

BRIEF SUMMARIES OF ETHICS AND GOOD GOVERNANCE LAWS FROM VIRGINIA AND NEIGHBORING STATES

Campaign Finance

Virginia	There are no limits on the amount individuals, corporations, PACs, and unions can donate to state political parties or individual campaigns. ¹ There are no restrictions or limits on the amount lobbyists can donate to state political parties or individual campaigns. Members cannot raise campaign funds when the General Assembly is in session, however, this ban does not apply to special sessions. ²
North Carolina	“No individual, political committee, or other entity shall contribute to any candidate or other political committee any money or make any other contribution in any election in excess of five thousand dollars (\$5,000) for that election.” ³ “It is unlawful for any corporation, business entity, labor union, professional association, or insurance company to directly or indirectly contribute to any political party committee.” ⁴
Maryland	In Maryland, candidate committees, PACs, and party committees can accept contributions at a maximum of \$4,000 or \$6,000, depending on the type of donor. ⁵
Kentucky	Kentucky has some of the strictest campaign finance laws in the country. Candidates can only accept contributions less than \$1,000 for individuals, PACs, and unions. ⁶ Corporate contributions to candidates are banned, as the Kentucky Constitution prohibits corporations from giving anything of value to influence an election. Aggregate contributions from state parties and PACs cannot be greater than \$10,000 in total. Donations to a PAC max out at \$1,500 per year in aggregate from any source. Donations to political parties are the same as PACs, except they can accept unlimited funds from national parties. ⁷

¹ <http://www.sbe.virginia.gov/Files/CandidatesAndPACs/LawsAndPolicies/CandidatesSummary.pdf>

² <https://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+24.2-954>

³ http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_163/Article_22A.html

⁴ <http://www.ncsbe.gov/ncsbe/Portals/0/FilesP/CFFiles/CFUserManualv2014.pdf>

⁵ http://www.elections.state.md.us/pdf/Contribution_chart.pdf

⁶ <http://kref.ky.gov/Candidate%20Campaign/Candidate%20Guide%20to%20Campaign%20Finance.pdf> pg. 31

⁷ <http://www.ncsl.org/research/elections-and-campaigns/limits-on-contributions-to-political-parties.aspx>

Oversight of Campaign Disclosures

Virginia	Oversight of campaign disclosures are handled by the Virginia Board of Elections. The Board does not possess independent investigative and auditing powers and is not required by law to perform audits. Investigations are carried out by an Attorney for the Commonwealth (in Richmond) and by the Attorney General. The Board may assess civil penalties for failing to properly disclose campaign finances.
North Carolina	Oversight of campaign disclosures are handled by the State Board of Elections. The Board receives campaign disclosure statements for all local and state elections. The Board performs audits and employs staff to examine and report discrepancies in campaign disclosures. The Board can then forward violations to the local district attorneys for prosecution. The Executive Director of the State Board of Elections is required to examine each campaign report to "determine whether the statement conforms to law and to the truth." ⁸
Maryland	The State Board of Elections "conducts an audit of every campaign finance report filed to ensure compliance with its laws and regulations. Political committees will be notified in writing by the State Board of any deficiencies, errors or omissions on their reports...if a political committee fails to file a report, or fails to pay late fees assessed, the matter will be referred to the Office of the State Prosecutor for prosecution." ⁹ Maryland requires persons doing business with the state government and persons employing lobbyists to file a Disclosure of Contributions to the Board. ¹⁰
Kentucky	Oversight in Kentucky is handled by the Kentucky Registry of Election Finance. The Registry collects disclosure forms, issues advisory opinions, and empowers their General Counsel to receive sworn complaints and conduct investigations. For civil charges, the General Counsel may request a hearing conducted by a retired judge appointed by the Chief Justice of Kentucky Supreme Court. For criminal charges, the General Counsel refers the case to the Attorney General. ¹¹ Penalties include fines upwards of \$10,000 and felony criminal charges, as well as a corporation losing its state charter.

