

Can I Take It?

Texas Ethics Commission Training for Legislators

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Laws at play

- ◆ Campaign Finance
- ◆ Lobby
- ◆ Gift Laws
- ◆ Conflicts of interest

ethic noun

eth·ic ('e-thik)

[Synonyms of ethic >](#)



1 a : a set of moral principles : a theory or system of moral values

| the present-day materialistic *ethic*

| an old-fashioned work *ethic*

→ often used in plural but singular or plural in construction

| an elaborate *ethics*

| Christian *ethics*

b ethics ('e-thiks) **plural in form but singular or plural in construction** : the principles of conduct governing an individual or a group

| professional *ethics*

c : a consciousness of moral importance

| forge a conservation *ethic*

Questions to ask yourself

- ◇ What is it?
- ◇ Who is giving it?
- ◇ Why is it being given?
- ◇ Even if it legal, is it a good idea?

Bribery

- ◇ Cannot offer, give, solicit, or accept a benefit as consideration for an official act
 - ◇ Exchange or “quid pro quo”
- ◇ Includes agreeing to perform an official act
 - ◇ Vote, recommendation, other exercise of official discretion
 - ◇ Even if public servant is not qualified to act

“Benefit”

- ◆ Anything reasonably regarded as pecuniary gain or pecuniary advantage.

Penal Code § 36.01(3)

Benefit

- ◇ \$50 Clock
- ◇ \$160 Rifle
- ◇ \$60 Meal
- ◇ Tickets to football game
- ◇ Hunting trip
- ◇ Future employment

NOT A BENEFIT

- CUP OF COFFEE
- COFFEE MUG
- KEY CHAIN

Honorarium

- Public servants cannot accept an honorarium for services that were requested because of official status

Penal Code § 36.07(a)

Honoraria include:

- Gift,
- Payment, or
- Other Compensation

Except:

- Meals, Transportation, or Lodging
 - IF provided for conference or similar event where public servant provides services
 - AND services are more than merely perfunctory

Gift Laws: Starts with a “no” until an exception is found

- ◆ General prohibition on acceptance of any “benefit” from “any person” by a legislator, Lt. Gov., Gov., or their employees
- ◆ Except:
 - ◆ Fee for legitimate lawful services
 - ◆ Gifts conferred out of kinship, or a personal, professional, or business relationship independent of the official status of the recipient
 - ◆ Political contributions
 - ◆ Food, entertainment, transportation lodging
 - ◆ Giftor must be present
 - ◆ Reporting requirements must be met
 - ◆ Gift worth < \$50

Lobby Law

Restrictions

- No Transportation/lodging (mostly)
- \$500 per legislator gift limit
- No cash or loans
- Unlimited food/drink if lobbyist is present
- Gift >\$500 in a year

Reporting Obligations

- Reported by category of expenditure and category of recipient
- Threshold for whether legislator is named is tied to per diem amount

Campaign Finance

- ◇ Campaign Contribution
- ◇ Officeholder Contribution
- ◇ Source restrictions
- ◇ Legislative moratorium
- ◇ Cash contributions limited to \$100
- ◇ Reporting obligations

