Lobbyist Learning Session

ND ETHICS COMMISSION



01 Article XIV

- 03 Campaign Contributions04 Lobbying Moratorium
 - 04 LODDynig Moratonom

A Constitutional Amendment

2018 General Election

Established state ethics commission in Article XIV of the North Dakota Constitution

Commission has authority over transparency, corruption, elections, and lobbying





Constitutional Authority



- Ethics Commission authority transparency, corruption, elections, and lobbying
 - Attorney General Opinion 2020-L-09
- Read rules in harmony when reasonable and workable.
 - Conflict with other ethics rules? Ethics Commission rules prevail.
- City of Fargo v. Ruether, 490 N.W.2d 481 (N.D. 1992).



Rulemaking Process

Ethics Commission \neq Administrative Agency

Administrative Agencies Practice Act includes the Ethics Commission for specific sections

"Agency" and "commission"

Proposed Rule \rightarrow Notice \rightarrow Comments and Hearing \rightarrow Respond to Comments \rightarrow Final Approval \rightarrow Publication







New Rules





The Complaint Process

Lobbyist Gifts

Appearance of Bias

Conflicts of Interest

Financial and Travel Disclosure?



Lobbyist Gifts Prohibited

Article XIV

"A lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official."

"A public official may not knowingly accept a gift from a lobbyist. These prohibitions do not apply if the lobbyist is an immediate family member of the public official."

Gift = thing of value not given in exchange for fair market consideration





Governor Sinner 1989



Who is a Lobbyist?



legislators, private citizens appearing on own behalf, government employees, individual invited to provide info, and business representatives introduced by a lobbyist

Statutory Definition - focused on legislative process

Ethics Commission gifting definition - expands to executive branch lobbying

Exclusions:

Public or Private Events



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Party at the Hotel McKenzie Dining Room 1910

Public social and educational event or Private social and educational event

Exceptions to the lobbyist gift prohibition largely focus on providing food for immediate consumption only.

(1) educational component (2) person who is not a lobbyist or a public official (3) notice filed with the Ethics Commission

Need:

Event Notice



- Electronic form available online ethicscommission.nd.gov Forms Tab > Meeting Notices
- Preferably submitted a week in advance
- The Ethics Commission does NOT approve events.
- Please request an advisory opinion in advance if you would like the Ethics Commission's review.

Informal Events



SHSND 00732

Legislators on a Coffee Break 1959

- Informal social and educational events allowed
- Food or beverage for immediate consumption
 - \$10 limit, excluding gratuity
- Lobbyist can purchase \$10 food and drink item(s)



Additional Exceptions

- (1) A gift by a lobbyist who is a member of the public official's immediate family
- (2) Any item where the public official pays fair market value
- (3) Purely informational material
- (4) A campaign contribution

information

Gifting Recap

educational materials



Best Practices

- (1) do not put approved on advertising/invites
- (2) attach documentation to notice form for
- evidence of educational component
- (3) provide a presentation with accompanying
- (4) file notice at least a week in advance

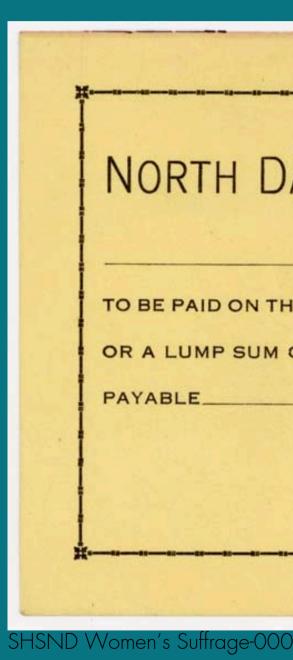


Campaign Contributions

Article XIV, § 2(3) prohibits lobbyists from delivering campaign contributions made by others.

1st violation = civil penalty of \$500

subsequent violation = class B misdemeanor and secretary of state may revoke lobbyist's registration



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Lobbying Moratorium

Article XIV, § 2(2) prohibits elected public officials from lobbying while holding office and two years after

violation = class A misdemeanor

civil penalty = up to \$1000

applies only to **elected** public officials



Two-Year Moratorium

Questions?







ethicscommission@nd.gov or 701.328.5325



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