Guide to the Code of Ethics for Client Lobbyists

2010

INTRODUCTION

The Connecticut Office of State Ethics (OSE) is an independent regulatory agency for the state of Connecticut, charged with administering and enforcing the Connecticut Codes of Ethics, located in the Connecticut General Statutes, Chapter 10.

The Ethics Codes under the OSE's jurisdiction are comprised of:

- The Code of Ethics for Public Officials (Part I);
- The Code of Ethics for Lobbyists (Part II); and
- Limited jurisdiction over Ethical Considerations Concerning Bidding and State Contracts (Part IV).

This guide provides general, summary information only. The descriptions of the law and the OSE in this guide are not intended to be exhaustive. Please consult Advisory Opinions and Declaratory Rulings on our website or contact the Legal Division of the OSE with any questions regarding interpretation of the law.

For more information on the subjects discussed in this guide, call, write or visit:

Connecticut Office of State Ethics
18-20 Trinity Street
Suite 205
Hartford, CT 06106

860/263-2400
www.ct.gov/ethics

Citizen's Ethics Advisory Board:
G. Kenneth Bernhard, Chairperson (through September 2011)
Thomas H. Dooley, Vice Chairperson (through September 2012)
Ernest N. Abate (through September 2011)
G. Kenneth Bernhard (through September 2011)
Kathleen F. Bornhorst (through September 2012)
Rebecca M. Doty (through September 2011)
General David Gay (Ret.), (through September 2013)
Dennis Riley (through September 2013)
Winthrop Smith, Jr. (through September 2013)
Shawn T. Wooden (through September 2013)

CONTENTS

Office of State Ethics 4

Registration FAQ
- Do I need to register as a lobbyist with the OSE? 5
- With what form should I register? 6
- What type of lobbyist am I? 6
- What financial reports do I need to file and when? 6
- Where can I go for registration or reporting assistance? 7

Client Lobbyist Forms
- Registration 7
- Financial Reports 7
- Amendments and Terminations 8

Online Filing 9

Legislative Receptions 10

Common Transactions
- General Itemization 11
- Providing Necessary Expenses 11
- Valuation of Expenditures 12
- Reimbursement 12
- Notification Requirements 12

Other Considerations
- Document Preservation 13
- Audits 13
- Prohibited Activities 13
- Penalties 13
- Contribution Ban 13

Giving Benefits to State Personnel (Gift Provisions) 14

Additional Information 15

THE OFFICE OF STATE ETHICS (OSE)

The Connecticut Office of State Ethics (OSE) was officially created on July 1, 2005, by Public Act 05-183. The governing body of the OSE is the Citizen's Ethics Advisory Board (CEAB), nine members appointed by the Governor and legislative leadership. The CEAB holds monthly meetings that are open to the public and that are often covered by Connecticut Network (CT-N). A schedule of CEAB meeting dates, times and locations is available on the OSE's Web site, www.ct.gov/ethics.

The OSE is an independent watchdog agency for the state of Connecticut that administers Connecticut General Statutes, Chapter 10, Parts I and II, with limited jurisdiction over Part IV.

Simply put, the OSE educates all those covered by the law (the "regulated community"); provides information to the public; interprets and applies the codes of ethics; and investigates violations of, and otherwise enforces, the codes.

The OSE is made up of the following components:

- Citizen's Ethics Advisory Board
- Executive Director
- Legal Division
- Enforcement Division

THE BIG PICTURE

Lobbying is generally defined as communicating directly or soliciting others to communicate with any official or his/her 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. Conn. Gen. Stat. § 1-91 (k).

Registered lobbyists are covered by Part II of the Code of Ethics (henceforth, Part II, or the Code). (Part I of the Code of Ethics covers public officials and state employees.) Each state agency also has its own ethics policy, which may be more restrictive than what follows, particularly in connection with the benefits a restricted donor (e.g., registered lobbyist) may provide to public officials. Be sure to obtain a copy of the agency's policy before you attempt to provide any benefit to an agency official or employee.

