

State of Minnesota
Campaign Finance & Public Disclosure Board
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**THE FOLLOWING PUBLICATION DOES NOT IDENTIFY THE
REQUESTER OF THE ADVISORY OPINION, WHICH IS NON-PUBLIC DATA**
under Minn. Stat. § 10A.02, subd. 12(b)

RE: Reporting of Lobbying Disbursements

ADVISORY OPINION 392

SUMMARY

Compensation paid to a lobbyist is not included in the calculation of lobbying disbursements and is not separately disclosed in a Lobbyist Disbursement Report.

FACTS

As a lobbyist registered with the Campaign Finance and Public Disclosure Board (the Board), the requestor asks for an advisory opinion based on the following facts:

1. Registered lobbyists are required to either file Lobbying Disbursement Reports for each association or individual they represent, or designate a “reporting lobbyist” who will be responsible for reporting the lobbying disbursements for the lobbyists registered for a particular association or individual. Lobbying Disbursement Reports require the lobbyist to indicate if the lobbyist or the lobbyist’s employer has been paid more than \$500 in the calendar year in salary or fees as compensation for lobbying.
2. Lobbyist Disbursement Reports contain a “Schedule A” for the disclosure of total lobbying disbursements by nine specific categories. As of the date of this advisory opinion line one of Schedule A is “Preparation and distribution of lobbying materials”. The requestor believes that there is an ambiguous relationship between this disbursement category and the question of whether the lobbyist or the lobbyist’s employer was paid more than \$500 in a calendar year in salary or fees as compensation for lobbying. In order to accurately report lobbying disbursements to the Board the requestor asks the following questions.

ISSUE ONE

Is the declaration by the lobbyist as to whether the lobbyist or their employer was paid more than \$500 in salary or fees as compensation for lobbying in the calendar year related to that portion of Schedule A which requires the reporting of lobbying disbursements for the preparation and distribution of lobbying materials?

OPINION

No. The purpose for determining if the lobbyist or the lobbyist's employer was paid more than \$500 as compensation for lobbying in the calendar year is to determine if the lobbyist is representing a "lobbyist principal". A lobbyist principal is defined in Minnesota Statutes, section 10A.01, subdivision 33, in part as an individual or association that spends more than \$500 in any calendar year to engage a lobbyist, compensate a lobbyist, or authorizes the expenditure of money by a lobbyist.

Lobbyist principals do not register with the Board. Lobbyist principals are identified through lobbyist registrations and reports. Once identified as a lobbyist principal, the individual or association is notified of the requirement to file the Annual Report of Lobbyist Principal which discloses the total amount spent by the principal on lobbying activities in the preceding year.

ISSUE TWO

Should the total amount of lobbying disbursements for "preparation and distribution of lobbying material" disclosed on the two yearly Lobbyist Disbursement Reports equal the lobbying salary paid to the lobbyist during the year?

OPINION

No. The compensation paid to a lobbyist for the lobbyist's own services are excluded from the amount disclosed in any lobbying disbursement category. Minnesota Rules 4511.0700, subpart 1, provides that "Compensation paid to a lobbyist for lobbying is not reportable by the lobbyist as a lobbyist disbursement".

The compensation paid to a lobbyist for lobbying services is included in the total amount spent on lobbying as reported by the lobbyist principal on the Annual Report of Lobbyist Principal. (Minnesota Rules 4511.0700, subpart 2)

ISSUE THREE

Does the disclosure of lobbying disbursements for "preparation and distribution of lobbying material" in Schedule A apply only to payments made to outside vendors (not for work performed by the lobbyist or the lobbyist support staff)?

OPINION

No. The amount spent on the disbursement category “Preparation and distribution of lobbying materials” includes the entire cost of preparation and distribution of lobbying materials including the cost of materials, internal staff time, outside vendor fees, and any other assorted costs other than compensation paid to the lobbyist for lobbying. The inclusive nature of all disbursement categories in Schedule A is provided in Minnesota Rules 4511.0100, subpart 4, which states: “Lobbyist’s disbursements” include all disbursements for lobbying made by the lobbyist, the lobbyist’s employer or employee, or any person or association represented by the lobbyist, but do not include compensation paid to the lobbyist.”

