

Kansas Administrative Regulations

Kansas Public Disclosure Commission

Article 40.—State Conflict of Interest Provisions

19-40-3a. Definitions.

Incorporated by reference are the definitions of "express" and "apparent" contained in K.S.A. 46-215 et seq. (a) "Bona fide personal or business entertaining or gifts" means entertainment or gifts provided to state officers or employees or their spouses which are based solely on a business or personal relationship totally unrelated to the state officer or employee's duties as such. The following factors, among others, will be taken into consideration in determining whether a specific entertainment or gift falls within this definition:

- (1) The intent of the parties;
- (2) The length of time a business or personal relationship has existed;
- (3) The topics of discussion;
- (4) The setting;
- (5) The persons attending;
- (6) Whether the person providing the entertainment or gift is reimbursed by an organization by which they are employed; and
- (7) Whether the person providing the entertainment or gift, or his or her principal, deducts or could deduct the expenditures as a business expense.

(b) "Gift" means the transfer of money or anything of value unless legal consideration of a reasonably equal or greater value is received in return.

(1) The value of a gift shall be the fair market value or a reasonable estimate thereof. Where a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration shall be deemed a gift.

(2) Exceptions. For the purposes of K.S.A. 1991 Supp. 46-237, except when a particular course of official action is to be followed as a condition thereon, "Gift" does not include:

(A) goods or services which are provided to a state agency which does not license, inspect nor regulate the giver and are used to benefit the state as a whole;

(B) goods, services or discounts which are provided to a state agency to be used for advertising and promoting the products of the state;

(C) goods, services or discounts which are provided by federal or state agencies;

(D) a rebate, discount or promotional item available to any individual or governmental agency;

(E) the provision of hospitality in the form of recreation, food and beverage, except when provided to a state officer or employee which licenses, inspects or regulates the giver;

(F) any bona fide personal or business gift or entertainment; or,

(G) any contribution reported in compliance with the campaign finance act.

(c) Hospitality. "Hospitality in the form of recreation, food and beverage" means the provision of recreation and consumption of food and beverage in the company of the donor or the donor's authorized agent. The provision of recreation, food and beverage in any other manner constitutes a gift.

(d) Honoraria. For the purposes of K.S.A. 1991 Supp. 46-237(f) "honoraria" means any amount paid to a state officer or employee for giving a speech when the primary reason the state officer or employee was invited to give the speech was his or her position in state government. In determining the primary reason, factors to be considered include:

(1) The importance of position in state government of the state officer or employee. Thus, if a person is in a major policy making position, it is likely that the acceptance of honoraria is prohibited;

(2) Whether the grantor of the honoraria has a special interest concerning the duties of the state officer or employee; and

(3) Whether the speech deals with scientific or technical data within the area of expertise of the state officer or employee's knowledge, as opposed to whether the speech deals with aspects of the duties of the state officer or employee.

(Authorized by K.S.A. 1991 Supp. 46-253; implementing K.S.A. 1991 Supp. 46-237; effective May 1, 1984; amended June 22, 1992.)

***** Authenticated Kansas Administrative Regulation *****