



## GUIDING PRINCIPLES OF ETHICAL CONDUCT FOR PUBLIC OFFICIALS

### ARTICLE 1 STATEMENT OF PURPOSE

Under T.C.A. § 3-6-106, the Tennessee Ethics Commission (“Commission”) was given the responsibility to recommend guiding principles of ethical conduct for consideration and adoption by the legislative and executive branches. Hence, the purpose of this Guide is to provide the officials listed in § 3-6-106, for their consideration, these suggested standards of ethical conduct when serving the State of Tennessee.

The Commission was established to secure and enhance the integrity of the processes of government and to sustain the public’s confidence in government by increasing the integrity and transparency of State and local government. All citizens of the State of Tennessee have the right to expect that government will be administered and managed with the highest degree of professionalism void of undue influence by any individual or group. It is, thus, the obligation of every public official to conduct himself or herself in a manner that will not violate the public trust.

### ARTICLE 2 DEFINITIONS

(1) “**Compensation**” means any salary, fee, payment, promise, forbearance, reimbursement, or other valuable consideration, or any combination thereof, whether received or to be received.<sup>1</sup>

(2) “**Gift**” means any payment, honorarium, subscription, loan, promise, advance, forbearance, rendering, or deposit of money or services, unless consideration of equal or greater value is received. “Gift” does not include a campaign contribution otherwise reported as required by law, a commercially reasonable loan made in the ordinary course of business, or a 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 of the person’s spouse, or from the spouse of any such relative. “Gift” does not include the waiver of a registration fee for a conference or educational seminar.<sup>2</sup>

(3) “**Immediate Family**” means a spouse or minor child living in the household.<sup>3</sup>

(4) “**Public Official**” includes:

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<sup>1</sup> T.C.A. § 3-6-301(7)

<sup>2</sup> T.C.A. § 3-6-301(11)

<sup>3</sup> T.C.A. § 3-6-301(12)

- a. Members of the General Assembly; and
- b. The Governor, Secretary of State, Treasurer, Comptroller of the Treasury, members of the Governor's Cabinet, and Cabinet level staff within the Governor's Office.<sup>4</sup>

(5) “*Solicit*” means to entreat, to implore, to ask, to attempt, or to try to obtain.<sup>5</sup>

### **ARTICLE 3**

#### **CONFLICTS OF INTEREST**

(1) SECTION 1. *Independence of Judgment.* Public officials should be independent and impartial, and should avoid conflicts of interest and the appearance of conflicts of interest when performing their duties. In addition, all public officials should be elected, appointed, hired and promoted based upon their qualifications, integrity, honesty, competence, and dedication to fulfilling the public policies of the State. A public official should not act in conflict with the proper discharge of his or her duties in the public interest by

- (a) failing to disclose any financial or other interest, or
- (b) engaging in any business or transaction or professional activity, or
- (c) incurring any obligation of any nature

which would create such a conflict.

(2) A public official should not accept another position, whether compensated or not, which

(a) either will impair, or is likely to impair, the public official's independence of judgment as to the public official's duties or employment, or

(b) will require or induce the public official to disclose confidential or inside information acquired in the course of and by reason of the performance of the official's duties, other than as permitted or required by law.

(3) A public official, a member of the official's immediate family, or a business, in which he or she is an officer, director, or holds more than a minimal interest, should not bid on, or otherwise respond to, a request for proposal or information, or seek any contract with the State, other than a contract of employment as a public official or pursuant to a court appointment, unless the contract has been awarded through an open and public process or as otherwise permitted by law.

(4) A public official, who is involved in making decisions relating to the awarding of State grants or contracts, should not ask any officer, director, employee, or agent of any current or prospective contractor or grantee or contractor to reveal: (a) the party affiliation of the

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<sup>4</sup> T.C.A. § 3-6-106(a)(1)(A-B).

<sup>5</sup> T.C.A. § 3-6-301(22).

individual; (b) whether the individual or entity has made campaign contributions to any political party, elected official, or candidate for elective office; or (c) whether the individual or entity voted for any elected official or candidate for elective office.

(5) A public official should not take part in any contracting decision relating to:

(a) a member of the public official's immediate family; or

(b) any entity in which a member of the official's immediate family is an officer, director, or partner, or in which a member of the official's immediate family holds more than a minimal interest, except as otherwise permitted by law.

(6) A public official, in the performance of his or her official duties, should not request or demand that any other person or entity make or offer to make any monetary contribution or in-kind contribution to any campaign or to any political campaign committee in exchange for, or as a condition of, receiving some benefit from the State of Tennessee or any department, agency or official thereof, to the person or entity whose contribution is requested or demanded, or to the person making the request or demand.

