ATTACHMENT I

PERMANENT SCHOOL FUND

ETHICS HANDBOOK

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State Board of Education
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PERMANENT SCHOOL FUND ETHICS HANDBOOK

Scope: The Permanent School Fund Code of Ethics and the Trading and Brokerage Ethics Policy apply to State Board of Education Members and to the several categories of service providers. 19 TEX. ADMIN. CODE §§ 33.5 and 33.40. This handbook is designed to provide a general analysis of the PSF Code of Ethics and the Trading and Brokerage Ethics Policy. While this analysis is not complete or exhaustive, it is designed to help SBOE Members and PSF Service Providers identify potential compliance issues. This handbook is not a complete statement of the law. Once a potential compliance issue is identified, further research or advice from legal counsel may be warranted. In particular, you may wish to contact the TEA Ethics Advisor, Chris Maska at (512) 463-9960 or the Texas Ethics Commission at (800) 325-8506.

Structure: This handbook is structured according to the various types of individuals to which the ethics rule apply: SBOE Members, PSF Service Providers, Statutory Financial Advisors or Service Providers, Brokers and Placement Agents.

CODE OF ETHICS GUIDING PRINCIPLES

The Texas Permanent School Fund (PSF) is held in public trust for the benefit of the schoolchildren of Texas. All those charged with the management of the PSF will aspire to the highest standards of ethical conduct. The purpose of the PSF code of ethics is to assist and help guide all such persons in the proper discharge of their duties and to assist them in avoiding even the appearance of impropriety.

State Board of Education Members

Definition: The definition of State Board of Education Member is highly significant. A SBOE Member is defined to include not only a person elected or appointed to the State Board of Education but also that person's spouse and dependent children. There is, however, one exception to the requirement that a spouse and dependent child are treated as SBOE members. A spouse or dependent child need not file an Annual Violation Report.

Fiduciary Duty: Members of the SBOE have a fiduciary duty concerning the Permanent School Fund (PSF). A fiduciary duty is the highest legal duty. A fiduciary must put the interest of the entity that is owed a fiduciary duty above the fiduciary's own interest. Other examples of those who have fiduciary duties include all public servants, lawyers, and those who manage trust funds. As part of a SBOE Member's fiduciary duty are specific requirements that SBOE members must be honest; must not take actions that discredit the PSF; must be loyal to the PSF, must avoid relationships that create a conflict of interest; and must not use nonpublic information for personal gain. Any external professionals hired by the SBOE are to be selected solely on merit.

Other Ethics Requirements: The Code of Ethics must be followed in addition to all other ethical statutes and rules. Compliance with the Code of Ethics does not mean that one has complied with all ethics laws.

Reporting Requirements: There are numerous reporting requirements for SBOE Members:

- PSF Service Provider: A SBOE Member shall report in writing to the Commissioner the name of a PSF Service Provider who provides the SBOE Member investment or management advice within thirty days of first receiving such advice.

- Campaign Contributions: A SBOE Member shall report in writing to the Commissioner within seven days a violation of Texas Education Code section 7.108. This section forbids campaign contributions and other assistance from an individual interested in selling bonds or involved in the textbook business.

- Charitable Donations on Behalf of a SBOE Member: A SBOE Member shall report in writing to the Commissioner any gift or donation to a school or other charity on behalf of, at the request of, or in coordination with a SBOE Member.

- Conflict Disclosure: A SBOE Member who has a personal, private, direct, or indirect financial interest in a matter before the SBOE or if the Member solicited a specific investment action by the PSF staff or a PSF service provider, the member shall disclose the matter at a public meeting and shall not participate in the discussion or vote of the matter. The conflict will also be disclosed to the Chair

and the Commissioner using the Potential Conflict of Interest Disclosure Form. If the SBOE Member seeks a waiver of a conflict of interest a request for an opinion from the Texas Ethics Commission will need to be made.

- Ethics Commission Disclosure: A SBOE Member shall disclose any substantial interest in a PSF investment business entity on the Ethics Commission Report required by TEX. GOV. CODE 572.021.

- Honorarium Disclosure: A SBOE Member shall disclose food, lodging, and transportation accepted as an honorarium in the SBOE Member's annual financial statement filed with the Texas Ethics Commission.

