friend personally pays for the gift;
- (3) Gifts given to all state employees or to all employees of his or her agency provided the gifts are customary within the industry and costs of the gifts do not significantly exceed amounts that are customary within the industry;
- (4) Books, written materials, audio tapes, videotapes and other informational or promotional material related to the performance of the state officer or employee’s official duties; or
- (5) Opportunities and benefits offered on the same terms as available to the general public.

[Rule 4.9](#).

VIII. Relations with Executive Lobbyists

What Lobbying Is

“Lobbying” generally means oral or written communications with regard to the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any

legislation, rule, regulation, executive order or any other program, policy or position of state government. [Rule 5.2\(3\) and \(7\)](#).

Lobbying must be on behalf of a lobbyist principal. [Rule 5.2\(3\) and \(7\)](#).

Executive Lobbyists

Executive lobbyists are individuals who are employed or retained by a lobbyist principal for compensation to perform executive lobbying.

Some executive lobbyists may lobby for only one lobbyist principal. These lobbyists sometimes are called “in house lobbyists” when they are employees of the lobbyist principal.

Other executive lobbyists may lobby on behalf of numerous clients. These lobbyists often are called “contract lobbyists” because they typically are independent contractors who provide lobbying services under contract with different lobbyist principals.

Not all individuals who engage in lobbying activities on behalf of lobbyist principals are considered executive lobbyists. Individuals who are employed by or contract with a lobbyist principal but whose lobbying activities are only incidental to and not a significant part of the services provided by the individual to the lobbyist principal are not considered executive lobbyists. For example, the chief executive officer of a corporation that is a lobbyist principal may occasionally engage in lobbying activities, but those activities could be incidental to and not a significant part of the services he or she provides to the company.

Individuals who are not compensated for lobbying activities are not considered executive lobbyists.

Federal officials acting in their official capacity are not considered executive lobbyists.

Any person exercising his or her individual right to petition the government, who receives nothing of value for lobbying, is not considered an executive lobbyist. [Rule 5.2\(4\)](#).

a. State Officers and Employees Prohibited from Being Executive Lobbyists

No state officer or state employee may be an executive lobbyist. [Rule 5.28](#).

b. The Difference Between Legislative Lobbying and Executive Lobbying

“Legislative lobbying” is directed toward the Governor and the Legislature and their staffs. [Rule 5.2\(7\)](#). “Executive lobbying” is directed not toward the Governor and the Legislature and their staffs, but toward officers and employees of a state executive agency. [Rule 5.2\(3\)](#).

c. Individuals May Be Both Legislative and Executive Lobbyists

An individual may be both a legislative lobbyist and an executive lobbyist if he or she meets the definitions.

d. The Difference Between Legislative Liaisons and Legislative Lobbyists

Legislative liaisons are state officers and employees. Legislative lobbyists are not. Legislative liaisons lobby on behalf of the state agency that employs them. Legislative lobbyists may lobby on behalf of a state agency under a contract with that agency, but ordinarily they lobby on behalf of private sector lobbyist principals. [Rule 5.2\(6\) and \(8\)](#).

Lobbyist Principals

Lobbyist principals are persons or entities, including state agencies and institutions that employ or retain another person for compensation to conduct executive or legislative lobbying on behalf of the lobbyist principal.

Private sector lobbyist principals often are associations or organizations that represent their members. Often members of such associations or organizations include both business entities such as corporations and individuals.

It is sometimes the case that a business organization will be represented through an association and will independently be represented by its own lobbyist. For example, a widget manufacturer could contract with its own lobbyist and could be a member of a widget makers association, which also contracts with a different lobbyist.

Lobbyist principals may simultaneously employ or retain both legislative lobbyists and executive lobbyists.

The term “lobbyist principal” does not include individual members, partners, officers or shareholders of an agency, corporation, association, firm, joint venture, joint stock company, syndicate, business trust, estate, company, partnership, limited partnership, organization, committee or club, or a group of persons voluntarily acting in concert. For example, Jones is a member of a professional association that retains a lobbyist to lobby for the association. So is the corporation that employs Jones. Neither Jones nor the corporation is a lobbyist principal; the association is a lobbyist principal. In other words, it is the organization itself—not an individual member of the organization—that is the lobbyist principal. [Rule 5.2\(9\)](#).

Disclosure Required

An executive lobbyist is required, either orally or in writing, to identify the lobbyist principal or principals on whose behalf the lobbying activities are being conducted. Any state officer or state employee who is being lobbied may request such information. [Rule 5.27](#).

Rules on Meals and Gifts from Lobbyists and Lobbyist Principals

a. Gifts Prohibited Unless Specifically Permitted

Executive lobbyists or the lobbyist principals who employ or retain them may provide nothing of value to any officer or employee of the agency being lobbied unless the gift is specifically permitted by the Ethics Rules.

