



**VIRGINIA**  
CONFLICT OF INTEREST AND  
ETHICS ADVISORY COUNCIL

**2023 Senate New Member Orientation Training**  
**November 29, 2023**

## **I. Council Membership**

Council membership as of November 2023:

Speaker of the House Appointees

The Honorable Del. M. Keith Hodges

The Honorable Del. Vivian E. Watts

The Honorable Bruce D. White (Chair)

Senate Committee on Rules Appointees

The Honorable Sen. Adam P. Ebbin

The Honorable Sen. Thomas K. Norment, Jr.

The Honorable Malfourd W. Trumbo (Vice-Chair)

Gubernatorial Appointees

John C. Blair

Adam Kinsman

Tracy Retchin

## **II. Council Duties**

The Council shall perform the following duties:

1. Furnish formal and informal guidance to all persons required to comply with the Acts
2. Conduct training seminars and educational programs and publish educational materials for all persons required to comply with the Acts
3. Serve as liaison between state agencies, boards, commissions, and local government entities for administering the filings of all disclosure forms
4. Redact personal information from any form prior to making the form available to the public
5. Establish and maintain a searchable database of disclosure forms filed with the Council
6. Notify the Secretary of the Commonwealth and the Attorney General concerning late or failure-to-file penalties
7. Receive and review requests for approval of travel submitted by individuals required to file a Statement of Economic Interests

## **III. Prohibited Conduct and Personal Interest**

A. Prohibited conduct

No legislator shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid to him by the General Assembly. This prohibition shall not apply to the acceptance of special benefits which may be authorized by law.

2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency
3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency
4. Use for his own economic benefit or that of another party confidential information which he has acquired by reason of his public position and which is not available to the public
5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2
6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties
7. During the one year after the termination of his service as a legislator, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on any matter before the General Assembly or any agency of the legislative branch of government. The prohibitions of this subdivision shall apply only to persons engaged in activities that would require registration as a lobbyist under § 2.2-422.
8. Accept any honoraria for any appearance, speech, or article in which the legislator provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time
9. Accept appointment to serve on a body or board of any corporation, company or other legal entity, vested with the management of the corporation, company or entity, and on which two other members of the General Assembly already serve, which is operated for profit and regulated by the State Corporation Commission as (i) a financial institution, (ii) a mortgage lender or broker, (iii) any business under Chapter 5 (§ 13.1-501 et seq.) of Title 13.1, (iv) any business under Title 38.2, or (v) any business under Title 56
10. Accept a gift from a person who has interests that may be substantially affected by the performance of the legislator's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the legislator's impartiality in the matter affecting the donor.
11. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain.

B. "Personal interest" is a financial benefit or liability accruing to a legislator or to a member of his immediate family.

Personal interests exist due to:

1. ownership in a business if the ownership interest exceeds three percent of the total equity of the business;
2. annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business;
3. salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually;
4. ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property;
5. personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or
6. an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv) above

C. Personal Interest in a Contract

1. You may not have a personal interest in a contract with the legislative branch of state government.
2. You may not have a personal interest in a contract with any executive or judicial state governmental agency, other than a contract of regular employment  
An exception is made for:
  - i. contracts awarded using competitive sealed bidding or negotiation following Procurement Act procedures
  - ii. contracts that are exempt from competitive sealed bidding or negotiation
3. You may not have a personal interest in a contract with any local governmental agency, other than a contract of regular employment

There are many exceptions to this prohibition. It is recommended that you contact the Council regarding the application of the exceptions.

#### D. Personal Interest in a Transaction

A personal interest in a transaction means a personal interest of a legislator in any matter considered by the General Assembly.

Such personal interest exists when you or a member of your immediate family has a personal interest in

1. property or a business, or
2. represents or provides services to any individual or business

and the property, business or represented or served individual or business

1. is the subject of the transaction or
2. may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action on the transaction.

A "personal interest in a transaction" exists only if you or a member of your immediate family, or an individual or business that you represent or serve will be affected in a way that is significantly different from the general public or from the identifiable group that will be impacted by the transaction.

You must disqualify yourself from participating in a transaction in which you have a personal interest. Unless the rules of your house prevent you from doing so, you may still participate in discussions and debates regarding the transaction provided you:

1. verbally disclose the fact of your personal interest in the transaction at the outset of the discussion or debate or as soon as practicable thereafter and
2. do not vote on the transaction in which you have a personal interest.

#### IV. Gifts

When discussing gifts, always ask three separate questions:

1. Is it a gift?
2. Does it count toward the \$108 gift cap?
3. Do I have to report it on my Statement of Economic Interests?

##### A. Definition of a gift

A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred.

A gift is not:

1. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used;
2. Honorary degrees;
3. Any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public;
4. A campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;
5. Any gift related to the private profession or occupation or volunteer service of a legislator or of a member of his immediate family;
6. Food or beverages consumed while attending an event at which the filer is performing official duties related to his public service;
7. Food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer;
8. Unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;
9. A devise or inheritance;
10. Travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.);
11. Travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state;
12. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman;
13. Travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment;
14. Gifts with a value of less than \$20;
15. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or,
16. Gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; the donee's brother's or sister's spouse

or the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist's principal as defined in § 2.2-419.

