

Coalition for Integrity

Scoring Rubric

Ethics Agencies

1. Is there an ethics agency, with the authority to conduct its own investigations, including public hearings and subpoena power? (Maximum scaled score = 10 points; 16 raw points possible)

Total scaled score = $(10/16) * ([\text{Raw Score A}] + [\text{Raw Score B}] + [\text{Raw Score C}] + [\text{Raw Score D}])$
Please note that parts B, C, and D of Q1, as well as Q2-7, refer to the “executive branch” and “legislative branch.” Except where otherwise specified, “Executive branch” includes elected and appointed executive branch officials and executive branch employees. “Legislative branch” includes members of the legislature.

Scoring parts B, C, and D: If there are separate agencies for the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score. No matter what, make sure that each category of covered official (elected and appointed executive branch officials, executive branch employees, and members of the legislature) is in fact covered under each power described in parts B, C, and D.

NOTE: No credit should be given to legislative ethics committees which are composed only of members of the respective legislative body.

A. Does an independent ethics agency have jurisdiction over... (4 points possible)

i. Appointed executive branch officials

- 1 point = Yes, all executive department heads and other key appointees in the executive branch are covered officials under the jurisdiction of the ethics agency. Enter “Yes” in the scoring cell.
- 0.5 points = At least some executive department heads and/or some key appointees in the executive branch are covered officials under the jurisdiction of the ethics agency. Or else appointed officials in the executive branch are covered with respect to some of the rules enforced by the commission. Enter “Partial” in the scoring cell.
- 0 points = Neither executive department heads nor any key appointees in the executive branch are covered officials under the jurisdiction of the ethics agency. Enter “No” in the scoring cell.

ii. Elected executive branch officials

- 1 point = Yes, all elected officials in the executive branch are covered officials under the jurisdiction of the ethics agency. Enter “Yes” in the scoring cell.
- 0.5 points = At least some elected officials in the executive branch are covered officials under the jurisdiction of the ethics agency. Or else elected officials in the executive branch are covered with respect to some of the rules enforced by the commission. Enter “Partial” in the scoring cell.
- 0 points = No elected officials in the executive branch are covered officials under the jurisdiction of the ethics agency. Enter “No” in the scoring cell.

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- iii. Executive branch employees
- 1 point = Yes, all executive branch employees, without exception, are covered officials under the jurisdiction of the ethics agency. Enter “Yes” in the scoring cell.
 - 0.5 points = Most senior, managerial, or executive-level executive branch employees or a seeming majority of executive branch employees are covered officials under the jurisdiction of the ethics agency OR employees in the executive branch are covered with respect to some of the rules enforced by the commission. Enter “Partial” in the scoring cell.
 - 0 points = No executive branch employees, or virtually no executive branch employees are covered officials under the jurisdiction of the ethics agency. Enter “No” in the scoring cell.
- iv. Members of the legislature
- 1 point = Yes, all members of the legislature are covered officials under the jurisdiction of the ethics agency. Enter “Yes” in the scoring cell.
 - 0.5 points = At least some members of the legislature are covered officials under the jurisdiction of the ethics agency -OR- members of the legislature are covered by some, but not all, rules enforced by the ethics agency. Enter “Partial” in the scoring cell.
 - 0 points = Members of the legislature are not within the jurisdiction of any independent ethics agency— **only legislative ethics committees made up of legislatures or no oversight whatsoever**. Enter “No” in the scoring cell.
- B. Does the ethics agency have authority to initiate and conduct its own investigations? (4 total points possible, 2 per branch)
- 2 points = Yes, the ethics agency has full authority to initiate and conduct its own investigations OR it shares jurisdiction with an inspector general. Enter “Yes” in the scoring cell.
 - 1 point = The ethics agency may only initiate investigations after receiving a complaint OR with respect to a limited category of persons. Enter “Partial” in the scoring cell.
 - 0 points = The ethics agency has no investigative power. Enter “No” in the scoring cell.
- C. Does the ethics agency have the authority to hold public hearings? (4 total points possible, 2 per branch)
- 2 points = Yes, the ethics agency has the authority to hold public hearings at every stage of an investigation OR the ethics agency has the authority to hold public hearings after a determination of probable cause. Enter “Yes” in the scoring cell.
 - 0 points = The ethics agency has no authority to hold public hearings at any stage of an investigation or holds a public hearing only if requested by the subject of the hearing. Enter “No” in the scoring cell.
- D. Does the ethics agency have the authority to issue subpoenas? (4 total points possible, 2 per branch)

