

Section X—Giving and Receiving

(a) No lobbyist, subordinate of a lobbyist, or principal shall offer or provide anything to a public official, public employee, or member of the household of a public official or public employee, subject to the following exceptions:

- 1) Lawful campaign contributions
- 2) Financial or business transactions made in the ordinary course of business on terms generally available to similarly situated members of the public.
- 3) Food and beverages provided in settings permitted by (d)
- 4) Payment of or reimbursement for actual and necessary registration and travel expenses, including reasonable food and lodging expenses, incurred by attendance at an educational function of which the lobbyist or principal is a sponsor¹
- 5) Anything of *de minimis* value, not to include meals²
- 6) Anything offered or provided as the result of a familial relationship
- 7) Anything offered or provided as a result of a friendship, so long as the lobbyist or principal has no direct or specific interest before the recipient and the gift was not paid for or directed to be given by anyone other than the provider. This exception does not include business or professional dealings of any kind. Relevant factors in determining whether this exception applies include whether the friendship preexisted the recipient's status as a public official, public employee, or household member of a public official or employee, and whether gifts have been previously exchanged between the provider and recipient.
- 8) Compensation or business relationships permitted by (e) or (f)
- 9) Anything either paid for by a governmental entity or provided by an association or organization to which the state or a local government pays dues.

(b) No public employee, public official, or member of the household of a public official or public employee shall solicit anything—other than lawful campaign contributions—from a lobbyist, a subordinate of a lobbyist, or a natural person who is a principal.

(c) No public employee, public official, or a member of the household of a public official or public employee shall receive anything from a lobbyist, a subordinate of a lobbyist, or a principal, subject to the following exceptions:

- 1) Lawful campaign contributions

¹ It is also recommended that the existing definition of "educational function" be amended to remove the phrase "held within the state of Alabama."

² Amend definition of "de minimis value" to "Anything having a value of \$25 or less per occasion and an aggregate of \$50 or less in a calendar year from any single provider or having no intrinsic resale value."

- 2) Financial or business transactions made in the ordinary course of business on terms generally available to similarly situated members of the public
- 3) Food and beverages in settings permitted by (d)
- 4) Payment of or reimbursement for actual and necessary registration and travel expenses, including reasonable food and lodging expenses, incurred by attendance at an educational function of which the lobbyist or principal is a sponsor
- 5) Anything of *de minimis* value, not to include meals
- 6) Anything offered or provided as the result of a familial relationship
- 7) Anything offered or provided as a result of a friendship, so long as the lobbyist or principal has no direct or specific interest before the recipient and the gift was not paid for or directed to be given by anyone other than the provider. This exception does not include business or professional dealings of any kind. Relevant factors in determining whether this exception applies include whether the friendship preexisted the recipient's status as a public official, public employee, or household member, and whether gifts have been previously exchanged between the provider and recipient.
- 8) Compensation or business relationships permitted by (e) or (f)
- 9) Anything either paid for by a governmental entity or provided by an association or organization to which the state or a local government pays dues

(d) Food and beverages may be provided by a lobbyist or principal and received by a public official or public employee and the spouse of the public official or public employee in the following settings:

- 1) At a gathering, dinner, reception, or other event of mutual interest to a number of parties at which it is reasonably expected that more than 12 individuals will attend and that individuals with a diversity of views or interests will be present
- 2) At an event where all members of a legislative body, legislative caucus registered under Chapter 5 of Title 17, or legislative committee are invited.

(e) A public official or public employee may maintain and receive compensation from bona fide business relationships established prior to his or her public service, so long as the compensation is unrelated to the recipient's official position and does not present an irreconcilable conflict of interest or is not otherwise prohibited by law.

(f) A public official or employee may establish and receive compensation from a bona fide business relationship established following his or her entry into public service or qualification for office, so long as the compensation is unrelated to the recipient's official position, does not present an irreconcilable conflict of interest or is not otherwise prohibited by law, and none of the following circumstances are present:

- 1) The employment or partnership is with any person or business with direct or specific interests before the public official or employee in his or her official capacity
- 2) The recipient is not reasonably qualified to perform the services
- 3) The compensation is substantially different than that customarily earned by a private citizen for the same services
- 4) The services are for fundraising of any kind or character *and* the compensation *or* other benefits include a commission, bonus, or other incentive based in whole or in part on the amount of funds raised by the recipient

(g) The prohibitions in Sections (a), (b), and (c) do not apply if (1) the public official or public employee serves a level of government that is not identified by the lobbyist or principal on a properly filed registration form under Section 36-25-18 and (2) the lobbyist or principal has accurately identified the level of government on the registration form.

(h) In addition to restitution, violations of this section shall be penalized as follows:³

- 1) A violation of this section shall result in a fine to be imposed by the Alabama Ethics Commission in an amount no less than \$1,500.
- 2) A second violation of this act shall result in a fine to be imposed by the Alabama Ethics Commission in an amount no less than \$5,000.
- 3) When it is shown that a lobbyist, principal, public official, or public employee has violated this section more than two times, upon conviction, he or she shall be guilty of a Class A misdemeanor. For purposes of this subsection, violations occurring in a single transaction will not be treated as separate violations. The previous imposition of a fine is not required to establish that a violation has occurred more than two times.
- 4) A person who intentionally violates any provision of this of this chapter shall be guilty, upon conviction, of a Class B Felony.

³ The monetary penalties provided for in this section will need to be reconciled with the Commission's existing authority to resolve "minor violations."