The Ethics Rules

The Oklahoma Ethics Commission

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Fair Rules. Firm Enforcement.
The Ethics Commission

- Constitutionally Created in 1990
- Five Appointed Commissioners
- Special Rulemaking Process
- Advisory Opinions
Jurisdiction

- Promulgate Rules of Ethics Conduct for:
  - Campaigns for Elective State Office
  - Campaigns for Initiative and Referenda
  - State Officers and Employees
  - Civil Penalties for Violations
- Investigate Allegations of Violations
  - Settlement Agreements
  - Prosecution in District Court
- No Criminal Authority
The Ethics Rules

- **Not Administrative Rules**
  - “Because of the constitutional underpinning of these Rules ... they have no less weight than statutes.” *Ethics Comm’n v. Keating*

- **Six Categories of Rules**
  - Administration
  - Campaign Finance
  - Financial Disclosure
  - Conflicts of Interest
  - Lobbyist Registration and Reporting
  - Investigations, Prosecutions and Penalties
The Ethics Rules

Where are they?
- Ethics Commission Website
- OSCN
- Westlaw
Compliance Generally
Compliance

Must Comply with More Restrictive Rules Within Your Agency

Ethics Commission Enforces Ethics Rules
Waiver for Pre-Existing Relationship

- Waives Application of Certain Ethics Rules
- Based on a Pre-Existing Relationship
- Prospective Only
Misuse of Office
Misuse of Office

- Own Private Gain
- Endorsement
- Private Gain of Family Member
Misuse of Office

Private Gain of Those Affiliated in Non-Governmental Capacity

Private Gain of Persons with Whom State Officer or Employee Is Seeking Employment or Business Relations
Misuse of Authority
Misuse of Authority

Coercion or Inducement Through Another Person

To Provide Any Benefits, Financial or Otherwise
Conflicts of Interest
Conflicts of Interest

Duty to Be Impartial
Must Disqualify from Participation When...

- State Officer or Employee Benefits Financially
- State Officer or Employee’s Impartiality Is Questioned
Disqualification for Financial Benefit When...

- Direct & Predictable Effect
- Material Financial Interest
Direct & Predictable Effect

Close Causal Link

Not Attenuated or Speculative
Disqualification Based on Business Relationship When...

- Relationship Between State Officer & Employee & Party Involved in the Matter or Someone Representing Party Involved in the Matter

- Circumstances Would Reasonably Cause Questions Regarding Impartiality
No Disqualifying Conflict...

If the Effect Applies Equally
to Everyone in the Profession, Occupation, or Large Class
in which State Officer or Employee is a Member
Commission Advice

- May Ask for Advice from Commission on Whether to Disqualify
- Commission Has Discretion
- Commission May Delegate to Executive Director
- Advice, If Given, Binds Commission
Representation
Representation in Transaction Involving the State

Cannot Receive Compensation to Represent Others in Transactions Involving the State of Oklahoma

Unless the Practice of Law in Any Court

Unless Board, Commission, or Authority Members Appearing Before a Different State Agency

Unless Authorized by Law
Relations with Vendors
Who Is a Vendor?

**Vendor:**
Seller or Prospective Seller of Property or Service

**Vendor’s Agent:**
Someone Who Represents the Vendor
Purchasing Decision or Process

- Begins with Preparation of RFP or Bid Specs
- Ends with Requisition
When are You “Engaged in the Purchasing Decision”?

- $50,000 Floor
- Preparation of RFP or Bid Specs
- Review and Evaluation of Responses
- Recommendations for Selection
- Approval of Requisitions
During the Purchasing Decision Process

You Cannot Accept Gifts

From a Vendor or Vendor’s Agent
After the Contract is Awarded

- Meals up to $20 with $50 Annual Limit
- Family or Personal Relationship
- Gifts to All Employees of Agency
- Books, Videos, etc.
- Benefits Available to General Public
Relations with Lobbyists
Types of Lobbyists

- Legislative Lobbyists
- Legislative Liaisons
- Executive Lobbyist
Executive Lobbyists

- In House Lobbyists
- Contract Lobbyists
- Lobbyist May be Both Legislative and Executive Lobbyists
Permitted Gifts

Modest Items of Food and Beverage

OK Occasionally
Gifts from Those Regulated or Licensed by an Agency

No Gifts from Any Person or Entity Regulated or Licensed by Agency

Does Not Apply to Gifts from Private Employer Not Motivated by State Officer or Employee Position
Private Business Activities

- Meals, Lodging, Transportation, Other Benefits OK
- Resulting from Employment of Spouse
- Resulting from Own Private Business
- If Not Offered or Enhanced as a Result of Status as State Officer or Employee
Ethics Commission
Resources
Guides Available on Website

Overview of the Ethics Rules
Available on Ethics Commission Website: www.ok.gov/ethics
Provides Links to Relevant Rules
All of the following are excellent resources for compliance with the Ethics Rules except:


b) The complete set of annotated Ethics Rules that include comments on interpretation by the Ethics Commission found on the Ethics Commission’s website.

c) Calling the Ethics Commission and asking the General Counsel or any other employee a question about the Ethics Rules.

d) Nancy down the hall in accounting who took Intro to Ethics her sophomore year of college, which as it turns out was really a philosophy course having nothing to do with the Oklahoma Ethics Rules and she got a C in the class anyway.
Outline of Learning Objectives

- What is the Ethics Commission?
- Ethics Commission Jurisdiction
- The Ethics Rules
- Misuse of Office & Conflicts of Interest
- Relationships with Vendors
- Ethics Commission Resources
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