

1 Amend 2 Cal. Code Regs. Section 18239 to read:

2 **§ 18239. Definition of Lobbyist.**

3 (a) Introduction.

4 (1) If an individual engages in direct communication, other than administrative
5 testimony, with a qualifying official for the purpose of influencing legislative or administrative
6 action on behalf of any person other than his or her employer, apply Section 82039 and
7 subdivision (b) of this regulation to determine if the individual is a lobbyist.

8 (2) If an individual engages in direct communication, other than administrative
9 testimony, with a qualifying official for the purpose of influencing legislative or administrative
10 action only on behalf of his or her employer, apply Section 82039 and subdivision (c) of this
11 regulation to determine if the individual is a lobbyist.

12 (3) Except as provided in Section 86300, if an individual is a “placement agent” as
13 defined in Section 82047.3, he or she is a lobbyist for purposes of the Act, regardless of the
14 definitions in subdivisions (b) through (d), below. An individual does not become a placement
15 agent under Section 82047.3 solely as a result of communicating with a state public retirement
16 system representative provided that the individual accompanies a registered placement agent
17 who represents that individual or his or her organization, is present only to provide additional
18 substantive information, and would not otherwise qualify as a placement agent under Section
19 82047.3

20 (b) A lobbyist is an individual who receives or becomes entitled to receive \$2,000 or
21 more in compensation in any calendar month for engaging in direct communication, other than
22 administrative testimony, with one or more qualifying officials for the purpose of influencing
23 legislative or administrative action.

1 (c) A lobbyist is an individual who spends one-third or more of the time, in any calendar
2 month, for which he or she receives compensation from his or her employer, engaging in direct
3 communication, other than administrative testimony, with one or more qualifying officials for
4 the purpose of influencing legislative or administrative action.

5 (d) Definitions.

6 (1) “Administrative testimony” means either of the following:

7 (A) Influencing or attempting to influence administrative action by acting as counsel in,
8 appearing as a witness in, or providing written submissions, including answers to inquiries, that
9 become part of the record of any regulatory or administrative agency proceeding:

10 (i) That is conducted as an open public hearing for which public notice is given;

11 (ii) Of which a record is created in a manner that makes possible the creation of a
12 transcript; and

13 (iii) Where full public access is provided to the record or transcript and to all written
14 material that is submitted as part of the record.

15 (B) Any communication made at a public hearing, public workshop, public forum, or
16 included in the official record of any proceeding, as defined in Section 82002(b) or (c), before
17 the California Public Utilities Commission.

18 (2) “Compensation” means any economic consideration, other than reimbursement for
19 reasonable travel expenses; (i.e., expenses for transportation plus a reasonable sum for food and
20 lodging). If an individual receives or becomes entitled to receive compensation of \$2,000 or
21 more in a calendar month from a person for services that include direct communication, other
22 than administrative testimony, with a qualifying official for the purpose of influencing legislative
23 or administrative action, it is presumed that all compensation from that person to the individual

1 during that calendar month is for direct communication. This presumption can be rebutted by
2 evidence that may include testimony, records, bills, and receipts establishing the allocation of the
3 individual's compensation for all other goods and services provided.

4 (3) "Direct communication" means appearing as a witness before, talking to (either by
5 telephone or in person), corresponding with, or answering questions or inquiries from, any
6 qualifying official, either personally or through an agent who acts under one's direct supervision,
7 control, or direction.

8 (A) Direct communication does not include any request for or provision of purely
9 technical data or analysis to an administrative agency by a person who does not otherwise
10 engage in direct communication for the purpose of influencing legislative or administrative
11 action.

12 (B) For the purpose of determining whether an individual qualifies as a lobbyist pursuant
13 to subdivision (c), an individual does not engage in "direct communication" when the individual
14 is an employee of a lobbyist employer, meets or speaks with a qualifying official in the company
15 of a registered lobbyist retained by the individual's lobbyist employer, and participates as a
16 subject matter expert regarding a legislative or administrative action at issue. For purposes of this
17 exception, an employee includes a member of a bona fide trade association or membership
18 organization.

19 (4) "Influencing legislative or administrative action" means communicating directly or
20 taking any other action for the principal purpose of supporting, promoting, influencing,
21 modifying, opposing, delaying, or advancing any legislative or administrative action.

22 (5) "Qualifying official" means:

23 (A) Any elected state official;

- 1 (B) Any legislative official;
- 2 (C) Any appointed, elected, or statutory member or director of any state agency;
- 3 (D) Any staff member of any state agency who makes direct recommendations to the
- 4 persons listed in subdivision (5)(C) of this subdivision, or who has decision-making authority
- 5 concerning such recommendations.

6 Note: Authority cited: Section 83112, Government Code. Reference: Section 82039,

7 Government Code.