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- 2 points = Yes, the ethics agency has the authority to issue subpoenas. Enter “Yes” in the scoring cell.
- 1 point = The ethics agency may issue subpoenas, but only with external approval. Enter “Partial” in the scoring cell.
- 0 points = The ethics agency cannot issue subpoenas. Enter “No” in the scoring cell.

Question #2: Will the ethics agency accept anonymous complaints and is the ethics agency required to reveal the name of the complainant to the respondent? (Maximum Scaled Score = 10; 12 raw points possible)

Total scaled score = $(10/12) * ([\text{Raw Score A}] + [\text{Raw Score B}])$

Scoring Q2: If there are separate agencies for the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score.

A. Are anonymous complaints accepted? (6 points possible, 3 per branch)

- 3 points = Yes, the ethics agency accepts anonymous complaints; or only the Inspector General can bring an action before the ethics commission, but the Inspector General accepts anonymous complaints. Enter “yes” in the scoring cell.
- 1 point = Yes, the ethics agency does accept anonymous complaints. However, the ethics agency requires additional information or evidence in order to take formal action or launch a formal investigation; Or, anonymous complaints are accepted but only a sworn complaint gives the complainant procedural rights and protections. Enter “partial” in the scoring cell.
- 0 points = No, the ethics agency does not accept anonymous complaints; or the state does not have an independent ethics agency with jurisdiction over the executive branch. Enter “no” in the scoring cell.

B. Is the name of the complainant kept confidential from the respondent? (6 points possible, 3 per branch)

- 3 points = Yes, the ethics agency is not required to disclose the name of the complainant, and if a copy of the complaint is sent to the respondent, the name of the complainant is redacted. Enter “yes” in the scoring cell.
- 2 points = The ethics agency has the discretion to keep the name of the complainant anonymous if the respondent works for the same agency or employer, or if there is a bona fide threat of violence, or if the complaint is anonymous. Enter “partial” in the scoring cell.
- 0 points = No, the ethics agency sends the respondent a copy of the complaint that includes the name of the complainant; or the state does not have an independent ethics agency; or the ethics agency is not required to disclose the name of the complainant, but it is revealed if the respondent requests it. Enter “no” in the scoring cell.

3. Does the ethics agency have the ability to sanction, including personnel actions, injunctions, and fines? (Maximum scaled score = 10 points; 12 raw points possible)

Total scaled score = $(10/12) * ([\text{Raw Score A}] + [\text{Raw Score B}] + [\text{Raw Score C}])$

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Scoring Q3: If there are separate agencies for the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, then once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency, then give the nonexistent legislative branch ethics agency a 0 score.

A. Personnel Actions (4 total points possible, 2 per branch)

- 2 points - Yes, the ethics agency has independent authority to take personnel actions against a covered official who commits an ethical violation, including termination of any official not subject only to impeachment. Enter “Yes” in the scoring cell.
- 1 point - The ethics office can suspend, demote, censure, or reprimand a covered official OR it can take action with respect to a limited category of persons. Enter “Partial” in the scoring cell.
- 0 points - No, the ethics agency can only make recommendations to the appointing or supervisory. Enter “No” in the scoring cell.