⁸ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_163/Article_22A.pdf

⁹ http://167.102.241.34/summary_guide/sg_15.html

¹⁰ http://www.elections.state.md.us/campaign_finance/disclosure_of_contributions.html

¹¹ <http://kref.ky.gov/Candidate%20Campaign/Candidate%20Guide%20to%20Campaign%20Finance.pdf> pg. 116

Oversight of Conflicts of Interest

Virginia	Oversight of conflicts of interest and lobbyist disclosures are handled by the newly-created Virginia Conflict of Interest and Ethics Advisory Council (VCIEAC). ¹² The Council is largely made up of appointees made by the legislature. Complaints are registered with the Council, which then transmits the complaints to the ethics advisory panel for either the House or Senate. Legislators accused of violations are subject to hearings by the panel, and the proceedings are confidential. If the violation was made unknowingly, the matter is resolved by the House or Senate. If it was made knowingly, the matter is referred to the Attorney General. Funding for the VCIEAC was vetoed by Governor McAuliffe in 2014.
North Carolina	Oversight of ethics and conflicts of interest are handled by an independent North Carolina State Ethics Commission, with four members appointed by the Governor and four by the General Assembly. ¹³ The Commission receives statements of economic interest, issue advisory opinions, initiate and conduct investigations “into alleged violations against judicial officers, legislators, and legislative employees.” ¹⁴ However, the Commission must forward any investigations they believe materially violated ethics laws to the State Legislative Committee, which is made up of appointed legislators, who then decide whether or not to impose sanctions.
Maryland	Except for legislators, oversight of ethics and conflicts of interest for all public employees and officials are handled by the Maryland State Ethics Commission. For legislators, the Joint Committee on Legislative Ethics has jurisdiction over conflicts of interest, and the Committee is made up of 6 Senators and 6 Delegates. Maryland law is somewhat unique in that it <i>presumes</i> a conflict of interest for legislators in its definition, and that a legislator must receive a <i>waiver</i> from the Committee before disqualification from voting/acting on a matter is suspended. ¹⁵ The Committee may hold hearings and forward on recommendations of criminal prosecution to the Attorney General. The State Ethics commission may issue cease and desist orders, levy fines, and also forward on recommendations for criminal prosecution. ¹⁶
Kentucky	Kentucky has two separate ethics commissions for the executive and legislative branch. The Executive Branch Ethics Commission (EBEC) is composed of 5 members appointed by the Governor. The EBEC’s chief duties included receiving financial disclosure statements, investigating complaints, issuing subpoenas, issuing fines up to \$5,000, and referring criminal matters to the Attorney General. ¹⁷ The Legislative Ethics Commission (LEC) oversees lobbyist registrations, conduct of Members, and

¹² <http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+30-101>

¹³ <http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=138a>

¹⁴ http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/BySection/Chapter_120/GS_120-103.1.html

¹⁵ <http://ethics.gov.state.md.us/Ethics%20Law.pdf> Section 15-511

¹⁶ <http://ethics.gov.state.md.us/Ethics%20Law%20Summary.pdf>

¹⁷ <http://www.lrc.ky.gov/Statutes/chapter.aspx?id=37075>

	<p>financial disclosures made by legislative staff.¹⁸ The LEC is composed of 9 members appointed by members of the legislature. The LECT receives sworn complaints and then investigates the claims. Proceedings are confidential, and in some cases, reprimands may remain confidential.¹⁹ The commission may recommend to the house the censure or expulsion of a member, or they may refer to the matter to the Attorney General. Violation of the conflict of interest provision is a felony.</p>
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¹⁸ <http://klec.ky.gov/>