LOBBYIST REGISTRATION FREQUENTLY-ASKED QUESTIONS

Lobbyist generally includes any person who either spends or receives $2,000 or more in a calendar year to communicate with, or to solicit others to communicate with, any official or his or her staff in the legislative or executive branch, or in a quasi-public agency, in an effort to influence legislative or administrative action. Conn. Gen. Stat. § 1-91 (k) and (l).

Do I need to register as a lobbyist with the Office of State Ethics?

You are required by law to register as a lobbyist with the Office of State Ethics (OSE) if you:

- Expend or agree to expend $2,000 or more in a calendar year on lobbying; *OR*
- Receive or agree to receive $2,000 or more in a calendar year for lobbying (including any reimbursements).

This **$2,000 registration threshold** applies to any combination of the following activities:

- *Legislative Lobbying –* any lobbying to affect legislation, including any matter within the cognizance of the legislature, even if you contact an executive branch official as part of your efforts.
- *Administrative Lobbying –* any lobbying to affect the rules or regulations of an executive agency or any other matter within the official cognizance of that agency, also including lobbying to affect the actions of an executive or quasi-public agency regarding a contract, grant, award, purchasing agreement, etc.
- *Activities in Furtherance of Lobbying –* expenditures for research, reports, polls, media buys, activities fostering good will, office expenses, secretarial or paralegal salaries, etc.; essentially the activities that support the actual lobbying efforts.

Note: 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 (k).

See also the exceptions to administrative lobbying, Regs., Conn. State Agencies § 1-92-42a.

If you meet this monetary threshold, you must register with the OSE. Registration must occur biennially (every two years) or prior to the commencement of lobbying, whichever is later.

What form should I use to register with the OSE as a lobbyist?

Client Lobbyists and In-house Communicator Lobbyists register with the ETH-1B form.

Individual and Business Organization Communicator Lobbyists register with the ETH-1A form.

What type of lobbyist am I?

A **Client Lobbyist** is the party *paying* for lobbying services on its behalf. In other words, the client lobbyist is expending or agreeing to expend the threshold amount of $2,000 in a calendar year. Conn. Gen. Stat. § 1-91 (u). This guide speaks specifically to statutes and regulations regarding client lobbyists.

A **Communicator Lobbyist** *receives payment* and does the actual lobbying legwork (i.e., communicating or soliciting others to communicate). Conn. Gen. Stat. § 1-91 (v). A communicator lobbyist receives or agrees to receive $2,000 for lobbying activities in a calendar year. A communicator lobbyist can be:

1. An individual; or
2. Member of a Business Organization (e.g., a firm or association that is owned by or employs a number of lobbyists), Conn. Gen. Stat. § 1-91 (t); or
3. In-house Communicator (a lobbyist who is a salaried employee of a Client Lobbyist).

There is a separate guide written specifically for communicator lobbyists, which is available on the OSE's Web site: www.ct.gov/ethics.

What financial reports do I need to file and when?

In addition to the registration form(s), registered lobbyists need to file periodic financial reports.

Client Lobbyists file the **ETH-2D** form. This form gathers information such as compensation, sales tax and money expended in connection with lobbying; expenditures benefiting a public official or his/her staff or immediate family; all other lobbying expenditures; and the fundamental terms of any lobbying contract or agreement. Conn. Gen. Stat. § 1-96 (e).

The ETH-2D is filed **quarterly**, between the 1st and 10th day of the months of April, July and January (the 3rd and 4th quarters are combined). Conn. Gen. Stat. § 1-96 (a).

The ETH-2D must be filed monthly (by the 10th day of the month following the last day of the month reported) *IF*:

- The Legislature is in regular session; *and*
- You have expended or agreed to expend $100 or more in legislative lobbying.

More details regarding client lobbyist filings are found later in this guide.

Where can I go for assistance with registration and financial filings?