B. Injunction (4 total points possible, 2 per branch)

- 2 points = Yes, the ethics agency has independent authority to enjoin a covered official who commits an ethical violation. Enter “Yes” in the scoring cell.
- 1 point = The agency is granted limited and specific authority to enjoin a covered official who commits an ethical violation, such as with a compliance order or a restriction on future state employment or contracts. Enter “Partial” in the scoring cell.
- 0 points = No, the ethics agency lacks independent authority to enjoin, in any way, a covered official who commits an ethical violation. Enter “No” in the scoring cell.

C. Fines (4 total points possible, 2 per branch)

- 2 points = Yes, the ethics agency has independent authority to impose fines on a covered official who commits an ethical violation. Enter “Yes” in the scoring cell.
- 1 point = The ethics agency may impose fines and civil penalties for only some violations, but not others (ex: late filing fees, or fines for gift rule violations only). Enter “Partial” in the scoring cell.
- 0 points = No, the ethics agency lacks independent authority to fine a covered official who commits an ethical violation. Enter “No” in the scoring cell.

4. Are the members of the ethics agency protected from removal without cause? (Maximum scaled score = 10 points; 10 raw points possible)

Total scaled score = $(10/10) * (\text{Raw Score A})$

Scoring Q4: If there are separate agencies for the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score.

A. Protection (10 total points possible, 5 per branch)

- 5 points = Yes, members of the ethics agency are protected from removal without cause. Either they may not be removed whatsoever OR else they may only be

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removed for cause, and what constitutes “cause” is reasonably tailored to prevent abuse. Enter “Yes” in the scoring cell.

- 2.5 points = In states with multiple agencies covering the branches or different classes of commissioners or committee members, some are protected while some are not. Enter “Partial” in the scoring cell.
- 0 points = No, members of the ethics agency are not protected from removal without cause. Either the statute is silent on removal (and other parts of the code governing personnel actions are not on point) OR members serve “at the pleasure of” the governor (or other appointing authority). Enter “No” in the scoring cell.

Gifts

5. Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from high-risk sources (lobbyists, lobbyists' principals, government contractors) in an aggregate of \$250 or more? (Maximum scaled score = 10 points; 20 raw points possible)

Total scaled score = $(10/20) * (\text{Raw Score A})$

Scoring Q5: If separate agencies administer the gift rules for covered officials in the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score.

- A. Are covered officials prohibited from accepting gifts from high-risk sources (lobbyists, lobbyists' principals, government contractors in the executive branch and lobbyists and lobbyists' principals in the legislative branch) in an aggregate of \$250 or more? (20 total points possible, 10 per branch)
- 10 points = There is a complete prohibition on gifts from high-risk sources, or else there is a cap on aggregate receipts of \$250 or more. There are no loopholes in the gift definition beyond fairly standard exceptions. Enter “Yes” in the scoring cell.
 - 7 points = Covered officials’ gift acceptance turns on an objective test (a reasonable person’s perception of “tendency to influence”) of the gift’s effect on the recipient’s official action OR else they may accept gifts from some high-risk sources, but others are prohibited. Enter “Moderate” in the scoring cell.
 - 3 points = Covered officials’ gift acceptance turns on a subjective test (the gift-giver’s “intent to influence”) OR is subject to a criminal statute only OR there is an annual limit above \$250 OR the gift definition excludes a major category of gifts of \$250 or less OR is not applicable to all covered officials. Enter “Minimal” in the scoring cell.
 - 0 points = There is no source prohibition on gifts from high risk sources AND there is no universal prohibition on gifts from anyone. Enter “No” in the scoring cell.

6. Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from persons other than high-risk sources in an aggregate of \$250 or more? (Maximum scaled score = 10 points; 20 raw points possible)

Total scaled score = $(10/20) * (\text{Raw Score A})$

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Scoring Q6: If separate agencies administer the gift rules for covered officials in the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score.

