
The Louisiana Code of Governmental Ethics & The Lobbyist Disclosure Acts



Association of Louisiana Lobbyists

November 3, 2008

The Board of Ethics

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Duties of the Board of Ethics

- Administers and Enforces the Ethics Code.
 - Issues advisory opinions
 - Conducts investigations
 - Conducts public hearings
 - Administers the Campaign Finance Disclosure Act.
 - Administers the Lobbyist Disclosure Acts.
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The Lobbyist Disclosure Acts

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- **Legislative Lobbyist Disclosure Act (La. R.S. 24:50 *et seq.*)**
 - **Executive Branch Lobbyist Disclosure Act (La. R.S. 49:71 *et seq.*)**
 - **Purpose:**
 - to maintain the integrity of the legislative process and executive branch action in state government; and,
 - to disclose to the public the identity of persons who attempt to influence the legislative process as well as executive branch officials and to keep track of the expenditures made by those persons.
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Who is a Legislative Lobbyist?

- A **Legislative Lobbyist** means either of the following: (a) any person who is employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the principal duties of such employment or engagement; (b) any person who acts in a representative capacity and makes an expenditure.
 - However, “lobbyist” **shall not mean** any person who does not make any direct act or have any direct communication with a legislator for the purpose of influencing the passage or defeat of any legislation.
 - “**Principal duty**” means any duty which is expected to account for twenty percent or more of a person's time in fulfilling the terms of his engagement or any duty which is expected to account for twenty percent or more of a person's time in any given year in performing the responsibilities of his employment.
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What is Legislative Lobbying?

- **“Lobbying”** or **“to lobby”** means any of the following: (a) any direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation; (b) any preparation or research specifically intended, at the time it is performed, for use in or in support of any ongoing or planned direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation, and (c) conducting or attending a meeting the purpose of which is to discuss direct communication with a legislator to aid in influencing the passage or defeat of any legislation.
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Who is an Executive Branch Lobbyist?

- An Executive Branch Lobbyist is:
 - Any person who acts in a representative capacity and makes and expenditure
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What is Executive Branch Lobbying:

- “Lobbying” or “to Lobby”: means any direct act or communication with an executive branch official, the purpose of which is to aid in influencing an executive branch action.
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The responsibilities of a “Registered Lobbyist” -

- **Registration**

- A lobbyist must register with the Board within 5 days of employment as a lobbyist; or
- Within 5 days after the first action requiring registration as a lobbyist.

- **Supplemental Registration Forms**

- Must be filed within 10 days of termination of employment or representation of any person, or
- Within 5 days of taking an additional representation or any other changes (such as contact information).

- **Reporting**

- Lobbying Expenditure Reports MUST be filed twice a year: August 15 for the period covering January 1 - June 30; and February 15 for the period covering July 1 - December 31.

Penalties for Non-Compliance

- **Late fees of \$50 per day, up to maximum of \$1500:**
 - Failure to Register or timely Register, or failure to timely file any Expenditure Report:
 - A report is considered timely filed when it is hand-delivered, faxed, mailed, deposited for delivery with a commercial delivery service, or electronically filed on or before the due date. Failure to renew your lobbyist registration each year results in automatic termination.
 - Penalties may also be imposed for the failure to accurately file.
 - **Up to \$10,000 Penalty in addition to any late fee:**
 - If the Registration or Report is filed 11 or more days late.
 - **Censure by the Legislature and prohibited from lobbying for 30 days to 1 year**
 - **Void contract**
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Who is Considered an “Executive Branch Official”

- An elected official, appointed official, or an employee of an Executive Branch Agency.
 - Executive branch agency means the state, any state office, department, board, commission, institution or any quasi public entity created in the Executive Branch of State Government.
 - The Board has a list of all Executive Branch Agencies located on its website
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“Public Servants”

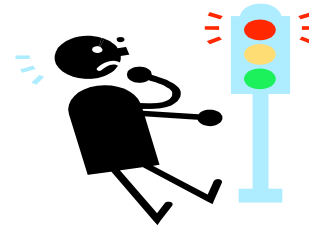
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- The Ethics Code applies to “Public Servants”
 - Elected Officials
 - Public Employees
 - Public employees are persons in the furtherance of a governmental function whether compensated or not.
 - **Legislators and Executive Branch Officials are considered to be “Public Servants” and are bound by the restrictions contained in the Ethics Code.**
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LSA-R.S. 42:1115 – Gifts

- A public servant may NOT accept anything of economic value, directly or indirectly, as a gift from someone who is considered a prohibited source.



“Prohibited Source”



■ For Elected Officials:

- ❑ A person who has or is seeking a contractual, business, or financial arrangement with your agency. [R.S. 42:1115A(1)]
- ❑ Someone who, for compensation, attempts to influence any legislation or ordinance of the elected body.