OSE's dedicated staff is readily available to assist you with the registration and filing process. Please contact our office at 860-263-2400, Monday-Friday, 8:30 a.m. – 5:00 p.m. Additionally, the OSE has established an e-mail address specifically for your registration and reporting questions. Please send an e-mail to lobbyist.OSE@ct.gov for written guidance or response.

CLIENT LOBBYIST FORMS

Registration (Conn. Gen. Stat. § 1-95.)
Once you meet the definition of client lobbyist, you must register with the OSE. Should your registration fall in an odd-numbered year, the fee is $150 and the registration is good for two years. Should you register in an even-numbered year, your registration will last for a one-year period, with a $75 fee.

Registration is due by January 15 or prior to the commencement of lobbying activity (whichever is later).

Client lobbyists and in-house communicator lobbyists register with the **ETH-1B** form.

Financial Reports (Conn. Gen. Stat. § 1-96.)
Client lobbyists must periodically report the following to the OSE, using the ETH-2D form:

- Compensation, sales tax and money expended in connection with lobbying;
- Expenditures benefiting a public official or his/her staff or family member;
  - Include payments for all occasions or transactions that are in furtherance of lobbying, including payments for your communicator lobbyists to attend such occasions.
  - Also report expenditures for a public official unrelated to lobbying, see Advisory Opinion 1998-24.
- All other lobbying expenditures (research, reports, polls, etc.); and
  - Including media communications referring to pending or active legislative or administrative action; payments to in-house personnel for any solicitations of outside persons to communicate with a public official for the purpose of influencing legislative or administrative action; the pro rata value of office expenses in furtherance of lobbying (i.e., clerical/paralegal services, telephone usage, postage, etc.); and pro rata salary of employees who lobby but are not required to register.
- Fundamental terms of lobbying contracts or agreements.

As noted above, these financial reports are due **quarterly**, with the third and fourth quarters filed together, *whether or not the registrant engages in lobbying during the reporting period.*

Each client registrant, on the **first financial report** following registration, must disclose any expenditures incident to lobbying which were made prior to registration and not previously reported. Conn. Gen. Stat. § 1-96 (e).

Monthly reports are required when:

- The Legislature is in regular session; and
- A client lobbyist expends or agrees to expend $100 or more in legislative lobbying.

Note that monthly reports are not required for administrative lobbying.

Amendments/Terminations

The procedure for amending or terminating your registration is straightforward in the online filing system. Simply log into your lobbyist filing system account and pick the appropriate registration form from your dashboard. Note that amendments that add a communicator lobbyist include the payment page for the corresponding fees.

Amendments must be filed if there is a change in your lobbying activities, such as changes to fundamental contract terms including any agreements to subcontract lobbying work. After your amendment has been filed to the State, the online system will show the date and time of the amendment, as well as the person who made the amendment.

You must file a notice of termination within 30 days after you cease the activity that first triggered registration and you do not intend to resume such activity for the remainder of the 2-year registration period. Conn. Gen. Stat. § 1-95 (c).

It is important to remember that a post-termination report is due between January 1 and January 10, whether or not you engage in lobbying activities or make expenditures during that period. This report covers the period from the termination date through December 31 of the year in which termination took place. Conn. Gen. Stat. § 1-96 (d).

Note: If you have terminated and, in the year subsequent to your termination, expend monies incident to prior lobbying or expend $10 or more for the benefit of a public official, his/her staff or family member(s) within six months of terminating, you must file a report with the OSE within 30 days. Conn. Gen. Stat. § 1-96 (g).

In **Advisory Opinion 2008-7**, the Citizen's Ethics Advisory Board concluded that a communicator lobbyist who terminates his or her registration during a calendar year is no longer a registrant, but remains a communicator lobbyist for the remainder of that year for the purposes of the election statute.