Items that are exempted from the definition of a gift are not subject to the \$108 gift cap and do not have to be reported as a gift on your Statement of Economic Interests.

**Please remember that travel that is not a gift may still be reportable on Schedule F of your Statement of Economic Interests.**

#### B. \$108 gift cap

Legislators and their immediate family may not accept gifts with a total value in excess of \$108 in a calendar year from a lobbyist or lobbyist's principal.

Immediate family means

1. a spouse and
2. any other person who resides in the same household as the filer and who is a dependent of the filer.

#### C. Exceptions to the \$108 gift cap

1. Gifts given from lobbyists who are also your personal friend. In order to determine if an individual is your personal friend, you should consider the following:
  - i. The circumstances under which the gift was offered;
  - ii. The history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them;
  - iii. Whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and
  - iv. Whether the donor has given the same or similar gifts to other persons required to file the disclosure form.

2. Food, beverages, entertainment, and the cost of admission or registration at a widely attended event. To determine if an event qualifies as a widely attended event, the event must:
  - a. Have at least 25 persons invited or expected to attend, and
  - b. Be open to individuals who:
    - i. are members of a public, civic, charitable, or professional organization,
    - ii. are from a particular industry or profession, or
    - iii. represent persons interested in a particular issue.
3. Travel approved by the Council via a travel waiver  
While such travel is exempted from the \$108 gift cap, it must be reported on Schedule F of your Statement of Economic Interests.

**AN EXEMPTION FROM THE GIFT CAP IS NOT AN EXEMPTION FROM YOUR REQUIREMENT TO REPORT A GIFT ON YOUR STATEMENT OF ECONOMIC INTERESTS.**

D. Reporting gifts

You must report any gift valued over \$50 or any combination of gifts with an aggregate value over \$50 received from any lobbyist or lobbyist's principal.

You must report gifts received by you and by members of your immediate family.

**V. Filing Requirements**

A. What do I file?

Legislators are required to file a Statement of Economic Interests and a Session Gift Report.

B. With what entity do I file?

Legislators are required to file electronically with the Virginia Conflict of Interest and Ethics Advisory Council, using the online filing system provided by the Council.

C. When do I file?

You must file a Statement of Economic Interests annually by February 1. You will also file a Session Gift Report annually by May 1, reporting gifts you receive from January 1 through adjournment Sine Die of the regular Session.

Deadlines are moved to the next business day if they fall on a weekend or state holiday.



#### D. \$250 penalty for late filing

If you require a deadline extension, you may do so by submitting a deadline extension request form found on the Council website.

The Council has five (5) business days to respond to a request. If more information is requested, the Council has five (5) business days after the information is received to respond to the request.

Deadline extensions are granted for:

1. The death of a relative of the filer, as relative is defined in the definition of "gift"
2. A state of emergency is declared by the Governor or declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by an executive order, and such an emergency interferes with the timely filing of disclosure forms. The extension shall be granted only for those filers in areas affected by such emergency.
3. The filer is a member of a uniformed service of the United States and is on active duty on the date of the filing deadline.
4. A failure of the electronic filing system and the failure of such system prevents the timely filing of disclosure forms.
5. Good cause shown.

## VI. Travel Waivers

### A. When do I need to request a travel waiver?

1. Travel waivers are only required for travel valued over \$108 paid by a lobbyist or lobbyist's principal.
2. Travel waivers are NOT required for government paid travel or travel paid for by any other entity who is not a lobbyist or lobbyist's principal. Please remember that trips and travel that do not require a travel waiver may still be reportable on Schedule F.
3. Requests can be made on the Council's website at:  
<http://ethics.dls.virginia.gov/travel-waiver-request.asp>

### B. How are travel waiver requests processed?

The Council has five (5) business days to respond. If the Council does not approve or deny the request within that time, the request shall be deemed approved by the Council. If more information is requested, the Council has five (5) business days after the information is received to respond to the waiver request.

## **VII. Other Questions**

1. How and under what circumstances is individual information released?

ANSWER: All legislator filings are available to the public via the online searchable database on the Council website for five years.

2. Are filers notified when their disclosure forms are requested and released?

ANSWER: There is no requirement that the legislator be notified that the information has been requested.

3. Is personal information released when a disclosure statement is requested?

ANSWER: The Council redacts residential addresses, personal telephone numbers, and emails from your form before making them public on the database.

4. What training is required and available?

ANSWER: Newly elected (non-incumbent) members must complete their first training via an in-person session given by a member of Council staff. General Assembly members must complete COIA training at least once every two years. There is no penalty for failure to attend a training session, but legislators must disclose their attendance on their Statement of Economic Interests.

Contact Information:  
Virginia Conflict of Interest and Ethics Advisory Council  
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Fourth Floor  
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