¹⁹ <http://www.lrc.ky.gov/Statutes/statute.aspx?id=356>

Gifts

Virginia	Tangible gifts to elected officials and most executive-level officials over \$250 are prohibited. ²⁰ There are no limits on intangible gifts such as travel or entertainment. Members must disclose gifts they or their immediate family members receive in excess of \$50 (or \$100 cumulatively). Gifts from personal friends are not prohibited but may need to be disclosed (the form indicates that gifts from personal friends “for reasons clearly unrelated to your public position” are exempt).
North Carolina	Gifts over \$100 are generally banned, but with several exemptions. Gifts such as travel, lodging, and entertainment are exempt from the ban if those gifts are given as a part of a legislator’s official duties to attend meetings, sit on panels, attend board meetings, or in pursuit of industrial recruitment or promotion of international trade. ²¹
Maryland	Maryland’s gift rules essentially work from a total ban with defined exceptions. Legislators cannot accept gifts from lobbyists or any other individual who is seeking to do business with the state or has a financial interest in a legislative or executive outcome. Meals over \$100 and entertainment gifts over \$20 are allowed but must be disclosed. For travel and lodging gifts for conferences and meetings estimated to be over \$500, an official must notify the Ethics Commission ahead of time. ²²
Kentucky	Kentucky has large loopholes in their gift ban. Food, travel, transportation, and entertainment of any value are <u>not</u> banned as long as they don’t come from legislative agents (i.e., lobbyists) or their employers. ²³ There are no stated caps on gift values, although the rules generally ban tangible gifts of any sort.

²⁰ <http://leg1.state.va.us/cgi-bin/legp504.exe?000+coh+30-103.1+701393>

²¹ http://www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_138A/GS_138A-32.pdf

²² <http://ethics.gov.state.md.us/Gift%20Memo.pdf>

²³ <http://www.lrc.ky.gov/Statutes/statute.aspx?id=331>

Conflicts of Interest for Board and Commission Members

Virginia	Members sitting on a Board or Commission are subject to Virginia’s State and Local Government Conflict of Interest Act. Unless spelled out in the statute establishing the Board or Commission, appointees are not required to recuse themselves from awarding grants or influencing decisions that may have a direct financial benefit to family members, personal friends, or close business associates.
North Carolina	Members sitting on a Board or Commission shall “take appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself to the extent necessary, to protect the public interest and comply with this Chapter, from any proceeding in which the public servant's impartiality might reasonably be questioned due to the public servant's familial, personal, or financial relationship with a participant in the proceeding.” Violations are only forwarded to the Ethics Commission if there is “a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard” of this rule. ²⁴ Executive Order 35 (from 2009) requires that board members disclose any financial benefits that a spouse or direct family member may receive from that member’s involvement on the board. ²⁵ If any matter comes before the board that intertwines with that financial interest, the board member must recuse himself, unless the chair rules that the financial gain is “remote or insignificant”. It is unclear if EO35 is still observed.
Maryland	“A board member may not participate as a board member in a matter involving relatives or entities with which he or she has an interest. A board member may not participate in a matter that involves as a party a business entity in which the board member or certain relatives have employment, contractual, or creditor relationships.” ²⁶
Kentucky	“A board member may not participate as a board member in a matter involving relatives or entities with which he or she has an interest. A board member may not participate in a matter that involves as a party a business entity in which the board member or certain relatives have employment, contractual, or creditor relationships.” ²⁷

²⁴ <http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=138a-36>

²⁵ <http://www.ethicscommission.nc.gov/library/pdfs/Laws/EO35.pdf>

²⁶ <http://ethics.gov.state.md.us/General%20Information%20-%20Boards%20&%20Commissions.pdf>

²⁷ <http://ethics.gov.state.md.us/General%20Information%20-%20Boards%20&%20Commissions.pdf>