- Unsolicited Prohibited Gift Disclosure: If a SBOE Member receives a prohibited gift, the gift should be returned or given to a charity and the SBOE Member shall report the disposition of the gift to the Commissioner.

- Annual Violations Report: A SBOE Member shall no later than April 15 file a report with the Commissioner disclosing any known violation of the Code of Ethics for the previous year that has not been previously disclosed in writing. For this provision, "SBOE Member" means only the individual elected official.

- Financial Transactions with PSF Service Provider. An SBOE Member must report quarterly transactions that are greater than $50 with PSF Service Providers.

Additional Standards:

Direct placement investments: An SBOE Member shall not have a financial interest in a direct placement investment of the PSF or serve as an officer, director, employee, consultant of such an entity; or receive any fee or commission from such an entity.

Professional Standards: An SBOE Member who belongs to a professional organization must comply with professional standards of that organization.

Training: The SBOE will receive annual ethics training.

Confidentiality of RFP's and RFQ's: Submissions as part of the RFP or RFQ process will not be disclosed until such process is complete. SBOE Members shall be provided a reasonable time to review and respond to disclosures

Gifts:

RULE NO. 1: Never Take Anything As Consideration For An Official Act. The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, or any other exercise of official discretion. Accepting a bribe is a felony of the second degree. TEX. PENAL CODE § 36.02(e).

RULE NO. 2: Do Not Accept An Honorarium For Services You Would Not Have Been Asked To Provide But For Your Official Status. This means, for example, that an SBOE Member may not accept a gift or payment for giving a speech if the Member's official position was a reason for being asked to give the speech. The Member may, however, accept meals, transportation, and lodging in connection with a speech as long as the speech is more than merely perfunctory. However, there is a prohibition from accepting meals, transportation and lodging from a corporation or labor organization. A detailed analysis for accepting meals transportation and lodging in connection with a speech or similar event is presented below. Also, a gift may be accepted as long as it is not a "benefit". Examples of acceptable gifts are a plaque or something of minimal value like a coffee cup, key chain, or "gimme" cap. The improper acceptance of an honorarium is a Class A misdemeanor.

RULE NO. 3. Prohibited solicitations for others. No SBOE Member shall solicit support on behalf of any political candidate, political party, or political committee from a PSF Service Provider or any PSF manager, consultant, or staff member. 19 TAC § 33.5(i). A PSF Service Provider shall not make any gift or donation to a school or other charitable interest on behalf of, at the request of, or in coordination with an SBOE Member. 19 TAC § 33.5(e)(7). The provisions of Rule No. 3 are based solely on SBOE rules. The SBOE Code of Ethics is enforced by the SBOE. 19 TAC § 33.5(o). The SBOE could vote to censure a Member or to remove a Member from a committee.

THE OTHER RULES: If acceptance of a gift or payment is permissible under Rule Nos. 1 through 3, the next step is to determine whether or not the person making the offer is a registered lobbyist and if the benefit consists of meals, transportation, or lodging in connection with a speech or similar event, whether the entity paying is a corporation or labor organization.

A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST:

1. An SBOE Member may not accept:

- Loans, cash, or negotiable instruments other than political contributions. A violation is a Class A misdemeanor. TEX. PENAL CODE 36.08(h).
- Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.) A violation is a Class A misdemeanor. TEX. PENAL CODE 36.08(h).

- A political contribution to an SBOE Member from a person engaged in selling bonds or connected with the textbook business. TEX. EDUC. CODE § 7.108. A violation is a Class B misdemeanor. TEX. EDUC. CODE § 7.108 (b). Attorney General Opinion M-1262 has called into question whether this provision is constitutional, but no court has addressed the issue.

2. An SBOE Member may accept:

- Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- Entertainment worth up to $250 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- Gifts, other than awards and mementos that together do not exceed $250 in value during a calendar year. [Note: "gifts" here does not include food, entertainment, transportation, or lodging.]
- Awards and mementos worth not more than $250. This is not an annual cap, but a cap on the value of each individual award or memento.
- Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.
- The $250 limitations mentioned in this subsection are found in SBOE rule 19 TAC § 33.5(l)(2)(F). If the $250 limitation found in SBOE rule were violated, the SBOE could vote to Censure a Member or to remove a member from a committee. The Texas Government Code § 305.024 provides $500 limitations not $250 limitations. If the $500 limitations found in the Government Code were violated, the violation would be a Class A misdemeanor. TEX. PEN. CODE § 36.08(h).

