

Date: March 8, 2013
To: Ron Bersin, Director
Oregon Government Ethics Commission (OGEC)
From: Marla Rae *MR*
Oregon Capitol Club
Copy: Paul Cosgrove
Capitol Club President
Re: Staff Opinion Request

We have appreciated the accessibility of the OGEC and your staff to help with training and being accessible to answer questions. Thank you.

On behalf of the Oregon Capitol Club, we request a Staff Opinion on the hypothetical examples outlined below.

Before posing these examples, we hope that you and all OGEC staff know that the Capitol Club works mightily to promote professionalism among legislative advocates and that we have standards of conduct that are imposed on our members, including abiding by all government ethics laws and rules.

We all rely on the definition of "lobbying" as set out in ORS171.725 (8):

"Lobbying" means influencing, or attempting to influence, legislative action through oral or written communication with legislative officials, solicitation of executive officials or other persons to influence or attempt to influence legislative action or attempting to obtain the goodwill of legislative officials.

We also understand that the OGEC staff relies on Attorney General Opinion No. 8259 (1998) in interpreting the definition of "lobbying."

In OGEC training sessions and in communications with individuals, we have received conflicting information concerning reportable expenditures. Moreover, the information we are now receiving is inconsistent with many years of interpretations of ORS 171.725(8) regarding lobbyist expenditure reporting.

Here are six hypothetical situations. In each situation, the lobbyist is registered with OGEC and files quarterly expenditure reports.

Hypothetical #1: Lobby/Lobby

Jill and Jack both are registered lobbyists. Jack and Jill go to lunch to discuss legislative measures of mutual interest. No legislators or legislative staff members are present. Jack and Jill each pay for their own lunch. Are Jack and Jill each required to report the amount each expended for food?

Hypothetical #2: Lobby/Client

Ted is a lobbyist for client, Myrna. Ted and Myrna meet for breakfast to review the bills being tracked for the client. They generally discuss legislative activities. The discussion between Ted and Myrna evolves into strategies about opposing and supporting certain legislative bills. Ted picks up the tab for breakfast. Is Ted required to report the amount he expended for food with his client?

Hypothetical #3: Group of Lobbyists

Larry, Moe and Ralph sit down together for lunch at Capitol coffee shop. Each buys their own lunch. Quite naturally, the conversation involves legislative activities. The conversation among Larry, Moe and Ralph evolves into developing a plan to try to defeat a particular bill. As a result, are Larry, Moe and Ralph required to report the expense of their lunch?

Hypothetical #4: State Agency Staff

Andy is a state agency administrator and is a registered lobbyist. Andy arranges a lunch meeting at a local pizza place with his co-workers to develop strategies to help pass a particular piece of legislation. Each attendee, including Andy, pays for his/her lunch-size pizza. Is Andy required to report his expense for lunch with co-workers?

Hypothetical #5: Same Firm

Harry and Sally work for the same lobbying firm. They meet for breakfast to compare notes on bills for the multiple clients that the firm represents. Harry and Sally spend some time discussing how to kill/promote a particular piece of legislation. Sally, who wants to suck up to her boss, picks up the tab for breakfast. Is Sally required to report this expense?

Hypothetical #6: Family

This actually is not a hypothetical. Within the lobby community, there are several family partnerships: spouse and spouse; father and son(s); father and daughter; and brother and brother.

When members of these family partnerships go out for meals/drinks – with no legislative and executive official present – and the purpose of the meal/drink is to craft lobbying strategies, are these expenses that are required to be reported?

We all seek to comply fully with the OGEC reporting requirements and want to be certain about the extent of those requirements. If you need any clarification or additional information, please contact me or Paul Cosgrove.

Thank you for your prompt attention to our request.