

Overview of Ethics for Legislators and Staff

Texas Ethics Commission

January 2021

Applicability of ethics laws

Legislators and their staff are:

- Public servants under the Penal Code
- Members of the legislative branch under the Lobby Law

Legislators file:

- Campaign finance reports under Title 15 of the Election Code
- Personal financial statements under Chapter 572, Gov. Code

Gift restrictions

- Honoraria
- Lobbyist gifts
- General restrictions (Penal Code § 36.08)
 - Benefit from person subject to your jurisdiction
- “Should Nots” for state officers & employees
 - Gov’t Code § 572.051

Gift restrictions

Honoraria

- Public servant cannot accept an honorarium for services that were requested because of official status.
- Honorarium includes a gift, payment, or compensation.

Gift restrictions

Honoraria

*Not prohibited:

- Meals
- Transportation
- Lodging

Gift restrictions

Prohibited gifts from lobbyists

- Loans, cash, negotiable instruments (other than political contributions)
- Transportation or lodging (with some exceptions such as incidental transportation)
- Entertainment over \$500 in a calendar year
- Gifts over \$500 in a calendar year
- Award or memento valued over \$500

Gift restrictions

Lobbyist gifts not prohibited

- Food and beverages
- Entertainment totaling up to \$500 in calendar year
- Travel/Lodging for:
 - Fact-finding trip
 - Your services at seminar/conference
- Tickets for attending political fundraiser or charitable event

Only if lobbyist is physically present

General gift restrictions

- Penal Code § 36.08(f) contains the prohibition on gifts to members of the legislature and their staff.
- Penal Code § 36.10 contains the exceptions to this prohibition.

Standards of conduct

- State law also states that a state officer or employee should not:
 - Accept a gift or favor that might reasonably tend to influence your official duties;
 - Accept other employment or engage in a business that would involve the disclosure of confidential information;
 - Accept other employment that could impair independence of judgment;
 - Make personal investments that could create a conflict with public interest; or
 - Accept any benefit for exercising official powers or duties.
- State employee who violates this section is subject to termination of employment.

Standards of conduct

A member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless the representation:

(1) is pursuant to an attorney-client relationship in a criminal law matter; or

(2) involves the filing of documents that involve only ministerial acts on the part of the commission, agency, board, department, or officer.

Violation is a Class A misdemeanor. Gov't Code § 572.052

Standards of conduct

A member of the legislature may not vote on a measure or a bill, other than a measure that will affect an entire class of business entities, that will directly benefit a specific business transaction of a business entity in which the member has a controlling interest.

Violation is a Class A misdemeanor. Gov't Code § 572.053

Standards of conduct

A member of the legislature must file a notice with:

- either chief clerk of house of representatives or secretary of senate, and
- Ethics Commission

before introducing, sponsoring, or voting on a measure or bill if the member's spouse or a person related to the member within the first degree by consanguinity is registered as a lobbyist under Chapter 305, Gov't Code, with respect to the subject matter of the measure or bill.

Campaign finance restrictions

- Moratorium on accepting political contributions during session: Dec 13, 2020-June 20, 2021
- May not accept contributions in the Capitol
this includes the extension

Campaign finance restrictions

- Next Semiannual Report is due **July 15**
- Filing schedule for members of the Texas Legislature , see <https://www.ethics.state.tx.us/data/filinginfo/schedules/s21state.pdf>
- Critical to keep detailed records in anticipation of filing

Use of state resources

A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the intentionally or knowingly ... misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment. *Penal Code § 39.02*

Use of state resources

Permissible uses

- Constituent casework *EAO 193*
- Incidental use *EAO 395*

Use of state resources

Prohibited uses

- Campaign uses *EAO 431*
- Campaign finance reports *EAO 386*
- Looking for a new job *EAO 164*
- Personal activities *EAO 522*
- Using governmental resources in political advertising *EAO 550*

Use of state resources

Ask yourself:

- *How did this property come into my control?*
- *What public purpose am I furthering with my use of this property?*

Personal financial statements

- Filing deadline for state officers: April 30
- Can get a 60-day extension if requested before the filing deadline
- Keep records for next year's statement

Additional resources

- TEC website www.ethics.state.tx.us/
<https://www.ethics.state.tx.us/resources/guides/>
- TEC helpline 512-463-5800
- Advisory opinions