

DEPARTMENT OF STATE
BUREAU OF ELECTIONS
GIFTS UNDER THE LOBBY ACT

(By authority conferred on the secretary of state by section 16 of 1978 PA 472, MCL 4.426)

R 4.501 Definitions.

Rule 1. (1) As used in these rules:

(a) “Act” means 1978 PA 472, MCL 4.411 to 4.431, also referred to as the “lobby act.”

(b) “Exchange” means the transfer of an item or service between a lobbyist and a public official.

(c) “Fair market value” means the value of the item or service on the open market available to any member of the public at the time the item or service is exchanged.

(d) “Gift limit” means the value set by section 4 of the act, MCL 4.414, as adjusted under section 19a of the act, MCL 4.429a, over which an item or service falls within the act’s definition of gift.

(e) “Honorarium” means a payment of money to a public official as consideration for an appearance, speech, article, or activity related to or associated with the performance of duties as a public official. An honorarium does not include any of the following:

(i) Reimbursement for the cost of transportation, accommodations, or meals for the public official.

(ii) Wages, salaries, other employee compensation, and expenses authorized to be paid by this state or a political subdivision of this state to the public official holding public office.

(iii) An award.

(f) “Item” means anything that could be considered a gift if valued above the gift limit set by the act, including an honorarium and other things that are not tangible objects.

(g) “Lobbyist” means a lobbyist, lobbyist agent, or representative of the lobbyist as defined in the act.

(h) “Primary market” means the market where the item or service is offered for sale by the rights holder or producer of the item or service.

(i) “Secondary market” means the market where the item or service is offered for sale by individuals or entities that are reselling the item or service.

(j) “Service” means any action that could be considered a gift if valued above the gift limit set by the act.

(2) A term defined in the act has the same meaning when used in these rules.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.502 Scope of gift prohibition.

Rule 2. A lobbyist may give a gift to an individual who is not a public official as defined in the act.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.503 Extension of credit.

Rule 3. The extension of credit to a public official by a business entity under the same terms as the credit is extended to the general public is not a gift or a loan.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.504 Reimbursement of value over the gift limit after exchange.

Rule 4. (1) A public official may not reimburse a lobbyist for the value of an item or service that is in excess of the gift limit in order to reduce the value of that item or service to avoid the prohibition on gifts in section 11 of the act, MCL 4.421.

(2) A promise by a public official to reimburse a lobbyist for the value of an item or service after the exchange is a loan, generally prohibited by section 11 of the act, MCL 4.421.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.505 Reimbursement of value over the gift limit at or before time of exchange.

Rule 5. A public official may not provide payment at or before the time of exchange for an item or service that is in excess of the gift limitation in order to reduce the value of that item or service to avoid the prohibition on gifts in section 11 of the act, MCL 4.421.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.506 Purchase of item or service at time of or before taking possession.

Rule 6. (1) A public official may pay consideration of equal or greater value to a lobbyist for the entire value of an item or service that exceeds the gift limit.

(2) When a public official pays consideration of equal or greater value for an item or service, the transaction is a purchase and is not prohibited under section 11 of the act, MCL 4.421.

(3) To determine whether a public official has paid consideration of equal or greater value for an item or service, the fair market value of the item must be considered.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.507 Services as consideration.

Rule 7. (1) A lobbyist may exchange an honorarium, items, or services with a public official without violating the gift prohibition in section 11 of the act, MCL 4.421, when the public official provides a service of equal or greater value in exchange and the honorarium, items, or services are related to the provision of the public official's services.

(2) Honorarium and items related to provision of a service can include a payment of money, payment of the cost of food, lodging, travel, and the price of admission or registration for a conference or other event at which the public official is providing the service.

(3) Services that may be provided as consideration include, but are not limited to, an appearance, speech, article, participation in a panel or seminar, or a similar activity that is connected to public business or the performance of official duties.

(4) An honorarium, item, or service provided to a public official by a lobbyist that exceeds the gift limit is a prohibited gift within the meaning of section 11 of the act, MCL 4.421, unless it is clear from all of the surrounding circumstances that the service provided by the public official is of equal or greater value to the value of the honorarium, item, or service provided by the lobbyist.

(5) To determine whether the services provided by the public official are of equal or greater value than the value of the honorarium, item, or service provided to the public official, the fair market value of similar services must be considered.

(6) As used in this rule, service provided by a public official in exchange for an honorarium, item, or service from a lobbyist means the appearance, speech, article, participation, or any activity related to or associated with the performance of duties as a public official.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.508 How to determine fair market value.

Rule 8. (1) Fair market value must be determined on the basis of market prices on the day that the exchange is made. Price fluctuations that occur before or after the date of exchange do not impact the fair market value determination.

(2) The primary market must be used to determine the fair market value in all instances where the item or service is available on the primary market. If the item or service is not available on the primary market, the price available to the public on the secondary market must be used to value the item or service.

(3) The price available to the general public for the same item or service must be used as the fair market value.

(4) When the exact same item or service is not available on the primary or secondary market for purchase by the general public, the price of an item or service of similar type, quality, age, and quantity, to the extent each factor is relevant, determines the fair market value.

History: 2025 MR 12, Eff. July 1, 2025.

R 4.509 Burden of justifying fair market value determination.

Rule 9. (1) The lobbyist bears the burden of providing evidence of the fair market value assigned to an item or service.

(2) The lobbyist shall submit evidence supporting the fair market value determination relevant to any financial transaction required to be reported under section 8(1)(c) of the act, MCL 4.418.

History: 2025 MR 12, Eff. July 1, 2025.