- A. Are covered officials prohibited from accepting gifts from persons other than high-risk sources in an aggregate of \$250 or more? (20 total points possible, 10 per branch)
- 10 points = There is a complete prohibition on gifts from persons other than high-risk sources OR else there is a cap on aggregate receipts of \$250 or more. There are no loopholes in the gift definition beyond fairly standard exceptions. Enter “Yes” in the scoring cell.
 - 7 points = Covered officials’ gift acceptance turns on an objective test (a reasonable person’s perception of “tendency to influence”) of the gift’s effect on the recipient’s official action OR is subject to a broad category of exceptions. Enter “Moderate” in the scoring cell.
 - 3 points = Covered officials’ gift acceptance turns on a subjective test (the gift-giver’s “intent to influence”) OR there is an annual limit above \$250, or the gift definition excludes gifts of \$250 or less OR is not applicable to all covered officials. Enter “Minimal” in the scoring cell.
 - 0 points = The receipt of at least some types of gifts, as defined, are entirely unrestricted. Enter “No” in the scoring cell.

7. Are elected and appointed executive branch officials and legislators required to publicly disclose gifts that they receive? (Maximum scaled score = 10 points; 20 raw points possible)

Total scaled score = $(10/20) * ([\text{Raw Score A}]$)

Scoring Q7: If separate agencies administer the gift rules for covered officials in the executive and legislative branches, score them separately, iterating through the same part of the rubric for each agency. If one agency has jurisdiction over both branches, score it twice—once for the executive branch cell, once for the legislative branch cell in the scoring chart. If there is no independent ethics agency with jurisdiction over the legislative branch, score the executive branch ethics agency and give the nonexistent legislative branch ethics agency a 0 score.

- A. Are recipients required to publicly disclose gifts that they receive? (20 points possible, 10 per branch)
- 10 points = Yes, full public disclosure of every gift below \$250 in aggregate value. Enter “Yes” in the scoring cell.
 - 5 points = Disclosure of every gift of \$250 or more in aggregate value; or disclosure is required only relating to gifts from certain people or sources OR disclosure is only required of some members of the branch of government. Enter “Partial” in the scoring cell.
 - 0 points = No public disclosure of any gifts (honoraria excluded). Enter “No” in the scoring cell.

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Campaigns

8. Does the state require reporting of contributors to independent spenders? (501(c)'s, PACs, Corporations) (Maximum scaled score = 10 points; 14 raw points possible)

Total scaled score = $(10/14) * ([\text{Raw Score A}] + [\text{Raw Score B}] + [\text{Raw Score C}])$

- A. Does the state require reporting of contributors to independent spenders (501(c)s, PACs, Corporations)?
- 10 points = Yes, disclosure of each contributor's name and address, and the date and amount of contributions of \$250 or less, is required in reports filed by each kind of independent spenders. Enter "Yes" in the scoring cell.
 - 5 points = Only some kinds of independent spenders must disclose contributors OR disclosure excludes one or more of the name, address, date, and amount requirements OR the threshold for disclosure is contributions greater than \$250. Enter "Partial" in the scoring cell.
 - 0 points = Independent expenditure committees and other entities making independent expenditures are not required to report any information about their contributors. Enter "No" in the scoring cell.
- B. If yes, does the state require reporting of the beneficial owners of LLCs that contribute to entities that make independent expenditures?
- 2 points = Yes, Entities making independent expenditures must disclose the beneficial owners of LLCs making contributions to that entity. Enter "Yes" in the scoring cell.
 - 1 point = Beneficial owners may be disclosed under limited circumstances. Enter "Partial" in the scoring cell.
 - 0 points = No additional reporting requirements for LLC contributors. Enter "No" in the scoring cell.
- C. If yes, does the state require reporting of the funders of 501(c) groups that contribute to independent spenders?
- 2 points = Yes, Entities making independent expenditures must disclose the funders of 501(c) organizations making contributions to that entity or 501(c)s are prohibited from making contributions to PACS. Enter "Yes" in the scoring cell.
 - 1 point = 501(c) organization funders may be disclosed under limited circumstances. Enter "Partial" in the scoring cell.
 - 0 points = No additional reporting requirements exist for 501(c) contributors. Enter "No" in the scoring cell.

