

**ARTICLE 115-03
GIFTS**

Chapter
115-03-01 Gifts Between Lobbyists and Public Officials

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GIFTS BETWEEN LOBBYISTS AND PUBLIC OFFICIALS**

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115-03-01-01. Definitions.

1. "Immediate family" means a parent; sibling; child by blood, adoption, or marriage; spouse; grandparent; or grandchild.
2. "Gift" means any item, service, or thing of value not given in exchange for fair market consideration, including gifts of travel or recreation.
3. "Informal social and educational event" is any meeting, session, or interaction occurring within the state between a public official and a state resident, including but not limited to a registered lobbyist who is a state resident, for the purpose of informing or educating the public official on a matter of interest or concern.
4. "Lobby" means:
 - a. Attempts to secure the passage, amendment, or defeat of any legislation by the legislative assembly or the approval or veto of any legislation by the governor of the state.
 - b. Attempts to influence decisions made by the legislative management or by an interim committee of the legislative management.
 - c. Attempts to secure passage, amendment, or defeat of any administrative rule or regulation by any department, agency, or body of the state's executive branch.
 - d. Attempts to otherwise influence public official action or decision.
5. "Lobbyist" means a person who engages in activity that falls within the definition of the term "lobby" as defined in this rule but does not include:
 - a. A legislator.
 - b. A private citizen appearing on the citizen's own behalf.
 - c. An employee, officer, board member, volunteer, or agent of the state or its political subdivisions whether elected or appointed and, whether or not compensated, who is acting in that person's official capacity.
 - d. Invited by the chairman of the legislative management, an interim committee of the legislative management, standing committee of the legislative assembly, or an official of any department, agency, or body of the state's executive branch to appear before the

legislative management, interim committee, or standing committee for the purpose of providing information.

- e. A person who appears before a legislative committee for the sole purpose of presenting testimony on behalf of a trade or professional organization or a business or industry if the person is introduced to the committee by the lobbyist for the trade or professional organization or the business or industry.
 - f. These rules are not intended to expand the definition of who should be required to be registered as a lobbyist under North Dakota century code section 54-05.1-03.
- 6. "Person" means an individual, partnership, entity, political committee, association, corporation, cooperative corporation, limited liability company, or other organization or group of persons.
 - 7. "Private social and educational event" is any social and educational event that is held within the state and attendance is by invitation to state residents and others who are members, employees, or affiliated with a sponsoring public or private organization, entity, or association. The event must include an educational component and not be limited to a social event. The lobbyist required to register under North Dakota century code chapter 54-05.1, and public officials may not be the only state residents in attendance.
 - 8. "Public official" means any elected or appointed official of the state's executive or legislative branch, including members of the ethics commission, members of the governor's cabinet, and employees of the legislative branch.
 - 9. "Public social and educational event" is any social and educational event that is held within the state and attendance is open to any state residents and others. The event must include an educational component and not be limited to a social event. The lobbyist required to register under North Dakota century code chapter 54-05.1, and public officials may not be the only state residents in attendance.

History: Effective October 6, 2020; amended effective July 28, 2021.

115-03-01-02. Gift prohibitions and penalties.

- 1. A lobbyist may not knowingly give, offer, solicit, initiate, or facilitate a gift to a public official in conjunction with any effort by the lobbyist to lobby the public official. A public official may not knowingly accept a gift from a lobbyist offered in conjunction with the lobbyist efforts to lobby the public official.
- 2. If a prohibited gift is received by a public official the gift will not be considered a violation if:
 - a. The gift is not used and is returned within ten days after receipt of the gift or ten days after learning that the gift is prohibited; or
 - b. The public official pays market value for the gift within ten days after receipt of the gift or ten days after learning that the gift is prohibited.
- 3. The commission shall assess a civil penalty upon any individual who violates this section. If the gift has a value of five hundred dollars or more, the civil penalty may be up to two times the value of the gift. If the gift has a value of less than five hundred dollars, the civil penalty may be up to two times the value of the gift and may be up to one thousand dollars.

History: Effective October 6, 2020; amended effective July 28, 2021.

115-03-01-03. Exceptions to gift prohibitions.

This rule does not preclude or apply to the following:

1. A gift by a lobbyist who is a member of the public official's immediate family.
2. Any item given where the public official is paying fair market value for the item.
3. Purely informational material.
4. A campaign contribution that is given in accordance with all applicable state laws, rules, and regulations governing campaign contributions.
5. Reimbursement or payment for transportation, lodging costs, and meal costs not to exceed rates as authorized under North Dakota century code section 44-08-04 and office of management and budget Fiscal Policy #505 to facilitate attendance to a public or private educational and social event within the state, if the public official meaningfully participates in the event as a speaker or panel participant, presenter, or ceremonial event appropriate to the position, or if attendance is appropriate to the performance of official duties.
6. Gifts or other things of value shared as a cultural or social norm as part of a public or private social and educational event.
7. Food and beverage served for immediate consumption at any private or public social and educational event.
8. Food or beverage with a value of ten dollars or less, excluding gratuity, purchased for a public official in conjunction with an informal social and educational event. The purchased food and beverage must be consumed during the event. A state resident must be present but is not required to be the purchaser of the food or beverage.

History: Effective October 6, 2020; amended effective July 28, 2021.

115-03-01-04. Public or private event notice.

1. Prior to a public or private social and educational event, the sponsor shall file notice with the ethics commission providing details regarding the planned event. Notice does not constitute approval of the event by the ethics commission. If the sponsor is concerned with compliance with North Dakota law and these rules, the sponsor may request an advisory opinion from the ethics commission.
2. No specific format of notice is required; however, it should include the event date, place, sponsor, educational purpose, estimated attendance, and estimated cost per attendee.

History: Effective October 6, 2020.