The prohibition applies to both the lobbyist making the gift and the state officer or employee who receives it. [Rule 5.6](#).

b. Gifts to State Officers or Employees Through Family Members Prohibited

An executive lobbyist or lobbyist principal may not indirectly provide something of value to a state officer or employee by providing a thing of value to a family member of the state officer or employee. “Family members” include the spouse, children (including stepchildren), mother, father, sister or brother. [Rules 5.2\(5\)](#) and [5.6](#).

c. Limit on Meals

An executive lobbyist may pay up to \$500 per calendar year for meals for any individual state officer or employee of the agency being lobbied. This limit applies regardless of the source of funds used for payment. [Rule 5.10](#).

d. Gifts for Special Occasions

A legislative liaison or a legislative lobbyist may make a gift to any officer or employee of the agency being lobbied in recognition of infrequently occurring occasions of personal significance.

The Rules do not define “infrequently occurring occasions of personal significance.” However, the Rules provide that such gifts may be made to a family member of a state officer or employee of the agency being lobbied, provided the family member is “a party to a marriage, serious illness, birth or adoption of a child or retirement.” While the list is not explicitly a list of “infrequently occurring occasions of personal significance,” it indicates the type of events that might qualify. “Family members” include the spouse, children (including stepchildren), mother, father, sister or brother.

The limit for such gifts is \$200 for each individual recipient in any calendar year. Gifts to family members count against the limit for the state officer or employee.

Rules [5.2\(5\)](#) and [5.11](#).

e. Meals and Gifts Are Aggregated

The aggregate total of all meals provided to an individual by an executive lobbyist and any gifts given on “infrequently occurring occasions of personal significance” are added together and may not exceed \$500 during a calendar year. [Rule 5.11](#).

f. Modest Items of Food and Refreshments

An executive lobbyist or lobbyist principal may provide modest items of food and refreshments to any state officer or employee when offered other than as part of a meal. This provision includes items such as soft drinks, coffee, doughnuts and similar items provided other than as part of a meal. These items do not include alcoholic beverages, including low-point beer, or items such as hors d'oeuvres and similar fare. [Rule 5.12](#).

g. \$10 Gifts

An executive lobbyist or lobbyist principal may provide a gift of any single item with a fair market value not exceeding \$10 to any state officer or employee one time during any calendar year without incurring any reporting obligations, if that is the only such gift provided to the state officer or state employee. [Rule 5.13](#).

h. Conferences or Seminar Admissions

Agencies may provide two tickets to any conference, seminar, lecture or similar event held within Oklahoma and sponsored by the agency to the Governor, any legislator or any employee of the Governor or Legislature. The tickets must be used by the recipient or a family member of the recipient. [Rule 5.6](#).

i. Tickets or Sponsorships for Community, Civic and Charitable Events

A lobbyist principal employing or retaining an executive lobbyist may purchase tickets for or otherwise provide sponsorship for a bona fide community, civic or charitable reception, breakfast, luncheon or dinner attended by state officers and employees who are guests of the sponsoring organization.

Such activities must be customary for the lobbyist principal, and the lobbyist principal may not designate state officers or employees to be guests. [Rule 5.18](#).

j. Plaques, Trophies or Similar Acknowledgement of Service

A state officer or employee may accept a plaque, trophy or similar item suitable for display from a lobbyist principal to acknowledge the officer or employee's public service. The item cannot

exceed \$200 in value. A state officer or employee can only receive such a gift once a calendar year from the same lobbyist principal. [Rule 5.13](#).

IX. Special Committees

Sponsorship of Conference or Seminars

When a state officer or employee or a state agency sponsors, in part or in whole, a conference, seminar, meeting or other event for which a state officer or employee solicits funds, goods or services to assist with expenses associated with the event, the sponsoring officer or agency is required to create a special committee. To reiterate, the special committee only needs to be created if state officers or employees are soliciting funds, goods or services for the event.

Special committees must register with the Commission and make a report of all contributions received and expenditures made by the committee in The Guardian System. Admission tickets to the event are not considered as contributions. The report must be made within 180 days after the event is held.

A state officer, employee or agency is considered to “sponsor” an event when the officer, employee or agency permits the use of the person’s name in promoting the event. [Rule 2.118\(B\)](#).

X. Personal Financial Disclosure Statement (PFD)

Who Is Required to File a PFD?

Effective July 1, 2016, the only individuals who are required to file a financial disclosure statement are state officers who are ***elected or subject to retention to judicial office***.

For those required to file, review the “Financial Disclosure Guide” for more information on what is included in a financial disclosure statement and how to file the report in The Guardian System. The “Financial Disclosure Guide” is located under the “Ethics Laws, Guides, and Forms” tab on the Ethics Commission website.