

Rule 4.2. Definitions.

4. "Family member" shall include spouse, children (including stepchildren), mother, father, sister or brother
5. "Gift" means property transferred to or service provided for another without compensation of equal value
6. "Vendor" means any seller or prospective seller of any property or service to the State of Oklahoma
7. "Vendor's agent" means a representative of a vendor

Rule 4.4. Misuse of Office.

Except as permitted by law or these Rules, a state officer or employee shall not use his or her State office (1) for his or her own private gain, (2) for the endorsement of any product, service or enterprise, (3) for the private gain of a family member or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the state officer or employee is an officer or member, or (4) for the private gain of persons with whom the state officer or employee seeks employment or business relations. These prohibitions shall not apply to any act or endorsement if the act or endorsement is customary for the state officer or employee's position or is authorized or permitted by the state officer or employee's contract of employment or if otherwise permitted or authorized by the Constitution or statutes or by these Rules. A state officer or employee may promote or solicit funds for civic, community or charitable organizations, including those promoting businesses or industries, or civic, community or charitable fundraising events provided the state officer or state employee receives nothing for doing so except the costs associated with the state officer or state employee's participation in a fund-raising promotion or event paid for from funds of a charitable organization. No individual or other entity may pay for, or reimburse the charitable organization for, any such costs and gratuities; provided, however, nothing shall prevent individuals or other entities from making customary donations or paying sponsorship fees to the charitable organization.

Example: Olson, a professor of statistics at a state university, may accept a fee for testifying as an expert witness even though her credentials as an expert depend upon her state office.

Example: Stockton, a basketball coach at a state university, may endorse a particular brand of athletic wear if that is a customary practice for his professional position.

Example: Senator Smith may participate in a ribbon-cutting ceremony for Ajax Corporation, provided he receives nothing for doing so.

Example: Representative Jones may participate in a golf tournament to raise funds for a charity. Her costs, including breakfast and lunch and the costs of playing in the tournament may be paid by the charity.

Example: Ajax Corporation may not reimburse a charity for the costs of Representative Jones's participation in a golf tournament to raise funds for the charity. However, Ajax Corporation may make its customary sponsorship contribution to the charity.

Rule 4.5. Misuse of Authority.

A state officer or employee shall not use or permit the use of his or her office or title or any authority associated with his or her state office, or a state office to which he or she has been elected, in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or herself or to his or her family members or persons with whom the state officer or employee is affiliated in a nongovernmental capacity, except to the extent otherwise permitted or authorized by the Constitution or statutes or by these Rules.

Example: Ferguson, who has been elected to a statewide office but has not yet taken the office, may not offer or threaten “special treatment” for someone that he will regulate as a state officer, depending on whether that person will provide employment or other financial benefits to his spouse.

Example: Owens, the head of a state agency, may not permit Finch, her deputy director, to suggest to a representative of Ajax Corporation that “my boss” (Owens) would really enjoy a weekend at the Ajax Corporation resort in Florida.

Rule 4.7. State Officer Impartiality.

In the event a state officer or employee: (1) knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the material financial interests of the state officer or employee or of his or her family member; or (2) knows that a person with whom he or she has a business relationship other than a routine consumer transaction is a party to or represents a party to such matter; or (3) determines that the circumstances would cause a reasonable person with knowledge of the relevant facts to question his or her impartiality in the matter; the state officer or employee shall not participate in the matter unless he or she is required to do so by law or permitted to do so by these Rules. This provision shall not apply when the effect of the matter applies equally to all members of a profession, occupation or large class. . . . **A particular matter will have a direct and predictable effect on a material financial interest if there is a close causal link between any decision or action to be taken in the matter and any expected effect of the matter on the material financial interest, even though the effect is not immediate.** It shall not apply to a chain of causation if it is attenuated or is contingent on the occurrence of events that are speculative or that are independent of, and unrelated to, the matter.

This Rule requires state officers and employees to disqualify from matters in which their impartiality may reasonably be questioned. It also permits state officers and employees to voluntarily disqualify from participating in matters in which they may have a real or perceived conflict of interest. To evaluate whether or not such a conflict exists, the Rule requires a “reasonable person” standard, i.e., would a reasonable person with knowledge of the relevant facts question the impartiality of the state officer or employee? A “reasonable person” is a hypothetical person used as a legal standard. The Rule provides that a state officer or employee who disqualifies should not “participate in the matter.” That means that **not only should the state officer or employee disqualify from voting or participating in a final decision in the matter, but that the state officer or employee should refrain from discussing or in any way trying to influence the ultimate decision,** including making public statements other than his or her disqualification.

