

- ✓ **FEES FOR SERVICES:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case you may accept the offer without restriction. Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.
- ✓ **POLITICAL CONTRIBUTIONS:** You may accept a political contribution as a candidate or officeholder.
- ✓ **GOVERNMENT PROPERTY:** You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- ✓ **FOOD, ENTERTAINMENT, TRANSPORTATION, & LODGING:** Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a "guest" and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. As to reporting requirements, certain elected officeholders, state agency board members, and state agency heads are required to file annual personal financial statements on which they must report certain gifts worth more than \$470. For most state *employees*, there is no applicable reporting requirement. Board members and agency heads may be required to report certain gifts on their annual personal financial statement.

#### **DONATIONS TO CHARITY**

**If you receive an unsolicited benefit that you are prohibited from accepting, you may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes.**

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# *Can I Take It?*



*A Guide for Officers and Employees in the Executive Branch of State Government.*

*Note: Employees of the Governor or Lieutenant Governor should refer to the "Can I Take It?" brochure specifically applicable to those offices.*

*Revised March 16, 2021*

# Can I Take It?

## RULE NO. 1

### YOU MAY NEVER TAKE ANYTHING AS CONSIDERATION FOR AN OFFICIAL ACT

The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, and any other exercise of official discretion.

## RULE NO. 2

### YOU MAY NOT ACCEPT AN HONORARIUM FOR SERVICES YOU WOULD NOT HAVE BEEN ASKED TO PROVIDE BUT FOR YOUR OFFICIAL STATUS

This means, for example, that you may not accept a gift or payment for giving a speech if your official position was a reason for your being asked to give the speech. You may, however, accept meals, transportation, and lodging in connection with a speech as long as your speech is more than merely perfunctory. Also, you may accept a gift that is not a "benefit" such as a plaque or something of minimal value like a coffee cup, key chain, or "gimme" cap.

**THE OTHER RULES:** If acceptance of a gift or payment is permissible under Rule Nos. 1 and 2, the next step is to determine whether or not the person making the offer is a registered lobbyist.

## A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST:

### 1. You may not accept:

- ✗ Loans, cash, or negotiable instruments other than political contributions.
- ✗ Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.)

### 2. You may accept:

- ✓ Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- ✓ Entertainment worth up to \$500 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- ✓ Gifts, other than awards and mementos, that together do not exceed \$500 in value during a calendar year.
- ✓ Awards and mementos worth not more than \$500. This is not an annual cap, but a cap on the value of each individual award or memento.
- ✓ Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.
- ✓ Tickets or other expenditures for attendance at a political fundraiser or charitable event if the lobbyist is present at the event.

Note: You can find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at 512-463-5800 or by going to [www.ethics.state.tx.us/search/lobby.html](http://www.ethics.state.tx.us/search/lobby.html).

## PLEASE NOTE

Your name will appear on a lobbyist's activities report:

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed \$132.60,\* which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed \$90; or
- each time an expenditure is made for you to attend political fundraisers or charity events, regardless of the amount spent.

\* effective January 6, 2019

## B. IF THE PERSON MAKING THE OFFER IS NOT A REGISTERED LOBBYIST:

A state officer or employee may not take any benefit from a person subject to the regulation, inspection, or investigation by that person or that person's agency. (A "benefit" is anything reasonably regarded as pecuniary gain or advantage.) There are, however, many exceptions to this general rule. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into *any one* of the following categories.**

- ✓ ITEMS WORTH LESS THAN \$50: You may accept an item with a value of less than \$50. This exception does not apply to cash, checks, or negotiable instruments.
- ✓ INDEPENDENT RELATIONSHIP: There is an exception from the general prohibition on the acceptance of benefits for a gift based on
  - kinship
  - a personal relationship independent of your official status
  - a professional relationship independent of your official status
  - a business relationship independent of your official status.

(over)