ISSUE FOUR

Is the salary or fees paid to a lobbyist as compensation for lobbying reportable as a lobbyist disbursement?

OPINION

No. As provided in the opinions under issues two and three, lobbyist compensation is not reportable as a disbursement.

ISSUE FIVE

Are the terms “lobbying” and “lobbyist’s disbursements” as used by the Board defined?

OPINION

Yes. The terms are defined in Minnesota Rules 4511.0100, subparts 3 and 4. The disclosure reports provided to the lobbying community and Board publications provided to the public rely on and reflect the definitions provided in both Statute and Administrative Rule. Pursuant to Minnesota Statutes, section 14.38, adopted administrative rules have the force and effect of law.

ISSUE SIX

Lobbyist principals report expenditures in \$20,000 increments. If a lobbyist principal spends, for example, \$5,000 on lobbying in a given year should the lobbyist principal round the expenditure up to \$20,000 on the Annual Report of Lobbyist Principal?

Cited Statutes and Administrative Rules

10A.01 Definitions.

Subd. 33. **Principal.** "Principal" means an individual or association that:

- (1) spends more than \$500 in the aggregate in any calendar year to engage a lobbyist, compensate a lobbyist, or authorize the expenditure of money by a lobbyist; or
- (2) is not included in clause (1) and spends a total of at least \$50,000 in any calendar year on efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units, as described in section 10A.04, subdivision 6.

10A.04 Lobbyist reports.

Subd. 6. **Principal reports.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year.

- (b) The principal must report the total amount, rounded to the nearest \$20,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units.
- (c) The principal must report under this subdivision a total amount that includes:
 - (1) all direct payments by the principal to lobbyists in this state;
 - (2) all expenditures for advertising, mailing, research, analysis, compilation and dissemination of information, and public relations campaigns related to legislative action, administrative action, or the official action of metropolitan governmental units in this state; and
 - (3) all salaries and administrative expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state.

4511.0100 DEFINITIONS.

Subp. 3. **Lobbying.** "Lobbying" means attempting to influence legislative action, administrative action, or the official action of a metropolitan governmental unit by communicating with or urging others to communicate with public officials or local officials in metropolitan governmental units. Any activity that directly supports this communication is considered a part of lobbying.

Subp. 4. **Lobbyist's disbursements.** "Lobbyist's disbursements" include all disbursements for lobbying made by the lobbyist, the lobbyist's employer or employee, or

any person or association represented by the lobbyist, but do not include compensation paid to the lobbyist.

4511.0600 REPORTING DISBURSEMENTS.

Subp. 5. **Specific disbursement categories.** Disbursements must be reported based on the categories in items A to I.

A. "Lobbying materials" includes the cost of production, purchase, or other acquisition of materials that directly support lobbying.

B. "Media costs" includes the cost of media space or time used for lobbying activities. The cost of preparation of materials for use in the media is reported in the lobbying materials category.

C. "Telephone and communications" includes costs for local and long-distance telephone services, electronic mail, pagers, cellular telephones, facsimile distribution services, telegraph, and other communications services.

D. "Postage and distribution" includes costs of postage from the United States Postal Service as well as other distribution costs associated with lobbying activities.

E. "Fees and allowances" includes fees for consulting or other services as well as expenses associated with those services.

F. "Entertainment" includes costs of all entertainment associated with any situation where lobbying activities take place.

G. "Food and beverages" includes costs of all food and beverages associated with any situation where lobbying activities take place.

H. "Travel and lodging" includes costs of all travel and lodging associated with any lobbying activity, excluding the costs of the lobbyist's own travel to accomplish the lobbying activity.

I. "Other disbursements" includes general administration and overhead and any other lobbyist disbursements not reported in other categories.

4511.0700 REPORTING COMPENSATION PAID TO LOBBYIST.

Subpart 1. **Reporting by lobbyist.** Compensation paid to a lobbyist for lobbying is not reportable by the lobbyist as a lobbyist disbursement.

Subp. 2. **Reporting by principal.** Compensation for lobbying paid by a lobbyist principal to a lobbyist or to the employer of a lobbyist must be included when determining the spending level categories for reporting by the lobbyist principal.