

AMENDMENT 41

PERSONS COVERED

- Public Officers
- Members of the General Assembly
- Local Government Officials
- Government Employees, including Independent Contractors

PUBLIC OFFICERS

- Public Officers include appointed members of state boards and commissions.
- Public Officers do not include members of boards or commissions who receive no compensation other than a per diem allowance or necessary and reasonable expenses.
- By statute the SBCCOE members receive \$50 per diem for attendance at official meetings plus reasonable and necessary expenses.
- Thus SBCCOE members are not covered by Amendment 41.

GIFT BAN

- Applies to Public Officers, Members of the General Assembly, Local Government Officials, and Government Employees.
- Prohibits acceptance of any money, forbearance, or forgiveness of debt from any person without that person receiving lawful consideration of equal or greater value.

DEFINITION OF “PERSON”

- “Person” in the gift ban means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.

GIFT BAN

- No Public Officer, Member of the General Assembly, Local Government Official, or Government Employee may solicit, accept or receive:
 - Any gift or other thing of value
 - Having either a fair market value or aggregate actual cost greater than \$50
 - In any calendar year
 - From a person
 - Without that person receiving lawful consideration of equal or greater value in return.

“GIFT” DEFINED

- “Gifts” include:
 - Loans
 - Rewards
 - Promises or negotiations of future employment
 - Favors
 - Services
 - Honoraria
 - Travel
 - Entertainment
 - Special Discounts

GIFT BAN

- Gift ban extends to anything of value received either:
 - Directly or
 - Indirectly as the beneficiary of a gift given to a covered person's spouse or dependent child.

EXCEPTIONS

- Campaign contributions
- Unsolicited items of trivial value less than \$50, such as a pen, calendar, plant, book, note pad, or similar items
- Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item
- Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties

EXCEPTIONS

- Admission to and the cost of food or beverages consumed at a reception, meal or meeting by an organization **BEFORE WHOM THE RECIPIENT APPEARS TO SPEAK OR TO ANSWER QUESTIONS AS PART OF A SCHEDULED PROGRAM**

EXCEPTIONS

- Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting:
 - If the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, AND
 - Provided that the non-profit organization receives less than 5% of its funding from for-profit organizations or entities.

EXCEPTIONS

- Gifts given by relatives or personal friends on special occasions
- The compensation paid or other incentive given to the recipient in the normal course of employment

LOBBYIST PROVISION

- No professional lobbyist shall knowingly offer or give to any covered person or to a member of a covered person's immediate family any gift or thing of value of any kind or nature.
- No professional lobbyist shall knowingly pay for any meal, beverage, or other item to be consumed by a covered person, whether the item is offered in the course of the lobbyist's business or in connection with a personal or social event.
- \$50 exemption does not apply to gifts from lobbyists.

“PROFESSIONAL LOBBYIST” DEFINITION

- A Professional Lobbyist is a person who is paid for lobbying.
- This does not include:
 - A volunteer lobbyist
 - Any state official or employee acting in his or her official capacity, except those designated as lobbyists as provided by law
 - Any elected official acting in his or her official capacity
 - Any individual who appears as counsel or advisor in an adjudicatory proceeding

RESTRICTIONS AFTER LEAVING OFFICE

- No statewide elected officeholder or member of the General Assembly shall:
 - Personally represent another person or entity for compensation
 - Before any other statewide elected officeholder or member of the General Assembly
 - For a period of two years after leaving office

INDEPENDENT ETHICS COMMISSION

- Amendment 41 creates a five-member Independent Ethics Commission.
- The Independent Ethics Commission will hear complaints, issue findings, assess penalties, and issue advisory opinions.
- The Independent Ethics Commission may adopt rules necessary for administering and enforcing Amendment 41.

MEMBERS OF INDEPENDENT ETHICS COMMISSION

- The following persons or entities shall appoint one member each of the Independent Ethics Commission:
 - Colorado Senate
 - Colorado House of Representatives
 - Governor
 - Chief Justice of Colorado Supreme Court

MEMBERS OF INDEPENDENT ETHICS COMMISSION

- One member of the Commission shall be a local government official or local government employee appointed by vote of at least three of the four members appointed by the Senate, House, Governor, and Chief Justice.
- No more than two members shall be affiliated with the same political party.
- Members serve for four-year terms.

PENALTIES

- Any Public Officer, Member of the General Assembly, Local Government Official, or Government Employee who breaches the public trust for private gain, and
- Any person or entity inducing such breach
- Shall be liable to the State or local jurisdiction for double the amount of any benefits obtained by such actions.

UNANSWERED QUESTIONS

(Sent to Colorado Attorney General by the University of Colorado)

- Is it permissible for a university employee to receive monetary recognition from someone other than his or her employer, such as the financial component of the Nobel Prize?
- Is it permissible for university employees or their dependents to receive scholarships?
- Is it permissible for a university employee to receive a gift from someone who is not a relative or personal friend, such as aid from a private entity connected to severe illness (Make a Wish Foundation) or disaster (Red Cross)?
- Is it permissible for a university employee to receive a gift from a relative or personal friend on non-special occasions (e.g., a relative pays for a family trip not associated with a holiday, or a friend brings an expensive bottle of wine to a dinner)?
- Is it permissible for university employees to receive lottery winnings, gambling proceeds, or winnings from raffles or other special contests?