ONLINE FILING

Registration

General Statutes § 1-96b requires online filing. In order to file electronically, you must become a registered user by requesting a username and password for the lobbyist filing system. To create a username and password, please visit www.ct.gov/ethics and select "Lobbyist Filing System" on the left-hand side of the page. Click on "New Lobbyist Filing System," then "New User." After completing and submitting the form, you will receive an e-mail containing a username and password, which will allow you to access the system. Once you are logged into the system, you may file an ETH-1A or ETH-1B registration by selecting the form on the left-hand side and clicking "Create." Please be advised that payment options for registration are check or credit card (Visa or MasterCard only).

Reporting

Once registered, you have additional filing responsibilities. You must file all reports online. You must also file amendments and terminations online.

Electronic Signatures

An electronic signature satisfies the signature requirement of the Code of Ethics. Registrants who file online reports and who submit electronic signatures are considered to have duly "signed" the report. (Pursuant to §§ 1-272 (d), 1-274 (a) and 1-276 of the Connecticut Uniform Electronic Transactions Act.)

Information

All disclosed information is available to the public in a variety of formats. Access to this information is available from our Web site in the lobbyist registration portal. Commonly used reports include the lobbyist list, terms of compensation, concern/interest grouping, expenditure for the benefit of a public official, client financials and client demographics.

LEGISLATIVE RECEPTIONS

What are Legislative Receptions? (Conn. Gen. Stat. § 1-91 (g) (10) and (11).)

- Registered lobbyists may hold a legislative reception for General Assembly members, per the gift exceptions discussed later in this guide.
- There are two types of legislative receptions. Lobbyists may choose to hold ***one or the other*** per calendar year – not both.
- The first type is a publicly-noticed* legislative reception to which all members of the General Assembly are invited.
    - This is permitted once per calendar year.
    - Cost may not exceed $49.99 per person for food and beverage.
- The second type is a publicly-noticed regional reception to which all General Assembly members from a particular region in the state are invited.
    - This is permitted once per calendar year.
    - Cost may not exceed $49.99 per person for food and beverage.
    - Note: This type is for a regional group hosting a regional reception. This type is ***not*** to be used for a state-wide organization to host two receptions in a year.

Related Itemization on Financial Reports (Conn. Gen. Stat. § 1-96 (e).)

- Legislative receptions must be itemized on lobbyist financial reports when:
    - The cost per person is $30 or more.
- This holds true for both types of receptions described above.

Associated Notification Requirements (Conn. Gen. Stat. § 1-96d.)

- If you know that a legislative reception will result in itemization per the requirements above (i.e., $30 or more per person), you must:
    - Include on the invitation or published notice that the event is expected to be reportable as such.

* It is the opinion of the Citizen's Ethics Advisory Board that the requirement that legislative receptions be "publicly noticed" is satisfied by publishing the event in the Connecticut General Assembly's Bulletin or in the interim Bulletin. When those options are not available, notice should be published in a newspaper, circulating either statewide or regionally, depending on the nature of the event. See Advisory Opinion 2007-3.

Note that a **charitable or civic event** at which a state servant participates in his or her official capacity carries identical itemization requirements as the above. Conn. Gen. Stat. § 1-96 (e).

COMMON TRANSACTIONS

General Itemization (Conn. Gen. Stat. § 1-96 (e).)

Each expenditure of $10 or more for the benefit of a public official (except for legislative receptions, as noted above, along with charitable and civic events), must be itemized on your financial reports. Specifically, the report requires the following information:

- The nature of the benefit (e.g., a meal) and its date;
- Circumstances (attending lobbyists' names);
- Exact dollar amount expended; and
- Name, title and agency of individual receiving the benefit.

Expenses under $10 are included in the aggregate amount.

Providing Necessary Expenses

You may provide necessary expenses to a public official (which includes the spouse of the Governor) or state employee ***only*** if the official or employee, in his/her official capacity, is actively participating in an event by giving a speech or presentation, running a workshop, or having some other active involvement. (Conn. Gen. Stat. § 1-79 (q).)

Necessary expenses are limited to:

- Travel (coach, or economy class);
- Lodging (standard cost of room for the nights before, of, and immediately following the event);
- Meals; and
- Related conference expenses.

