GUARDING PRINCIPLES OF ETHICAL CONDUCT

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 officials and employees of the legislative and executive branches. Hence, the purpose of this Guide is to provide these individuals with standards of ethical conduct when serving the State of Tennessee. This Guide goes beyond the requirements of current State law.

The Commission was established to secure and enhance the integrity of the processes of government and to restore the public’s confidence in government by establishing a more transparent 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 pursue a course of conduct that will not engender public concern and violate the public trust.

ARTICLE 2
DEFINITIONS

(1) "Administrative Action" means the taking of any recommendation, report or non-ministerial action; the making of any decision or taking any action to postpone any action or decision; action of the governor in approving or vetoing any bill or resolution; the promulgation of a rule; or any action of a quasi-legislative nature, by an official in the executive branch of state government; however, "administration action" does not include ordinary and routine permitting, licensing, or compliance decisions by an official of the executive branch of the state government;

(2) "Association" means any union, league, chamber of commerce, committee, club, or other membership organization;

(3) "Compensation" means any salary, fee, payment, promise, forbearance, reimbursement or other valuable consideration, or any combination thereof, whether received or to be received;

(4) "Consulting Services" means advising or assisting a person or entity in influencing state legislative or administrative action including, but not limited to, services to advise or assist those in maintaining, applying for, soliciting or entering into a contract with the state;
(5) "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;

(6) "Immediate Family" means a spouse or minor child living in the household;

(7) "Influencing legislative or administrative action" means promoting, supporting, influencing, modifying, opposing or delaying any legislative or administrative action by any means, including, but not limited to, the provision or use of information, statistics, studies, or analyses, but not including the furnishing of information, statistics, studies, or analyses requested by an official of the legislative or executive branch to such official or the giving of testimony by an individual testifying at an official hearing conducted by officials of the legislative or executive branch;

(8) "Legislative Action" means introduction, sponsorship, debate, voting or any other non-ministerial official action or non-action on any bill, resolution, amendment, nomination, appointment, report or any other matter pending or proposed in a legislative committee or in either house of the general assembly;

(9) "Public Official" includes:

a. Each member of the general assembly;

b. The Secretary of State;

c. The comptroller of the treasury;

d. The state treasurer;

e. Each member of the state election commission;

f. Each director of the Tennessee Regulatory Authority;

g. The Governor;

h. Each officer of the governor's cabinet;

i. Attorney general and reporter;
j. Members of the Board of Probation and Parole;

k. Members and the executive director of the Alcoholic Beverage Commission;

l. The chancellor of the Board of Regents and the president of each college or university governed by the Board of Regents;

m. The president of the University of Tennessee and the chancellor of each separate branch or campus of the University of Tennessee;

n. Members of the Registry of Election Finance;

o. Members of the Tennessee Ethics Commission; and

p. Any other individual who is employed by a public official as defined in (9) (a-o) above or who is otherwise a state employee.

(10) "Solicit" means to entreat, to implore, to ask, to attempt, or to try to obtain.
ARTICLE 3
CONFLICTS OF INTEREST

SECTION 1. Independence of Judgment. Public officials should be independent and impartial and should avoid conflicts of interest and the appearance of a conflict of interest when performing their duties. It is essential that public officials perform their duties and responsibilities in a fair and impartial manner. In addition, all public officials should be elected, hired and promoted based upon their qualifications, integrity, honesty, competency and dedication to fulfilling the public policies of the State.

(1) No public official should have any interest, financial, or otherwise, directly or indirectly, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in conflict with the proper discharge of his or her duties in the public interest.

(a) No public official should accept another position, whether compensated or not, which will either impair or is likely to impair his or her independence of judgment as to the public official’s duties or employment or, 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.

(b) No public official should agree to accept, directly or indirectly, any employment, compensation, fee or other thing of value, for appearing, agreeing to appear, or taking any other action on behalf of another person before the legislature or a state agency, or against the State of Tennessee in any court of competent jurisdiction.

(c) No public official or member of the official’s immediate family or a business with which he or she is an officer or holds greater than ten percent interest should bid on, or otherwise respond to a request for proposal or information, any contract with the state, valued at one hundred dollars or more, 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, (unless required by law to be kept confidential), including prior public offer and subsequent public disclosure of all proposals considered and the contract awarded.

(d) No public official who is involved in the awarding of State grants or contracts, or making decisions relating to State grants or contracts, should ask any officer, director, employee or agent of such current or prospective contractor or grantee to reveal: (1) the party affiliation of the individual; (2) whether the individual or entity has made campaign contributions to any party, elected official or candidate for elective office; or (3) whether the individual or entity voted for any elected official or candidate for elective office.
(e) No public official should take part in any contracting decision: (1) relating to a family member; or (2) relating to any entity in which a family member is an officer, director or partner, or in which a family member owns or controls ten percent or more of the stock of such entity. If a contracting matter arises relating to a family member, then the public official should advise his or her supervisor of the relationship and should be recused from any and all discussions or decisions relating to the matter;

(f) No public official, in the performance of his or her official duties, should request or demand that any other person or entity make or offer to make any monetary contribution to any campaign or to any political campaign committee.

(2) A public official should not, by his or her conduct, give reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties, or that he or she is affected by the kinship, rank, position or influence of any party or person. A public official must be prepared to disclose the conflict or the potential conflict of interest or relationship and, if necessary, recuse himself or herself 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 and all public officials must act in a manner consistent with the public trust.

(1) No public official in the performance of his or her official duties should 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. Nor should a public official, alone or through others, use or attempt to use improper means to influence a department, agency, board or commission of State government.

(a) No member of the General Assembly should vote on or influence legislation in committee or on the floor of either house, where he or she has a direct or indirect financial interest which is in conflict with the proper discharge of his or her duties, unless the official makes it abundantly clear that the decision-making process was not the result of any personal interest, but rather it was through deliberative processes based solely on the interests of the public. This may be accomplished by declaring in a similar format to the following statement: “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.”.
(b) No public official should 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; in addition, no public official or state employee should use his or her public office or position or any confidential information received through his holding such public office or position to obtain financial gain for himself or herself, his or her spouse, child, child's spouse, parent, brother or sister or a business with which he or she is associated;

(c) No public official should receive anything of economic value or compensation for any service, the subject matter of which is significantly devoted to the responsibilities, programs or operations of the office occupied and in which the public official has participated or draws substantially upon official data or ideas which have not become part of the body of public information;

(d) No member of the immediate family of a public official should be hired by or directly supervised by that official. However, nothing in this section should prohibit the continued employment of a member of the official’s family nor should it hinder normal promotional advancements for such employee if that employment predates the election, employment or appointment of the public official. The 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;

(e) No member of the general assembly, elected official in the executive branch, member of the governor’s cabinet or cabinet level staff within the governor’s office should be a lobbyist during the one year period immediately following his or her departure from such office or employment;

(f) No public official should improperly use public funds, time, personnel or other state-provided resources for his or her private gain or political purpose or that of another, unless otherwise authorized by law; and

(g) No public official should 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.
ARTICLE 4
COMPENSATION AND GIFTS

Under T.C.A. §§ 3-6-304 & 305 a candidate for public office, an official in the legislative branch, an official in the executive branch, or the immediate family of such candidate or official 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 public official’s duty to insure that he or she becomes knowledgeable about and remains knowledgeable about the ethics laws and the gift ban restrictions.

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. 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 or under circumstances where it could reasonably be inferred that such gift would influence the official in the discharge of his or her duties.