(7) A public official should not, by his or her statements or conduct, give reasonable basis for the impression that any person can improperly influence him or her, or receive favoritism in the performance of his or her official duties, or that the official's decisions are affected by the kinship, rank, position, or influence of any political party, entity or person. A public official should be prepared to disclose the conflict or the potential conflict of interest or relationship and, if necessary, recuse himself or herself in order to negate any appearance of improper influence.

**SECTION 2. *Integrity of the Processes of Government.*** The integrity and reputation of the government and its processes should at all times be maintained. Government employment is a privilege rather than a right, and is based upon the trust and confidence placed in the State by the public. All public officials should act in a manner consistent with the public trust.

(1) A public official, in the performance of his or her official duties, should not use or attempt to use his or her official position to secure or create unwarranted privileges, exemptions, advantages, or treatment for himself or herself or others. A public official, alone or through others, should not use or attempt to use improper means to influence a department, agency, board, or commission of State government.

(2) A member of the General Assembly should not vote on or influence legislation in committee or on the floor of either house, where he or she has a personal interest in the matter being considered, debated or voted upon, unless the official makes it abundantly clear that the member's decision or vote was not the result of any personal interest, but rather that it was through deliberative processes based solely on the member's views of the merits of the matter and/or the interests of the public. This disclosure may be accomplished by making a public statement using the following, or similar, words: "It may be considered that I have a personal degree of interest in the subject matter of the bill, but I declare that my argument and my ultimate vote answer only to my conscience and my obligation to my constituents and the citizens of the State of Tennessee."<sup>6</sup>

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<sup>6</sup> Derived from TN Senate Rules-85, Art. II, § 2(a)(1).

(3) A public official should not willfully and knowingly disclose, directly or indirectly, for personal gain, confidential information acquired by him or her in the course of and by reason of his or her official duties or employment, unless such disclosure is required or permitted by law.<sup>7</sup>

(4) A public official should not receive anything of economic value or any compensation besides the official's regular salary and benefits, other than as required or permitted by law or in the performance of his or her official duties, for any service which is significantly related to the duties, programs, or operations of the public official's position.<sup>8</sup>

(5) A public official should not hire or supervise a member of the public official's immediate family in carrying out official State duties. However, nothing in this section is intended to prohibit the continued employment of a member of the official's family who currently works for or is supervised by the official. Furthermore, this section is not intended to hinder normal promotional advancements for such employee if that employment predates the election, employment, or appointment of the public official. A public official should recuse himself or herself from any decision involving the promotion, discipline, discharge, or assignment of work to his or her immediate family member.

(6) A public official should not use public funds, time, personnel, or other state-provided resources for the private gain or political purpose of the official or that of another person, unless otherwise authorized by law.

(7) A public official should not request, receive, or agree to receive anything of value based upon any explicit understanding, or any reasonably inferred understanding, that his or her vote, opinion, judgment, or action will be influenced thereby.<sup>9</sup>

#### **ARTICLE 4** **COMPENSATION AND GIFTS**

(1) A public official should not accept any gratuity or compensation for the performance of his or her duties, other than his or her official salary and allowances or as otherwise authorized by law.<sup>10</sup>

(2) A public official should not solicit, receive, or accept a gift, favor, or service from any entity or individual which has a matter before the public official or the public official's direct authority, under circumstances where it could reasonably be inferred that such gift would influence the official in the discharge of his or her duties.<sup>11</sup>

(3) A public official, pursuant to T.C.A. §§ 3-6-304 and 305, may not solicit or accept, directly or indirectly, a gift from an employer of a lobbyist or a lobbyist, as defined in T.C.A. §§ 3-6-301(8) and (17), unless there is a clear exception prescribed elsewhere by law. It is the

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<sup>7</sup> Derived from TN Senate Rules-85, Art. II, § 2(c)(4).

<sup>8</sup> Derived from TN Senate Rules-85, Art. II, § 2(c)(1).

<sup>9</sup> Derived from TN Senate Rules-85, Art. II, § 2(a)(3) & (4)

<sup>10</sup> T.C.A. § 2-10-123(a) and TN Senate Rules-85, Art. II, § 2 (a)(2).

<sup>11</sup> Derived from TN Senate Rules-85, Art. II, §2 (a)(3).

public official's duty to insure that he or she becomes, and remains, knowledgeable about the ethics laws and the gift ban restrictions.<sup>12</sup>

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<sup>12</sup> T.C.A. §§ 3-6-304 and 305.