Note: Find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at (512) 463-5800 or (800) 325-8506.

Please Note: An SBOE Member's name will appear on a lobbyist's activities report:

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed $75, which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed $50; or
- each time an expenditure is made for you to attend political fundraisers or charity events, regardless of the amount spent.

Please Note: An SBOE Member's name will appear in a government document if a business transaction occurs with a PSF Service Provider as specified:

A PSF Service Provider shall disclose in writing to the Commissioner of Education for dissemination to all SBOE Members any business or financial transaction greater than $50 in value with an SBOE Member within 30 days of the transaction. Excluded from this subsection are checking accounts, savings accounts, credit cards, brokerage accounts, mutual funds, or other financial accounts that are provided to the SBOE Member under the same terms and conditions as they are provided to members of the general public. This reporting is required solely by SBOE rule 19 TAC § 33.5(e)(8). Such a report will be made whether or not the PSF Service Provider is a registered lobbyist.

B. IF THE PERSON MAKING THE OFFER IS *NOT* A REGISTERED LOBBYIST

The Penal Code prohibits a state officer or employee from taking any benefit from a person subject to regulation, inspection, or investigation by the state officer's or employee's agency. There are also restrictions on benefits from a person interested in or likely to become interested in a contract or other transaction with the agency. (A "benefit" is anything reasonably regarded as pecuniary gain or advantage.) There are, however, further restrictions and exceptions to these prohibitions.

An SBOE Member may not accept a gift or contribution if:

- The source of the gift is not identified, if depending on the source, the gift could be prohibited by law.
- There is reason to believe a potentially prohibited gift is given through an intermediary.
- A campaign contribution to an SBOE Member is from a person engaged in selling bonds or connected with the textbook business. TEX. EDUC. CODE § 7.108 . A violation is a Class B misdemeanor. TEX. EDUC. CODE § 7.108(b). Attorney General Opinion M-1262 has called into question whether this provision is constitutional, but no court has addressed the issue.

An SBOE Member may accept a gift, payment, or contribution as long as the gift is not prohibited above and the gift fits into *any one* of the following categories.

- Items Worth Less Than $50: An SBOE Member may accept an item with a value of less than $50. This exception does not apply to cash, checks, or negotiable instruments.
- Independent Relationship: There is an exception from the general prohibition on the acceptance of benefits for a gift based on

  * kinship
  * a personal relationship independent of your official status
  * a professional relationship independent of your official status
  * a business relationship independent of your official status.

- Fees For Services: An SBOE Member may accept a payment to which the Member is lawfully entitled in a capacity other than the Member's official status. An honorarium for a service that the SBOE Member would not have been asked to provide but for the official status cannot be accepted.
- Political Contributions: An SBOE Member may in general accept a political contribution as a candidate or officeholder. However, other laws may prohibit a particular contribution.
- Government Property: An SBOE Member may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- Food, Entertainment, Transportation, & Lodging: Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a "guest" and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. Board members and agency heads may be required to report certain gifts on their annual personal financial statement.
- Accepting a gift that violated this section would be a Class A misdemeanor. Tex. Penal Code 36.08(h).

Donations to Charity: If an unsolicited gift is received that would violate these provisions, the gift should be returned. If the gift cannot be returned it may be donated to the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes. However, this does not allow for the circumvention of the prohibition of PSF service providers from making gifts to schools or other charitable interests on behalf of, at the request of, or in coordination with an SBOE Member.

Enforcement:

The Code of Ethics is enforced by the SBOE. The SBOE could pass a motion of censure if a Member violated the Code of Ethics. The Penal Code Provisions are enforced by county and district attorneys, which can result in a fine or if serious enough, imprisonment.

When Can a State Board of Education Member Accept Food, Travel, and Lodging due to one's Official Position?

With the issuance of Ethics Advisory Opinion No. 484 on August 6, 2009, new standards were articulated for accepting food, travel, and lodging from a corporation or labor organization when one gives a speech or engages in a similar activity because of one's official position. However on December 7, 2010, the Texas Ethics Commission withdrew of Ethics Advisory Opinion No. 484 and issued of Ethics Advisory Opinion No. 495. These new developments are significant.

