

# THE GOVERNOR

## Title 4—ADMINISTRATION

### PART I. GOVERNOR'S OFFICE

[ 4 PA. CODE CH. 7 ]

[ EXECUTIVE ORDER 2023-04 ]

### Executive Branch Employee Gift Ban

January 20, 2023

*Whereas*, public trust and confidence in the integrity of those individuals appointed and employed to serve the Commonwealth is of paramount importance; and

*Whereas*, the Governor is responsible to establish standards for the integrity of Commonwealth Executive Employees with regard to the receipt of gifts, gratuities, entertainment, loans, or any other thing of monetary value, including in-kind gifts, from persons doing or seeking to do business with the Commonwealth or with interests that are substantially affected by decisions of the Commonwealth.

*Now, Therefore*, I, Josh Shapiro, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby reaffirm the Code of Conduct for Commonwealth Employees, Executive Order 1980-18 Amended, and promulgate the following amendments to such Code of Conduct regarding prohibitions on the receipt of gifts.



Governor

**Fiscal Note:** GOV-2023-04. No fiscal impact; recommends adoption.

*(Editor's Note:* Executive Order 2023-04 is effective immediately.)

#### Annex A

#### TITLE 4. ADMINISTRATION

#### PART I. GOVERNOR'S OFFICE

#### CHAPTER 7. MISCELLANEOUS PROVISIONS

#### Subchapter K. CODE OF CONDUCT FOR APPOINTED OFFICIALS AND STATE EMPLOYEES

#### RESTRICTED ACTIVITIES: CONFLICTS OF INTEREST

#### § 7.153. Gifts and favors.

##### (a) *Policy.*

(1) No employee, appointee or official of the Executive Branch of the Commonwealth shall accept or solicit cash or cash equivalent; a gift or other item of more than nominal or de minimis value; admission to a recreational event; a personal loan; or a personal or professional service in connection with their employment, from another person or entity whom the employee, appointee or official knows:

(i) Is seeking to obtain business or an outcome from or has financial relations with the Commonwealth.

(ii) Conducts operations or activities that are regulated by the Commonwealth.

(iii) Is engaged, either as principal or attorney, in proceedings before the Commonwealth or in court proceedings in which the Commonwealth is an adverse party.

(iv) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the employee, appointee or official.

(b) *Limited exceptions.*

(1) Ordinary social hospitality may be accepted only when incidental to officially sanctioned Commonwealth trainings (for example, approved continuing education and working lunches); or in connection with an official government function or other event in which the employee, appointee or official is representing the Commonwealth in an official capacity.

(2) Gifts from a friend, parent, spouse, child or other close relative may be accepted when the circumstances make it clear that the motivation for the action is a family or personal relationship.

(3) Receipt of a plaque, certificate or other similar item of de minimis value may be accepted for recognition of the employee's, appointee's or official's professional work or personal community service.

(4) Tangible items, benefits or discounts which are unsolicited may be accepted when the same or similar benefit or discount is available to members of the general public.

(5) Food or refreshment of nominal value on infrequent occasions in the ordinary course of a luncheon or dinner meeting or other meetings may be accepted and recreation, entertainment, food or refreshments of nominal value in the furtherance of a charitable event may be accepted.

(6) Unsolicited advertising or promotional material, such as pens, pencils, note pads, mugs, t-shirts, calendars and other items of nominal intrinsic value may be accepted.

(7) Bona fide reimbursement for actual expenses for travel and other necessary subsistence may be received if it is compatible with other restrictions set forth in this section and if no Commonwealth payment or reimbursement is made. However, an employee, appointee or official may not be reimbursed and payment may not be made on his/her behalf for excessive personal living expenses, gifts, entertainment or other personal benefits nor may an employee, appointee or official be reimbursed by a person for travel on official business under Commonwealth orders.

(8) Participation in the affairs of or acceptance of an award for a meritorious public contribution or achievement from a charitable, religious, professional, social, fraternal or nonprofit educational, recreational, public service or civic organization is permitted.

(9) A voluntary gift of nominal value or donation in a nominal amount made on a special occasion such as marriage, illness or retirement may be accepted.

(10) The Commonwealth reserves the right to make determinations regarding the appropriate application of these exceptions in its sole discretion.

(c) *Applicability.* The limited exceptions contained in subsection (b) are not applicable to any gifts, cash, cash equivalent, discounts, loans, services or any other items or other benefits of any kind or of any value received from a lobbyist, lobbying firm or principal as those terms are defined by 65 Pa.C.S. § 13A03 (relating to definitions).

(d) *Personal time.* This policy does not prohibit attendance at or acceptance of ordinary social hospitality in accordance with the guidelines set forth in this policy, at functions, events or fundraisers scheduled on the employee's, appointee's or official's personal time unrelated to the individual's Commonwealth employment.

(e) *Financial disclosure forms.* Nothing in this policy shall override an employee's, appointee's or official's duty to comply with and timely file Federal, State or local, financial disclosure forms.

(f) *Definitions.*

(1) *Cash equivalent.* An asset that is readily convertible to cash (for example, credit/debit card, prepaid gift card for any commercial establishment, foreign currency, certified check, cashier's check, money order or similar negotiable instrument).

(2) *De minimis.* An item of nominal value or a meal which is equal to or less in value than that of ordinary social hospitality.

(3) *Gift.* A gratuity, entertainment, loans or any other thing of monetary value, including in-kind gifts offered to an employee, during the course of their employment.

(4) *Ordinary social hospitality.* The value of food or refreshment not to exceed the General Services Administration rate for the applicable time period and location.

(5) *Person.* An individual, partnership, corporation, non-profit organization, political subdivision or other entity, but does not include State agencies or agencies of the United States government.

(6) *Personal loan.* A temporary financial assistance requiring repayment to an individual or organization, with or without interest.

(7) *Personal or professional service.* An intangible service of economic value or benefit performed by a person or business.

(8) *Recreational event.* A professional or semi-professional sports event, theater event, musical concert or similar event, including transportation thereto and therefrom.

(9) *Tangible item.* A material item or item of more than nominal or de minimis intrinsic value.

## RESCISSIONS

### § 7.179. Rescissions.

(a) Executive Orders 1974-6 and 1978-7 are rescinded. This amended Order replaces Executive Order 1980-18, dated September 3, 1980, and revised 1—9 thereto. Executive Order 1980-18 Revision No. 2, date July 5, 2004, is rescinded.

(b) Executive Order 2015-01 is rescinded by Executive Order 2023-04.

[Pa.B. Doc. No. 23-174. Filed for public inspection February 10, 2023, 9:00 a.m.]