Independent Expenditures and Electioneering Communications

Virginia	Virginia requires disclosure of independent expenditures of \$1,000 or more for statewide candidates and \$200 or more for other candidates. ²⁸ These expenditures must be reported to the State Board of Elections within 24 hours. Virginia has no real electioneering communications provisions outside of the requirement that corporations or any other person that spends \$1,000 or more (\$200 for non-statewide candidates) on advertising must identify themselves in the ads and say that the ad was not authorized by the candidate.
North Carolina	Independent Expenditures over \$100 must be reported to the State Board of Elections (in a timeframe established by the Board). ²⁹ Independent expenditures over \$5,000 (or receipt of an independent expenditure over \$1,000 in the filing period right before an election) must be reported within 48 hours. Electioneering communications expenditures over \$5,000 must be filed with the State Board of Elections (in a timeframe established by the Board).
Maryland	Maryland “requires registration and report filing with the State Board of elections (SBE) by any person who makes aggregate independent expenditures of \$10,000 or more in an election cycle on campaign material...however, contributions limits are not applicable to persons making independent expenditures or electioneering communications. An individual or a person that makes expenditures attempting to influence an election through express advocacy or electioneering communications and not in coordination with any candidate or political party may receive unlimited amount of donations from other individuals or persons.” ³⁰
Kentucky	Independent Expenditures over \$500 must be reported to the Registry of Election Finance. ³¹ Kentucky places no restrictions on electioneering communications, except for a requirement that the name of the advertising sponsor appear on any communication. ³²

²⁸ <http://www.sbe.virginia.gov/Files/CandidatesAndPACs/LawsAndPolicies/CandidatesSummary.pdf>

²⁹ http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_163/Article_22A.html

³⁰ http://www.elections.state.md.us/campaign_finance/documents/Independent_Expenditure_PAC_20141220.pdf

³¹ <http://www.lrc.ky.gov/Statutes/statute.aspx?id=331>

³² <http://www.lrc.ky.gov/statutes/statute.aspx?id=27870>

Personal Use of Campaign Funds

Virginia	Virginia law forbids personal use of a candidate's campaign funds. ³³ However, the definition of permitted use is quite broad, applying to any use of money or services for advocating election or defeat of a candidate. And this definition does not appear to apply to all forms of political committees, such as a state political party or a PAC.
North Carolina	A candidate or legislator may only use funds as "expenditures resulting from the campaign for public office by the candidate or candidate's campaign committee" and "expenditures resulting from holding public office." Violations are a misdemeanor, and are investigated by the State Board of Elections. ³⁴
Maryland	Maryland prohibits use of campaign funds for personal use or expenses related to holding office. ³⁵ Maryland's candidate states, "In general, campaign expenditures must promote a candidacy, not simply the individual running for office. For example, a candidate may not use campaign funds to pay a mortgage payment or an oil change on a personal vehicle. These types of expenditures would have occurred regardless of the individual being a candidate." ³⁶
Kentucky	Campaign expenditures must be made, "directly and primarily in support of or opposition to a candidate." ³⁷ Kentucky generally forbids use of campaign funds not in service to campaigning, such as defraying costs for an officeholder's official duties.

³³ <https://www.sbe.virginia.gov/Files/CandidatesAndPACs/LawsAndPolicies/AttorneyGeneralPersonalUseExplanation.pdf>

³⁴ http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_163/Article_22A.html

³⁵ http://167.102.241.34/summary_guide/sg_09.html

³⁶ http://elections.maryland.gov/pdf/summary_guide/summary_guide.pdf

³⁷ <http://kref.ky.gov/Candidate%20Campaign/Candidate%20Guide%20to%20Campaign%20Finance.pdf> pg. 55

Post-Legislator Employment (“Revolving Door”)

Virginia	Virginia statute states: “For one year after the termination of public employment or service, no state officer or employee shall, before the agency of which he was an officer or employee, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to legislation, executive orders, or regulations promulgated by the agency of which he was an officer or employee.” ³⁸
North Carolina	“No legislator or former legislator may register as a lobbyist while in office or before the later of the close of the session in which the legislator served or six months after leaving office.” ³⁹
Maryland	For the legislative session following departure from office, “a former legislator may not assist or represent any party for compensation in a matter that is the subject of legislative action.”
Kentucky	A former legislator cannot become a “legislative agent” until after two years of having left office. ⁴⁰ Former legislators are not prohibited from lobbying the executive branch during these two years.

