

**LOBBYING AND ADVOCACY ISSUES
UNDER CONNECTICUT STATE CODE OF ETHICS FOR LOBBYISTS
Frequently Asked Questions**

Connecticut's lobbying laws are in place to ensure transparency in government by providing citizens of the state with information about registered lobbyists and persons who spend money on lobbying. In essence, lobbying laws require disclosure of sources and paths of money, but they in no way limit lobbying activities.

The following are common questions related to lobbying activities in Connecticut involving foundations and nonprofits.

Q: What is the definition of "lobbying" under the Connecticut Code of Ethics for Lobbyists ("Code")?

A: "Lobbying" is defined in relevant part as follows: "...communicating directly or soliciting others to communicate with any official or his staff in the legislative or executive branch of government or in a quasi - public agency, for the purpose of influencing any legislative or administrative action ..." General Statutes § 1-91 (11).

Q: If a specific legislative bill is not mentioned in my communication with a public official, is it possible that I may still be involved in influencing legislative action, and, therefore, lobbying?

A: Yes. As noted in Advisory Opinion No. 78-13: The definition of the term "legislative action" "is essentially all-embracing" and, therefore, a "matter need not be before the General Assembly to be within the definition, for communicating with legislators or their staff for the purpose of promoting or preventing the introduction of any matter within the jurisdiction of the General Assembly would also be lobbying. It is irrelevant, then, whether a matter is pending before the legislature when information regarding the matter is provided the legislature."

"Legislative action" is defined as follows: The "introduction, sponsorship, consideration, debate, amendment, passage, defeat, approval, veto, overriding of a veto or any other official action or nonaction with regard to any bill, resolution, amendment, nomination, appointment, report, or any other matter pending or proposed in a committee or in either house of the legislature, or any matter which is within the official jurisdiction or cognizance of the legislature." General Statutes § 1-91 (10).

Q: Are there any specific statutory exceptions to “lobbying”?

A: Yes. Lobbying does not include communications by a party, its representative or an intervenor in a contested case before an executive agency or quasi-public agency; communications by a representative of a vendor acting as a salesperson and not otherwise engaging in administrative lobbying; and communications by attorneys made while engaging in the practice of law and not concerning legislative actions or changes to rules or regulations. Conn. Gen. Stat. §1-91 (11). For specific exceptions to administrative lobbying, please see Regs., Conn. State Agencies § 1-92-42a.

Q: Is it advocacy or lobbying, if staff members of a nonprofit meet (but not at a hearing) with legislators and their staff to inform them about the need for after school programs and additional funding for those programs?

A: If the intent of the nonprofit in furnishing the information “is for the purpose of influencing legislative action, it is lobbying.” Advisory Opinion No. 78-13. Or, as noted in Request for Advisory Opinion No. 3171 (2002) (an informal staff letter), “[a]n explanation to a state legislator regarding the client's project, without any intent to affect the legislator's actions, but rather just to keep the legislator abreast of what is going on in his or her area, is not lobbying. Of course, encouraging the legislator to take a certain legislative position would be legislative lobbying.”

NOTE: There is an exception to the definition of the term “lobbyist” - as opposed to “lobbying” - for “[a]ny individual or employee who receives no compensation or reimbursement specifically for lobbying and who limits his activities solely to formal appearances to give testimony before public sessions of committees of the General Assembly or public hearings of state agencies and who, if he testifies, registers his appearance in the records of such committees or agencies” General Statutes § 1-91 (12) (D); see also Advisory Opinion No. 81-11 (“[a]nyone who confines his lobbying solely to formal appearances before public sessions of governmental agencies, under the circumstances set forth in subsection 1-91 [(12) (D)], General Statutes, ... is not a lobbyist”).

Q: Is it lobbying or advocacy if, either, Foundation staff, legislator, or state agency staff member requests informal meeting to discuss issues that are before the legislature or state agency?

A: It is irrelevant whether the information provided by the Foundation is volunteered or is requested by the legislature or a state agency. What determines whether the Foundation is lobbying is its intent in furnishing the information. If it is for

the purpose of influencing legislative or administrative action, it is lobbying. Conversely, if it is not for the purpose of influencing legislative or administrative action, it is not lobbying.