Ethics Advisory Opinion No. 495 defines the phrase "not reimbursable with public money" to mean that a government body has the authority to reimburse an office holder for an expense and does not require to actually reimburse or to have funds available to reimburse. This new definition means that in many cases travel funded by a corporation of a labor organization will not be considered an office holder contribution and will be permissible. The withdraw of Ethics Advisory Opinion No. 484, is an ambiguous act. The Ethics Commission did not say which portion, if any, of Ethics Advisory Opinion No. 484 it considered to be incorrect. At this point, the safest position would be to comply with Ethics Advisory Opinion No. 484. The following analysis assumes that Ethics Advisory Opinion No. 484 correctly states the law.

Before you can accept food, travel, and lodging under the honorarium statute Texas Penal Code section 36.07(b) ask yourself the following questions:

1. Am I being asked to give a speech or engage in a similar activity because of my official position? If the answer is "Yes", go to question 2. If the answer is "No" you can accept food, travel, or lodging.

2. Could you use state funds to pay for the food, travel, and lodging under SBOE policy and practice? You may wish to call the SBOE office to confirm this. If the answer to this question is "Yes", you may take the food, travel, and lodging as long as the speech or similar activity that you are asked to do is more than perfunctory. If the answer is "No", go to questions Nos.3 through 6.

3. Is the entity paying for the food, travel, and lodging a corporation or labor organization? It would be best to get the entity to state in writing whether or not it is a corporation or a union organization. If the answer is "Yes", go to question 4. If the answer is "No", you may accept food, travel, and lodging as long as the speech or similar activity that you are asked to perform is more than perfunctory.

4. Is a lobbyist registered with the Texas Ethics Commission paying for the food, travel, and lodging on behalf of a corporation or a labor organization? If the answer is "Yes", food, travel, and lodging may be accepted as a gift if the speech or similar activity that you are asked to do is more than perfunctory and if the lobbyist is present at the event. Note: the gift to you will be reported to the Texas Ethics Commission

5. Is a Texas political committee paying for the food, travel, and lodging? If the answer is "Yes", you may accept the food, travel, and lodging but realize that it will be reported to the Ethics Committee as an expenditure of a political committee.

6. Has the SBOE voted to accept the food, travel, and lodging as a gift? If the answer is "Yes", you may accept the food, travel, and lodging regardless of the answer to any of the other questions. The SBOE has statutory authority to accept gifts. TEX. EDUC. CODE § 7.102(c)(2) and (3). The SBOE may vote to accept a gift of travel if it finds it will benefit the public school system. After the SBOE votes to accept a gift of food, travel, and lodging, you may accept the gift of travel.

PSF Service Provider

By definition many individuals and organizations are defined as "PSF Service Providers." PSF Service Providers are to be provided with the Code of Ethics and are required to abide by the Code of Ethics. Those defined as PSF Service Providers are:

> (A) any person responsible by contract for managing the PSF, investing the PSF, executing brokerage transactions, or acting as a custodian of the PSF;
>
> (B) a member of the Committee of Investment Advisors;
>
> (C) any person who provides consultant services for compensation regarding the management and investment of the PSF;
>
> (D) any person who provides investment and management advice to an SBOE Member, with or without compensation, if an SBOE Member:
>
> > (i) gives the person access to PSF records or information that are identified as confidential; or
> >
> > (ii) asks the person to interview, meet with, or otherwise confer with a PSF Service Provider or Texas Education Agency (TEA) staff;
>
> (E) any member of the TEA PSF staff or legal staff who is responsible for managing or investing assets of the PSF, executing brokerage transactions, acting as a custodian of the PSF, or providing investment or management advice or legal advice regarding the investment or management of the PSF to an SBOE Member or PSF staff; or

(F) any person who submits a response to a Request for Proposal (RFP) or Request for Qualifications (RFQ), or similar types of solicitations, while such response is pending. An applicant is not required to file reports under this section except as required in the RFP or RFQ process.

Fiduciary Duty: Like SBOE Members, PSF Service Providers have a fiduciary duty concerning the PSF. A fiduciary duty is the highest legal duty. A fiduciary must put the interest of the entity that is owed a fiduciary duty above the fiduciary's own interest. Other examples of those who have fiduciary duties include all public servants, lawyers, and those who manage trust funds. As part of a PSF Service Providers' fiduciary duty are specific requirements that PSF Service Providers must be honest; must not take actions that discredit the PSF; must be loyal to the PSF, must avoid relationships that create a conflict of interest; and must not use nonpublic information for personal gain.