A “material financial interest” under Rule 4.7 means:

1. **an ownership interest in a private business**, including but not limited to, a closely held corporation, limited liability company, Subchapter S corporation or partnership **for which the state officer or employee or his or her family member is a director, officer, owner, manager, employee, or agent or any private business**, closely held corporation or limited liability company **in which the state officer or employee or his or her family member owns or has owned stock**, another form of equity interest, stock options, debt instruments, or has received dividends **or income worth Twenty Thousand Dollars (\$20,000.00) or more at any point during the preceding calendar year; or**
2. an ownership interest of five percent (5%) or more in a publicly traded corporation or other business entity by a state officer or employee or his or her family member at any point during the preceding calendar year; or
3. an ownership interest in a publicly traded corporation or other business entity from which dividends or income, not to include salary, of Fifty Thousand Dollars (\$50,000.00) or more were derived during the preceding calendar year by the state officer or employee or his or her family member; or
4. an interest that arises as a result of the state officer’s or employee’s or his or her family member’s service as a director or officer of a publicly traded corporation or other business entity at any time during the preceding calendar year; or
5. **any sources of income derived from employment, other than compensation pertaining to the office for which the state officer or employee or his or her family member holds, in the amount of Twenty Thousand Dollars (\$20,000.00) or more by the state officer or employee or his or her family member.** For purposes of this Rule a “material financial interest” shall not mean (1) an interest in a mutual fund or other community investment vehicle in which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings, or (2) an interest in a pension plan, 401k, individual retirement

account or other retirement investment vehicle that makes diversified investments over which the state officer or employee or his or her family member exercises no control over the acquisition or sale of particular holdings.

Rule 4.8. Gifts from Vendors to Persons Engaged in Purchasing Decisions.

No state officer or employee shall accept any gift for himself or herself or for his or her family member **from any vendor or vendor's agent that is selling or attempting to sell goods or services to the state officer or employee's agency if the state officer or employee is engaged in purchasing decisions designed to determine the vendor that will sell the goods or services to the agency.** As used in this section, "engaged in purchasing decisions" shall mean **performing functions in the purchasing process for purchases in excess of Fifty Thousand Dollars (\$50,000.00), including but not limited to participation (a) in preparation of requests for proposals, bid specifications or similar documents, or (b) in review and evaluation of proposals, bids or similar responses, or (c) in recommendations for selection of successful proposals or bids or other similar awards or (d) in approval of requisitions for purchase.** It shall not apply to persons performing only nondiscretionary or clerical functions. This prohibition shall not apply to the state officer or employee's family member if the gift is given for a bona fide reason unrelated to the state officer or state employee's status as a state officer or employee and the state officer or employee receives no direct benefit from the gift.

This Rule provides an absolute prohibition on the acceptance of gifts from a vendor or vendor's agent by a state officer or employee or their family members under specific circumstances. **The state officer or employee must be engaged in the purchasing decision, which generally includes factors that may be used to influence the successful award of a contract such as preparation of bid specifications, evaluation of proposals, recommendations for selection or approval of requisitions.** In all cases, **the amount of the purchase must exceed Fifty Thousand Dollars (\$50,000.00).**

"Gift" means property transferred to or service provided for another without compensation of equal value.

"Family member" is defined to include the nuclear family—individual, spouse and children—for two generations: that of the state officer or employee and his or her parents.

There is an exception when a gift is given to a family member of a state officer or state employee by a vendor or vendor's agent when the gift is unrelated to the state officer or state employee's status and the state officer or employee receives no direct benefit.

Example: Mayes is a state employee drafting a request for proposals on which Ajax Corporation is expected to submit a proposal. Mayes' spouse works for a company that does business with Ajax Corporation. Each year at Christmas Ajax Corporation provides boxes of candy for some of its customers. Mayes' spouse receives a box of candy while Mayes is engaged in drafting the RFP. Mayes' spouse passes the candy around to her associates at the office. There is no violation of this Rule.

Rule 4.11. Gratuities Offered at Seminars, Conferences or Similar Events.

A state officer or employee attending a conference, seminar or similar event related to the performance of his or her official duties may accept gratuities and hospitality made available to **all** participants in the event.

Rule 4.12. Modest Items of Food and Refreshments

A state officer or employee occasionally may accept modest items of food and refreshments, excluding beverages containing alcohol, from vendors or persons regulated or licensed by the state officer or employee's agency when offered other than as part of a meal.

There are no definitions of "modest" or "occasionally" but state officers and employees are expected to exercise good judgment in taking advantage of this exception.

Rule 4.13. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Spouse's Business Activities.

A state officer or employee may accept meals, lodging, transportation and other benefits resulting from the business or employment activities of the state officer or employee's spouse when it is clear that such benefits have not been offered or enhanced because of the state officer or employee's status as a state officer or employee.

Example: Garrett is a state employee. His wife is employed by Ajax Corporation, which expects his wife to occasionally host dinner meetings with clients. Ajax Corporation expects spouses of its employees to attend such dinner meetings. Garrett may do so without violating a Rule, even if Ajax Corporation otherwise would be prohibited from providing the meal to Garrett.