Q: Is it advocacy or lobbying if Foundation X employee calls state agency staff to determine why Foundation X did not receive specific grant funding?

A: Excluded from the definition of "lobbying" are communications which are for strictly informational purposes. See Regs., Conn. State Agencies § 1-92-42a (e) (exempting from administrative lobbying "contacts with an executive branch or quasi - public agency, whether formal or informal, for informational purposes, including, but not limited to, the application of that agency's rules, regulations, or statutes to a specific fact situation, regardless of whether the contact is initiated by the private party or the agency"). Thus, if Foundation X employee contacts her counterparts at a state agency simply for informational purposes, these communications would not be considered lobbying. See Request for Advisory Opinion No. 3171 (2002) ("[r]epresentation of a... client that includes contacting state agencies to determine if grant funding is available does appear to fall within the 'informational purposes' exception to lobbying"). Of course, encouraging a public official or his or her staff at an executive - branch agency to take a particular administrative position would constitute lobbying.

Q: How is the \$3000 lobbyist registration threshold calculated? For example, if Foundation X has its unpaid trustees lobby the legislature on a specific matter, would their effort be calculated toward the registration threshold?

A: Provided that, in undertaking lobbying activities on the Foundation's behalf, the trustees receive absolutely no compensation or reimbursement of lobbying related expenses (i.e., travel expenses), then the lobbying efforts of the trustees would not be calculated toward the \$3000 threshold.

Q: If Foundation's staff is involved in lobbying efforts, how do you calculate staff's compensation toward the \$3000 threshold?

A: In determining whether the Foundation has reached the \$3000 threshold, you would include the pro-rated value of the staff's salary attributable to lobbying and activities in furtherance of lobbying, and the reimbursement of any lobbying - related expenses.

Q: If my organization is involved in lobbying federal government, including members of the Connecticut Congressional delegation, do I have to be concerned about triggering any provisions of the Connecticut law regarding lobbying?

A: No. If you are involved strictly in federal matters, then nothing under Connecticut law is triggered. If, however, you are soliciting assistance from members of the Connecticut Congressional delegation to communicate with state public officials on your behalf regarding state legislative or administrative action, then such activity will be considered lobbying in Connecticut.

Q: A number of persons (including some who are already registered as lobbyist) form a coalition to advocate/lobby on a single issue. Collectively, as a coalition, the persons at issue expend or agree to expend more than \$3000 on behalf of the coalition. Who has to register as a lobbyist and who has lobbyist reporting obligations?

A: The coalition should register as a client lobbyist. In order to avoid double reporting, members of the coalition that are already registered as lobbyists would not have any reporting obligations on behalf of the coalition; the expenditures on behalf of the coalition must be reported by the coalition. Members of the coalition that do not otherwise lobby do not have to register, provided that the coalition reports any expenditures made by such a member on behalf of the coalition's lobbying efforts (e.g., pro-rata value of time spent monitoring legislation). Regs., Conn. State Agencies § 1-92-49 (a) (5). The coalition members that are already registered as lobbyists should continue to report on their organization's filings any of its lobbying expenditures not made in connection with the coalition. The coalition, in turn, must disclose on its financial report all of the expenditures made on its behalf by the lobbyist/member.

NOTE: Under General Statutes § 1-95 (a) (3), "[i]f the registrant is formed primarily for the purpose of lobbying, it shall disclose the name and address of any person contributing three thousand dollars or more to the registrant's lobbying activities in any calendar year ...". As noted in the OSE regulations: "The word 'primarily,' for purposes of [§ 1 -95 (a) (3)], is construed according to its commonly understood meaning (i.e., chiefly, principally, or in the main.) For example, groups organized around a single issue or piece of legislation ... would be considered 'formed primarily for lobbying.' There shall be a presumption, when over half of a registrant's expenses are used for lobbying or in furtherance of lobbying in any six month period, that the registrant is formed primarily for the purposes of lobbying." Regs., Conn. State Agencies § 1-92-46a.

Based on the foregoing, a coalition that is formed primarily for lobbying must identify all persons who contributed \$3000 or more to coalition's lobbying activities.