Other Ethics Requirements: The Code of Ethics must be followed in addition to all other ethical statutes and rules. Compliance with the Code of Ethics does not mean that one has complied with all ethics laws.

Reporting Requirements: There are numerous reporting requirements for PSF Service Providers.

- Placement Agents. "Placement Agents" are defined as any third party, whether or not affiliated with a PSF Service Provider, that is a party to an agreement or arrangement (whether written or oral) with a PSF Service Provider for direct or indirect payment of a fee in connection with a PSF investment. This definition is broader than some definitions of "placement agents" as it includes not just third parties agreements concerning finders' fees but any third party agreement in connection with a PSF investment. Placement agents must not only be reported to the SBOE but they also must be approved by the SBOE

- Campaign Contributions: A PSF Service Provider shall report in writing to the Commissioner within seven days a violation of Texas Education Code section 7.108. This section forbids campaign contributions and other assistance from an individual interested in selling bonds or involved in the textbook business. A PSF Service provider shall also file a semi-annual report no later than April 15 and October 15 for the previous six months detailing contributions made to SBOE Members and candidates.

- Transactions Greater than $50.00: A PSF Service Provider shall report within 30 days to the Commissioner any transaction with an SBOE Member greater than $50 in value with exceptions of accounts that are offered to the public on the same terms.

- Conflict Disclosure: A PSF Service Provider who has a personal, private, direct, or indirect financial interest in a matter before the SBOE shall disclose the conflict to the Chair and the Commissioner using the "Potential Conflict of Interest Disclosure Form". Once the form is filed out, one will not take action affecting the possible conflict unless the general counsel for TEA waives this provision.

- Violations by Others: A PSF Service Provider shall report in writing to the Commissioner within 30 days a suggestion or offer from an SBOE Member that the PSF Service Provider should violate the Code of Ethics or a violation of the Code of Ethics made by another PSF Service Provider.

- Solicitation of Support: A manager, PSF Service Provider, consultant, or staff member shall report in writing to the Commissioner the solicitation of a SBOE Member to support any political candidate.

- Individuals Report: Each PSF Service provider shall file a yearly report on or before April 15 for the proceeding year. The report shall list the following individuals: all members of the governing body; all officers; any broker who conducts transactions with PSF funds; all members of the governing body that conducts transactions with PSF funds; and all officers of a firm that conducts transactions with PSF funds.

- Annual Violations Report: A PSF Service Provider shall no later than April 15 file a report with the Commissioner disclosing any known violation of the Code of Ethics for the previous year that has not been previously disclosed in writing.

- Annual Expenditures Report: A PSF Service Provider shall no later than April 15 file a report detailing expenditures of more than $50 made on behalf of an SBOE Member, the Commissioner, or a TEA employee.

Prohibited Transactions:

Transactions between PSF Service Providers: PSF Service Providers or persons who act as consultants to the SBOE regarding investment and management of the PSF shall not engage in any transaction involving the assets of the PSF with another PSF Service Provider or a person who acts as a consultant to the SBOE regarding investment and management of the PSF.

Reporting PSF Service Provider Transactions: PSF Service Providers and/or consultants to the SBOE who provide advice regarding investment and management of the PSF shall report to the SBOE on a quarterly basis all investment transactions or trades and any fees or compensation paid in connection with the transactions or trades with another PSF Service Provider or a person who acts as a consultant to the SBOE regarding investment and management of the PSF.

Direct placement investments: A PSF Service Provider shall not have a financial interest in a direct placement investment of the PSF or serve as an officer, director, employee, consultant of such an entity; or receive any fee or commission from such an entity.

Professional Standards: PSF Service Providers who are members of professional organizations must comply with the standards of conduct of those organizations. PSF Service Providers must comply with the Code of Ethics and Standards of Professional Conduct of the Association for Investment Management and Research

Enforcement:

The Code of Ethics is enforced by the SBOE. The violation of the Code of Ethics can result in the termination of a contract or a lesser sanction. Violation of Penal Laws are enforced by district and county attorneys, which can result in a fine or if serious enough, imprisonment.