Example: Jackson is a state employee. Her husband is employed by Ajax Corporation, which sends him to a conference. Spouses are welcome to attend the conference, and Ajax Corporation pays the costs of lodging, meals and transportation for spouses who do. Jackson may accept the lodging, meals and transportation for the conference without violating a Rule, even if Ajax Corporation otherwise would be prohibited from providing these items to Jackson.

Rule 4.14. Acceptance of Meals, Lodging, Transportation and Other Benefits as a Result of Private Business Activities.

A state officer or employee may accept meals, lodging, transportation and other benefits resulting from his or her private business or employment activities when such benefits have not been offered or enhanced because of the state officer or employee's status as a state officer or employee.

Rule 4.15. Acceptance of Meals and Other Benefits for Conference Presentations; acceptance of scholarships for educational and training events.

A. A state officer or employee approved by the chief administrative officer of the agency to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event may accept free attendance at the event on the day of his or her presentation when the free attendance is provided by the sponsor of the event. Approval by the chief administrative officer shall not be required for elected officials to participate in such events subject to the terms of this subsection. **Free attendance may include meals, refreshments, entertainment, instruction and materials made available to other participants. The sponsor of the event may also provide transportation and lodging to the state officer or employee if transportation and lodging are made available to others participating as speakers, panel participants or presenters. The state officer or employee's spouse may also accept free attendance and participation in the event. The state officer or employee's spouse may also accept lodging but not transportation. The state officer or employee or the state officer or employee's spouse may not accept meals, refreshments, entertainment, transportation or lodging that are collateral to the event or that are not paid for by the sponsor of the event that would otherwise be prohibited by these Rules.** No vendor or vendor's agent may pay for, or reimburse the sponsor of the event for, any gifts to the state officer or employee or the state officer or employee's spouse that are part of the free attendance and participation provided to the state officer or employee or the state officer or employee's spouse. However, membership dues or sponsorships customarily and historically paid by a vendor or vendor's agent to a sponsoring organization shall not be considered payment for, or reimbursement for, such costs.

B. A state officer or employee may accept a scholarship or similar grant or subsidy, including the costs of transportation, lodging, meals, refreshments, entertainment, instruction and materials made available to other participants, to participate in an educational or training event sponsored by a foreign government, the United States government, the government of another state or an organization to which the State of Oklahoma pays membership dues either for the State, a state agency or an individual state officer or employee.

C. A state officer or employee may accept a scholarship or similar grant or subsidy, including the costs of transportation, lodging, meals, refreshments, entertainment, instruction and materials made available to other participants, to participate in an educational or training event sponsored by a bona fide governmental, professional or business organization other than an organization described in Subsection (B), provided the state officer or employee files a report that includes the date or dates and location of the event, the name of the sponsoring organization or organizations, the name and job title and description of the state officer or employee participating, the subject matter of the event, the approximate value of the scholarship, grant or subsidy and the name of the person providing the scholarship, grant or subsidy. For non-elected state officers, the report shall include a certification by the chief administrative officer of the agency that employs the state officer or employee that the educational or training event will significantly assist the state officer or employee in discharging his or her duties. Forms for the reports shall be prescribed by the Executive Director. Reports shall be filed within thirty (30) days following the last day of the event and shall be displayed on the Commission website.

Example: Jones, a state employee, is approved by the chief administrative officer of his agency, which regulates widget makers, to represent the agency on a panel at a conference sponsored by the National Widget Makers Association. Jones wants to take his wife to the conference as well. Jones and his wife plan to spend the weekend following the conference doing some sightseeing in the area. The Association is providing meals, refreshments, entertainment, lodging and transportation to all panelists appearing at the conference. Jones may accept these items without violating the Rules. Jones's wife also may accept free lodging. Jones may not accept anything from the sponsor for the weekend following the conference. Ajax Widget Makers, Inc., is a company regulated by Jones's agency. Ajax, which is a member of the association, wants to underwrite the costs of Jones participation at the conference by providing a check to the Association, of which Ajax is a member. This it may not do. However, Ajax may continue paying its normal membership dues to the Association.

Rule 4.16. Acceptance of Meals for Professional, Civic or Community Events; Acceptance of Meals at Political Events.

Any elected state officer or any **state officer or employee approved by the chief administrative officer of the agency to represent the agency at a professional, civic or community event may accept a meal at the event provided by the sponsoring organization. In such instances, the state officer or employee also may accept a token or souvenir gift or memento commemorating the occasion provided the item given is of a value commensurate with the occasion and is neither monetary or a cash equivalent.** A professional, civic or community event shall not include political events. An employee for an elected state officer may accept a meal at a political event he or she attends with the elected state officer as long as he or she is not on state time.

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