³⁸ <https://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-3104>

³⁹ <http://www.ncsl.org/research/ethics/50-state-table-revolving-door-prohibitions.aspx> § 120C-304

⁴⁰ <http://www.lrc.ky.gov/statutes/statute.aspx?id=376>

Lobbying

Virginia	In Virginia, lobbying is defined as influencing or attempting to influence executive or legislative action through your own or a representative's oral or written communication (and with compensation above \$500). ⁴¹ Lobbyists must register with the Secretary of the Commonwealth before lobbying. Employers or principals of lobbyists are not required to file spending reports with the VCIEA Council.
North Carolina	Lobbyists and lobbyist principals must register annually with the Secretary of State and file quarterly disclosure reports. ⁴² Lobbyists are not allowed to "influence the action of any 'designated individual' by the promise of financial support of the designated individual's candidacy, or by threat of financial support in opposition to the designated individual's candidacy in any future election."
Maryland	Maryland generally defines a lobbyist as anyone who communicates with an official employee of the Legislative or Executive Branch and incurs expenses of \$500 or earns compensation over \$2,500 for that communication. ⁴³ Lobbyists must attend ethics training within six months of initially registering as a lobbyist. Lobbyists must pay a \$100 registration fee and disclose the lobbyist's principals and what issues they will be lobbying on. ⁴⁴ Lobbyists are not allowed to donate or solicit donations for anyone running for state office. ⁴⁵
Kentucky	For the legislative branch, "legislative agents" are defined as "an individual who is engaged during at least a portion of his/her time to lobby as one of his/her official responsibilities or who is engaged in lobbying activities as a legislative liaison of an association, coalition, or public interest entity formed for the purpose of promoting or otherwise influencing legislation." ⁴⁶ Legislative agents and their employers must file statements of expenditures (showing what they spent for lobbying services) as well as a statement of financial transactions with any member of the legislative or executive branch. Lobbyists may not donate to candidate or give gifts to legislators. ⁴⁷ Executive agency lobbyists must register with the Executive Branch Ethics Commission. They too must file statements of expenditures and financial transactions.

⁴¹ <https://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+2.2-419>

⁴² <http://www.secretary.state.nc.us/lobbyists/faq.aspx>

⁴³ <http://www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx>

⁴⁴ <http://www.ncsl.org/research/ethics/50-state-chart-lobbyist-registration-requirements.aspx>

⁴⁵ <http://ethics.gov.state.md.us/Lobbying%20Law%20-%20Frequently%20Asked%20Questions.pdf>