Statutory Financial Advisors and Service Providers

Texas Government Code section 2263.005 and SBOE rule create the category of "statutory financial advisor and service provider." By definition a "statutory financial advisor and service provider" is a member of the Investment Advisory Committee or an individual or business entity, including a financial advisor, financial consultant, money or investment manager, or broker, who is not an employee of the TEA, but who provides financial services or advice to the TEA or the SBOE or an SBOE member in connection with the management and investment of the PSF and who may reasonably be expected to receive, directly or indirectly, more than $5,000 in compensation from the TEA or the SBOE during a fiscal year.

On or before April 15, a statutory financial advisor or service provider shall file a form created by the State Auditor which sets out any potential conflicts of interest and all interests one has to other parties in transactions concerning the PSF. This includes direct, indirect, personal, private, commercial, and business relationships.

Brokers

Brokers have very specific ethics requirements. They are normally retained for one transaction at a time.

(1) Introduction and basic principles.

(A) The SBOE intends that any transaction of publicly traded securities occur through a brokerage firm or automated trading system, regardless of location, to obtain the lowest transaction cost consistent with best execution.

(B) Each investment manager shall be responsible for selecting brokerage firms or automated trading systems through which PSF trading shall be completed. The selections must meet PSF guidelines and be for the exclusive benefit of the PSF.

(2) Guidelines for selection and standards of ethical conduct. The broker or dealer firm must:

(A) have appropriate trading and market expertise;

(B) have comprehensive, proprietary, in-house research capabilities;

(C) be in compliance with applicable federal and Texas laws related to conducting business as a broker or dealer, including the Anti-Fraud provisions of the Securities Exchange Act of 1934;

(D) be a member in good standing of the major financial exchanges;

(E) have on-site, in-house trading capability and direct access to major markets;

(F) have in-house access to trading support equipment;

(G) trade for competitive rates that provide the lowest transaction cost consistent with best execution;

(H) be financially able to accommodate a capital commitment trade over an industry standard settlement period;

(I) have the ability and record to clear and settle trades without unnecessary delays or fails; and

(J) have been in business as a broker or dealer for a reasonable period of time to ensure financial and operational stability.

Exemptions: Exemptions may be granted in certain circumstances to Historically Underutilized Businesses or HUB's.

Reports:

Expenditures: On or before January 15 a broker must file a "Report of Expenditures of Persons Providing Services to the State Board of Education Relating to the Management and Investment of the Permanent School Fund." This report must include all transactions of over $50 with an SBOE Member, the Commissioner, or a TEA employee.

Exemptions: Any exemptions granted to HUB's will be reported yearly to the Committee on School Finance/Permanent School Fund.

Enforcement:

The SBOE Committee on School Finance/Permanent School Fund reviews the brokerage firms used by PSF investment managers and all transactions for compliance with the broker rules. Because brokerage agreements are not long term contracts, if a broker is found not to be doing a good job, that broker will not receive additional business.

Placement Agents

Definition: "Placement Agents" are defined as any third party, whether or not affiliated with a PSF Service Provider, that is a party to an agreement or arrangement (whether written or oral) with a PSF Service Provider for direct or indirect payment of a fee in connection with a PSF investment. This definition is broader than some definitions of "placement agents" as it includes not just third parties agreements concerning finders' fees but any third party agreement in connection with a PSF investment.

Requirements:

- Reporting: A PSF Service Provider must report a placement agent to the SBOE.
- Approval: A placement agent must be approved by the SBOE for a particular purpose. A placement agent may only be used for the approved purpose.
- Registration: A placement agent must be registered with the Securities and Exchange Commission or the Financial Industry Regulatory Authority.
- No sharing of Fees: A placement agent may not share fees with a non-registered person or entity
- Campaign Contribution Reports. A placement agent shall file semi-annual reports no later than April 15 and October 15 for the previous six months detailing contributions made to SBOE Members and candidates.

CONCLUSION

The SBOE has adopted ethics rules to help ensure that the PSF is properly managed. The Texas Education Agency Ethics Advisor and the Texas Ethics Commission are available to assist SBOE Members as to Ethics inquiries. Please present hypothetical actions as neither the Texas Education Agency Ethics Advisor nor the Texas Ethics Commission is your personal attorney.