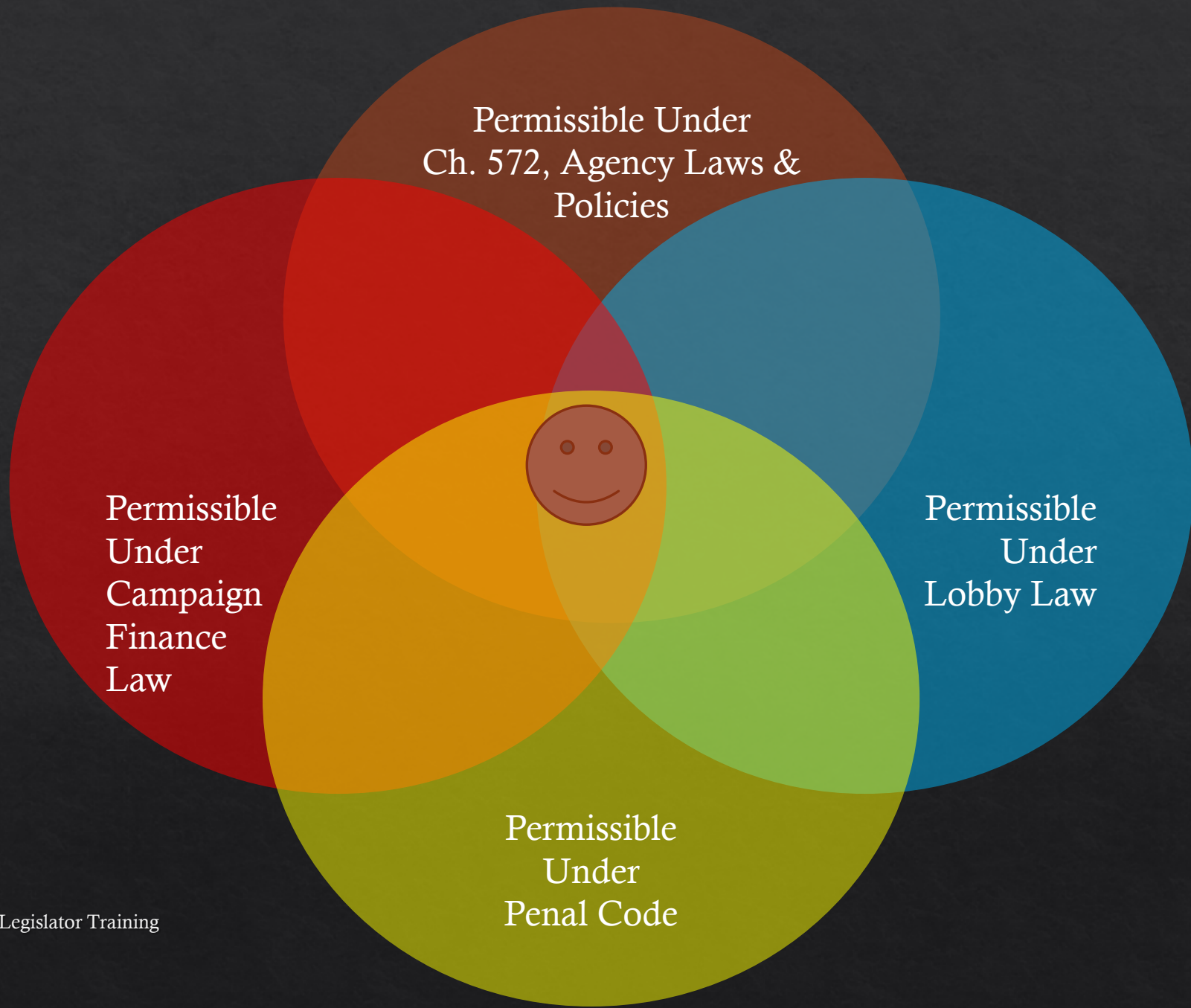
Conflicts of interest/PFS Reporting

Standards of Conduct

- ◆ “Should not” have certain conflicts
- ◆ Limits on legislators representing others before a state agency for compensation
- ◆ Limits on voting on a bill that will benefit a transaction or a business a legislator owns
- ◆ Notice requirement before sponsoring/voting on a bill when spouse is lobbying on that subject matter

Reporting Obligations

- ◆ Sources of income
- ◆ Gifts exceeding \$560
- ◆ Honoraria



Example 1

You are a legislator. A citizen from outside your district offers to take you to lunch – no strings attached! You've never met him before.

Is the lunch acceptable?

Example 2

You are a senate employee. A local business owner, who is a personal friend of yours, offers you two courtside tickets to a Spurs game for you and your spouse. The tickets are \$1,000 each.

May you accept the tickets?

Example 2a

You are a senate employee. A local business owner, who is a personal friend of yours, offers you a courtside ticket to the spurs game. The tickets are \$1,000 each. He says he wants to discuss some legislation that would help his business at the game.

Are the tickets acceptable?

Example 3

Judy is a state representative's chief of staff. She gives a presentation to a trade association regarding the upcoming legislative session. After the presentation, the association gives Judy season passes to Fiesta Texas in appreciation.

Can she keep them?

Can the trade association pay for her hotel, flight and meals to attend the presentation?

Example 4

Jorge represents the Texas Homebrew Guild. He is walking around the capitol dropping off six packs of homebrewed beer to show that it can actually be good in hopes of gaining support for legislation favorable to homebrewing. Can the legislator and office staff accept the beer? The beer is not for sale but cost about \$5 in ingredients to make.

Example 5

Javier is a legislative employee working at a district office. He is asked by a lobbyist to visit a nearby facility to learn about legislative matters related to the facility. The lobbyist offers a short ride across town in his personal vehicle.

Can Javier accept?

Example 6

Joe is a legislative employee. His best friend, Rigby, is a lobbyist. Rigby always gives Joe a gift for Christmas, even before Joe was in the legislature. This year, Rigby forgets to buy a gift and, as best friends do, sends a \$75 gift card instead.

Can Joe accept?

Example 7

You are a staff member for a legislator. You, your boss, and fellow staffers worked closely with a lobbyist to get a bill passed. After much work the bill finally passed and is headed to the governor's desk. The lobbyist invites the whole office out to dinner to celebrate—she will pay.

Is it permissible for the lobbyist to pay for the meal?

Questions?

- ◆ Resources:

- ◆ Guides, rules, laws, advisory opinions available at [Ethics.state.tx.us](https://ethics.state.tx.us)

- ◆ Filing helpline: (512) 463-5799

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