Conn. Gen. Stat. § 1-79 (9).

Entertainment costs (tickets to sporting events, golf outings, night clubs, etc.) are ***not*** necessary expenses. Necessary expense payments also ***do not*** include payment of expenses for family members or other guests.

Within 30 days of providing necessary expenses, a client lobbyist must file a 2D with the OSE indicating the recipient's name and the exact dollar amount. Conn. Gen. Stat. § 1-96e.

When a public official attends an in-state event in his or her official capacity as a principal speaker and receives admission, food or beverage from the event sponsor, the associated costs are not considered a gift and no report is required. Conn. Gen. Stat. § 1-84 (k).

Valuation of Expenditures

In general, the value of an expenditure equals its cost to the lobbyist.

Expenditure = Actual Cost; or

When the cost of an expenditure is artificially low (e.g., a registered lobbyist receives a free ticket to an event), the value of the expenditure is equal to the fair market value of the benefit (e.g., the cost to the public).

Artificially Low Expenditure = Fair Market Value

The value of food and beverage provided to a public official (or members of his/her staff or immediate family) is calculated by dividing the total expenditure by the number of individuals attending the meal or event.

Food and Beverage Value = Total Cost ÷ Number of Individuals Present

EXCEPT:

- When the actual amount expended was based on an anticipated number of attendees, one or more of whom did not attend, you may divide the total expenditure by the number of individuals originally expected; or
- In a restaurant setting, with stated menu prices and individual orders, you may determine the actual benefit received by each individual.

Regs., Conn. State Agencies § 1-92-48 (c).

Reimbursement

An expenditure does not have to be reported if the recipient reimburses you within 30 days or prior to the due date of your next report, whichever is earlier. Reimbursements should be made by check to ensure verification upon audit. Regs., Conn. State Agencies § 1-92-54 (c).

Notification Requirements

Besides the notification requirements for legislative receptions and necessary expenses as noted above, if you give a reportable person anything of value that is subject to itemization (i.e., $10 or more), you must, within 10 days, provide a written report to the recipient stating your name, a description of the item, the value of the item, and the cumulative value of all items provided to the same recipient in that calendar year. This provides a valuable check or reminder for both parties of the aggregate limits. Conn. Gen. Stat. § 1-97 (d). A courtesy form is available for this notification on the OSE's Web site, in the "Forms" section.

OTHER CONSIDERATIONS AND CODE REQUIREMENTS

Document Preservation

Keep all of your accounts, bills, receipts and any and all other documents necessary to substantiate your reports for a period of **three years** from the date the report was filed with the OSE. It is also a good idea to keep a copy of the report itself. Conn. Gen. Stat. § 1-96a.

Audits

Pursuant to Connecticut General Statutes § 1-96a (b) and Regulations of Connecticut State Agencies § 1-92-56 (a), the Chair of the Citizen's Ethics Advisory Board shall periodically select client registrants to be audited by the Office of State Ethics. Selection ceremonies are open and publicly noticed.

Prohibited Activities (Conn. Gen. Stat. § 1-97.)

Contingency Fees – No person may be employed as a lobbyist for compensation that is contingent upon the outcome of any administrative or legislative action.

Public Official's Personal Obligation – No lobbyist may do anything with the purpose of placing any public official under personal obligation.

Lobbyist Employment – No lobbyist may attempt to influence any legislative or administrative action for the purpose of thereafter being employed to secure its defeat.

Communication/Information – No lobbyist may cause any communication to be sent to a public official in the name of any other individual except with the consent of such individual. Further, no person shall take or threaten to take official action against an individual for disclosing information to the OSE.

Penalties (Conn. Gen. Stat. § 1-99.)

Individuals may be subject to a penalty of $10,000 for each violation of the Code of Ethics. Failure to file required reports can result in a fine of up to $10,000, accrued at a rate of $10 per day for each delinquent report.

Intentional violation of the Code of Ethics can result in a prohibition from engaging in the profession of lobbying for a period of two years.