9. "Does the state require the disclosure of the payors of political advertisements or other electioneering communications to appear directly on the communication made through print media, broadcast media (TV, radio etc.), and Internet-based media (Facebook, Twitter, Google, and other online platforms)?" (Maximum Scaled Score = 10; 6 raw points possible)

Total scaled score = $(10/6) * ([\text{Raw Score A}] + [\text{Raw Score B}] + [\text{Raw Score C}])$

A. Print Media (2 points possible)

- 2 points = Yes, the state requires the disclosure of payors of political advertisements or other electioneering communications on print media with *de*

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de minimis dollar exceptions of \$500 or less. Full points are given to states that require the disclosure of the name of the payor on the advertisement, states that require the disclosure of the name, address, and phone number of the payor on the advertisement, states that require the disclosure of the identity of the payor and the “Top Contributors” to the payor to be listed on the advertisement, and to states that have even more robust disclosure requirements. Enter “yes” in the scoring cell.

- 1 point = The state requires the disclosure of payors of political advertisements or other electioneering communications on print media with a significant exception, such as excluding communications where more than \$500 was spent. Enter “partial” in the scoring cell.
- 0 points= No, the state does not require the disclosure of payors of political advertisements or other electioneering communications on print media. Enter “no” in the scoring cell.

B. Broadcast Media (2 points possible)

- 2 points = Yes, the state requires the disclosure of payors of political advertisements or other electioneering communications on broadcast media with *de minimis* dollar exceptions of \$500 or less. Full points are given to states that require the disclosure of the name of the payor on the advertisement, states that require the disclosure of the name, address, and phone number of the payor on the advertisement, states that require the disclosure of the identity of the payor and the “Top Contributors” to the payor to be listed on the advertisement, and to states that have even more robust disclosure requirements. Enter “yes” in the scoring cell.
- 1 point = The state requires the disclosure of payors of political advertisements or other electioneering communications on broadcast media with a significant exception excluding communications where more than \$500 was spent. Enter “partial” in the scoring cell.
- 0 points= No, the state does not require the disclosure of payors of political advertisements or other electioneering communications on broadcast media. Enter “no” in the scoring cell.

C. Internet-Based Media (2 points possible)

- 2 points = Yes, the state requires the disclosure of payors of political advertisements or other electioneering communications on Internet-based media with *de minimis* dollar exceptions of \$500 or less. Full points are given to states that require the disclosure of the name of the payor on the advertisement, states that require the disclosure of the name, address, and phone number of the payor on the advertisement, states that require the disclosure of the identity of the payor and the “Top Contributors” to the payor to be listed on the advertisement, and to states that have even more robust disclosure requirements. Enter “yes” in the scoring cell.
- 1 point = The state requires the disclosure of payors of political advertisements or other electioneering communications on Internet-Based media with exceptions, such as messages under 200 characters, or excluding communications where more than \$500 was spent. Enter “partial” in the scoring cell.

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- 0 points= No, the state does not require the disclosure of payors of political advertisements or other electioneering communications on Internet-based media. Enter “no” in the scoring cell.

Legislators

10. Do legislators have to disclose client names as part of their financial disclosure reports? (Maximum scaled score = 10 points; 10 raw points possible)

Total scaled score = $(10/10) * ([\text{Raw Score}])$

- 10 points = Yes. Enter “Yes” in the scoring cell.
- 5 points = Some clients must always be disclosed, but not others OR a very narrow class of clients must be disclosed, OR very specific and narrowly defined conditions trigger disclosure (as opposed to disclosure being a routine reporting requirement). Enter “Partial” in the scoring cell.
- 0 points = No. Enter “No” in the scoring cell.