⁴⁶ <http://klec.ky.gov/code/agentsemployers/definitions.htm>

⁴⁷ <http://klec.ky.gov/code/agentsemployers/prohibited.htm>

Redistricting

Virginia	“Virginia is one of 28 states in which legislators are wholly responsible for redrawing maps. However, if the General Assembly cannot agree on a plan, the Virginia Circuit Court may intervene.” ⁴⁸
North Carolina	<p>Redistricting plans are passed by the General Assembly and are not subject to a Governor’s veto.⁴⁹ These plans are subject to Sections 2 and 5 of the Voting Rights Act, however, following <i>Shelby County v. Holder</i> in 2013, it is not readily apparent if Section 5 will be enforceable without further action from Congress.</p> <p>The North Carolina Supreme Court in 2002 state ruled that “the General Assembly should draw the districts required by the Voting Rights Act. Second, it should take all the counties with just the right population to be single-member districts and make them one-county single-member districts. Third, it should take all the counties that have just the right populations for one or more districts and divide those counties into compact single-member districts. Fourth, for the remaining counties it should group them into clusters of counties and divide the clusters into compact single-member districts, crossing county lines within the cluster as little as possible.”⁵⁰</p>
Maryland	Maryland handles redistricting for Congressional and the State Legislature in two different ways. For Congressional redistricting, the General Assembly proposes and passes their own redistricting plan, subject to the Governor’s veto. For state legislative redistricting, “the Maryland Constitution requires the Governor to conduct public hearings and introduce a legislative district plan on the first day of the legislative session in the 2nd year following each census...the plan takes effect on the 45th day of the legislative session unless the General Assembly enacts its own plan before the deadline.” ⁵¹ The Governor normally appoints an advisory commission to help him draw the new maps.
Kentucky	Redistricting in Kentucky is handled by the General Assembly, subject to the Governor’s veto. ⁵² The General Assembly normally forms a joint committee of members from both chambers. This committee develops the new maps, passes those maps through legislation, and seeks the approval of the Governor. The state Constitution places limits on redistricting, such as maps that seek to divide counties. ⁵³

⁴⁸ http://ballotpedia.org/Redistricting_in_Virginia

⁴⁹ <http://www.ncleg.net/representation/Content/Overview.aspx>

⁵⁰ <http://www.ncleg.net/representation/Content/Overview.aspx>

⁵¹ <http://mgaleg.maryland.gov/Other/Redistricting/Redistricting.htm>

⁵² <http://www.redistrictinginamerica.org/kentucky/>

⁵³ <http://www.lrc.ky.gov/lrcpubs/ib59.pdf> Section 33

Judicial Selection

Virginia	Justices of the Virginia Supreme Court are elected to 12 year terms in the state legislature. Court of Appeals and Circuit Court justices serve 8 years. District Court justices serve 6 years. “A joint judicial advisory committee evaluates candidates for the court and advises the legislature on the qualifications. The House of Delegates and the Senate vote separately, under a procedural resolution, and the candidate receiving the most votes in each house is elected to the vacant judgeship or new seat. Incumbent judges standing for election to a subsequent term must go through the same process.” ⁵⁴ The legislature appoints the judges and is not required to consult or obtain approval from the Governor.
North Carolina	North Carolina appoints justices through non-partisan elections (and up until 2013, candidates could receive public financing). ⁵⁵ Retirement at age 72 is mandatory. Midterm vacancies are filled by the Governor, selected from a slate of candidates from judicial nominating commission. District Court judges serve 4 year terms, and all other justices serve 8 year terms.
Maryland	“Under the Maryland Constitution, the Governor fills a new judgeship or other vacancy in judicial office with an individual having certain basic qualifications. Although the Constitution sets forth these basic qualifications, it provides the Governor with limited guidance in making judicial appointments. In 1970, Governor Marvin Mandel issued an Executive Order creating the Judicial Nominating Commissions to assist in the judicial selection process. Since that time, every governor has issued a similar Executive Order. The primary responsibility of the Judicial Nominating Commissions has been to screen candidates for judicial office.” ⁵⁶ Appellate judges are subject to retention elections while circuit court judges run in contested, nonpartisan elections. Circuit court judges must be confirmed Maryland’s Senate, while appellate judges require no such confirmation. ⁵⁷
Kentucky	Judges are normally selected through non-partisan elections. All justices serve 8-year terms, except for district court justices, who serve 4-year terms. When a vacancy on the court occurs, a Judicial Nominating Commission selects three attorneys from a base of applications and presents these three choices to the Governor. Then, the Governor appoints a judge from this list.

⁵⁴ <http://dls.virginia.gov/judicial.html>

⁵⁵ http://www.americanbar.org/content/dam/aba/migrated/JusticeCenter/Justice/PublicDocuments/judicial_selection_roadmap.authcheckdam.pdf

⁵⁶ <http://www.courts.state.md.us/judgeselect/>

⁵⁷ http://en.wikipedia.org/wiki/Government_of_Maryland#Circuit_Courts