Sessional Ban on Lobbyist Contributions (Conn. Gen. Stat. § 9-610 (e).)

Registered lobbyists and their affiliated political action committees (PACs) are banned from soliciting or donating to political campaign contributions. Specifically, there is a temporary ban while the General Assembly is in session that applies to all registered client lobbyists and their affiliated PACs. Please contact the State Elections Enforcement Commission at 860-256-2940 for more information.

GIVING BENEFITS TO STATE PERSONNEL

Gifts

As a registered lobbyist, you are considered to be a **restricted donor**. In general, public officials, state employees and candidates for public office may not accept gifts from restricted donors.

A **gift** is defined as anything of value that is directly and personally received by a public official or state employee (or sometimes family members of those two categories) *unless* consideration of equal or greater value is provided. Conn. Gen. Stat. § 1-91 (g).

Gift Exceptions

There are, however, certain exceptions to this definition of gift. Not all exceptions are covered below; see Conn. Gen. Stat. § 1-91 (g) (1) – (17) for the complete list.

- *Token Items –* Restricted donors such as client lobbyists may provide any item of value that is not more than $10 (such as a pen, mug, or inexpensive baseball cap) to a public official or state employee, provided that the annual aggregate of such items to a single beneficiary is $50 or less. Conn. Gen. Stat. § 1-91 (g) (16).

- *Food and Beverage –* Restricted donors may also provide less than $50 worth of food and beverage in a calendar year to a public official or state employee, provided that the restricted donor or his/her representative is in attendance when the food and/or beverage is being consumed. Conn. Gen. Stat. § 1-91 (g) (9).

- *Major Life Events –* Registered lobbyists are the only restricted donors who may make use of this exception. There is a $1,000 limit on a gift a registered lobbyist gives to a public official, state employee or a member of that official or employee's family for the following major life events: wedding, funeral, birth or adoption of a child, ceremony commemorating induction into religious adulthood, or retirement from state service. Regs., Conn. State Agencies § 1-92-53.

- *Gifts to the State –* Restricted donors may provide what are typically referred to as "gifts to the state." These gifts are goods and services provided to a state agency or quasi-public agency for use on state or quasi-public agency property or that support an event, and which facilitate state or quasi-public agency action or functions. Conn. Gen. Stat. § 1-91 (g) (5).

- *Other Exceptions –* There are a total of 17 separate gift exceptions in the Code. Also exempt from the definition of gift are items such as informational materials germane to state action, ceremonial plaques or awards costing less than $100, or promotional items, rebates or discounts also available to the general public. Legislative receptions, discussed in detail above, are exceptions to the definition of gift, as are gifts given by a restricted donor to members of his/her immediate family. See Conn. Gen. Stat. § 1-91 (g) (1) – (17).

Splitting Costs

Two or more lobbyists may split the cost of a meal worth ***up to $49.99 only*** for a public official or state employee. Similarly, lobbyists may split the cost of a gift worth ***up to $10 only***.

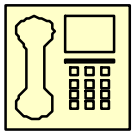
It is not permissible to circumvent the food and beverage or other gift exception limitations by splitting the cost of more expensive meals or items.

FOR MORE INFORMATION

This guide provides general information only. The descriptions of the law and the OSE in this guide are not intended to be exhaustive. For more information regarding the Code of Ethics as it pertains to client lobbyists, please contact the Legal Division of the Office of State Ethics, Monday – Friday, 8:30 a.m. to 5:00 p.m.

Office of State Ethics
18-20 Trinity Street
Hartford, CT 06106-1660

T: 860/263-2400
F: 860/263-2402
www.ct.gov/ethics



Specific Contacts:

Questions or advice regarding the Ethics Codes: Ethics.Code@ct.gov
Lobbyist filing/reporting questions: lobbyist.OSE@ct.gov
Public official filing/reporting questions: SFI.OSE@ct.gov
Enforcement questions: Ethics.Enforcement@ct.gov
All other inquiries: ose@ct.gov

January 2010