■ For Public Employees: (In addition to the prohibited sources listed above, the following two categories)

- ❑ A person who conducts activities which are regulated by the public employee's agency. [R.S. 42:1115B(1)]
- ❑ A person who has a substantial economic interest that can be affected by the performance or non-performance of the public employee's job duties. [R.S. 42:1115B(2)]

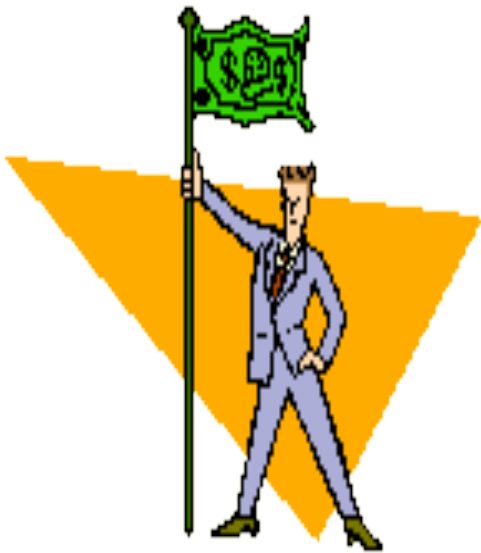
“Thing of Economic Value”

- ❑ Means money or *any thing* having economic value., **EXCEPT:**
 - ❑ Promotional items having no substantial resale value;
 - ❑ Food and drink consumed while the guest of the giver;
 - ❑ \$50 cap on food and drink purchased per event.
 - ❑ No cap for national or regional organization or meeting of statewide organization of governmental officials or employees.
 - ❑ Admission to a civic, non-profit, educational or political event if the public servant is an honoree or speaker;
 - ❑ For Legislators, food, refreshments, and lodging reasonably related to making a public speech and reasonable transportation from his home, or the capitol, to the site of the speaking engagement. Section 1123(16)

The Giver of a Prohibited Gift

- The giver of a prohibited gift to a public servant violates the Code of Governmental Ethics and may be subject to enforcement proceedings. [R.S. 42:1117]
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LSA-R.S. 42:1111 – Prohibited Income



- A public employee may not render compensated services to or for a prohibited source.
[R.S. 42:1111C(2)(d)]

LSA-R.S. 1111 – Prohibitions on Income



A Public Servant may not receive:

Anything of economic value for the performance of his official duties and responsibilities, other than his salary and related benefits from his governmental entity to which he is duly entitled. [R.S. 42:1111A(1)]

Campaign Contributions:

- ◆ Campaign contributions to a legislator fall under the Campaign Finance Disclosure Act and are reportable by the candidate not the Lobbyist.
 - ◆ Remember that Lobbyists may not make campaign contributions during a legislative session.
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Changes to the Lobbyist Disclosure

Acts:

Effective January 1, 2009.

- **Definition** of "Expenditure" will change January 1, 2009. It will now mean **ALL** payments made on food and drink, even those less than \$10, and those amounts spent on legislators or executive branch officials spouses, or minor children.
 - Account for the name of each person by whom he is paid or is to be paid, the **amount he is paid or is to be paid (*by category*) for the purpose of lobbying**, and a characterization of such payment as *paid, earned but not received, or prospective*.
 - A lobbyist must "**reasonably allocate**" his compensation and report only that amount paid to lobby.
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January 1, 2009 changes (continued):

- Indication of potential subject matters to be lobbied, by listed category.
 - The identity of each legislator, or executive branch official (from a list) or spouse with whom he or his employer has, or has had in the preceding twelve months, a business relationship. "business relationship" means any transaction, contract, or activity that is conducted or undertaken for profit and which arises from a joint ownership interest, partnership, or common legal entity between a lobbyist or his employer and the public servant for spouse who owns ten percent or more of such interest, partnership, or legal entity
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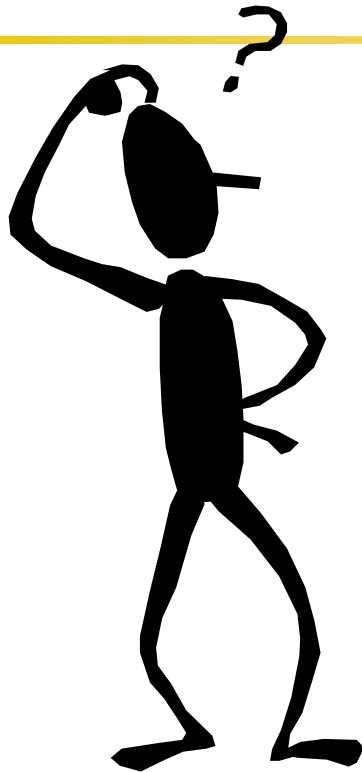
January 1, 2009 changes (continued):

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- Monthly Electronic filing of lobbying expenditure reports will be mandatory. Filing will be due by the 25th of the month. (excluding February, 2009)
 - Reports will include the aggregate amount of expenditures on legislators and executive branch officials – by name – as well as expenditures made on the spouse and minor children of the public servant.
 - Expenditures on the staff of the legislature will also be disclosed on the reports.
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January 1, 2009 changes (continued):

- The staff must notify a lobbyist of their incorrect, or failure to file expenditure reports and give them a 14 day window to correct, without penalty.
 - Filing with knowledge of falsity is punishable by the DA as misdemeanor. The legislature shall publish the names of the lobbyists who have filed reports with knowledge of their falsity.
 - Three year requirement to keep records that document all of the information in the reports filed.
 - There will be one form for both Executive and Legislative Lobbying.
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Where to Get More Information



- Ethics Website:
www.ethics.state.la.us
- *Ethics Quarterly* Newsletter
- Informal Advice:
(225) 763-8777 or (800) 842-6630