

Lieutenant Governor's Office Lobbyist Practice Training Course (2019)

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The ethics training course is designed to assist lobbyists in understanding – and complying with – the laws, rules, and regulations related to lobbying in Utah.

The 2019 training must be completed by January 31, 2019, or *before* engaging in lobbying activity, whichever is first (see [R623-1-4](#)). Failure to timely complete the ethics training may result in penalties as allowed by law.

Please refer to Utah Code for exact code language. The learning pieces may not include full statutory definitions in each example.

2019 Report Due Dates (all by 5:00 p.m.)

Quarter 1: April 10

Quarter 2: July 10

Quarter 3: October 10

Quarter 4: January 10, 2020

2019 Practice Ethics Training Course

Set 1

Learning Piece 36-11-102
(14) A lobbyist is: 1. An individual who is employed by a principal, or 2. An individual who contracts for economic consideration, other than reimbursement for reasonable travel expenses, with a principal to lobby a public official. (13) Lobbying means communicating with a public official for the purpose of influencing the passage, defeat, amendment, or postponement of legislative or executive action.
Question True or false? I have read the definitions of lobbyist and lobbying and understand what each means.
Answers True False

Set 2

Learning Piece 36-11-102(14)(b)(ix)
The definition of lobbyist excludes an individual representing a business, entity, or industry, who: (A) interacts with a public official, <i>while accompanied by a registered lobbyist</i> who is lobbying In relation to the subject of the interaction or While presenting at a legislative committee meeting at the same time that the registered lobbyist is attending another legislative committee meeting; <i>and</i> (B) <i>does not make an expenditure</i> for, or on behalf of, a public official in relation to the interaction or during the period of interaction.
Question True or false? The following scenario requires Leslie to register as a lobbyist: Leslie is the owner of a chain of restaurants. She employs Tom as a lobbyist. Senator Roosevelt is running legislation that would restrict the size of waffles. Tom – the lobbyist – attends the Senate Business Committee to lobby against the passage of the ‘waffle bill,’ and Leslie joins him. While in committee, Leslie interacts with Sen. Roosevelt. Neither Tom, a registered lobbyist, nor Leslie make expenditures in relation to the interaction with Sen. Roosevelt.
Answers True, because Leslie is communicating with a public official for the purpose of influencing the defeat of legislation. False, because Leslie is accompanied by a registered lobbyist and does not make expenditures.

Set 3 (four scenarios)

Learning Piece [36-11-401](#)

Any person who intentionally violates sections of laws that regulate lobbyists is subject to:

- Penalties up to \$1,000 for each first time violation of a section and penalties up to \$5,000 for each subsequent violation of the same section
- Additional penalties of up to \$50 per day if a report is late
- Possible revocation of a lobbying license
- Class B misdemeanor

Penalties can apply for violations of the following code sections:

[36-11-103](#) (Licensing requirements)

[36-11-201](#) (Lobbyist, principal, and government officer financial reporting requirements -- Prohibition for related person to make expenditures.)

[36-11-301](#) (Contingent compensation prohibited.)

[36-11-302](#) (Improper influence -- Communication with a legislator's employer prohibited.)

[36-11-303](#) (Prohibition on communicating false information to a public officer.)

[36-11-304](#) (Expenditures over certain amounts prohibited -- Exceptions.)

[36-11-305](#) (Campaign contribution during session prohibited.)

[36-11-307](#) (Ethics training course for lobbyists -- Internet availability -- Content -- Participation tracking -- Penalty.)

[36-11-403](#) (Lobbying without a license.)

Utah Criminal Code is also referenced in the *penalties* section of lobbyist regulation laws: [76-8-103](#), [76-8-104](#), [76-8-107](#), [76-8-108](#), [76-8-303](#), [76-8-304](#).

SET 3 SCENARIO 1

Donna is a lobbyist and vacations out of the country to celebrate the New Year. She gets a Quarter 4 (Q4) reminder email and forwards it to her assistant, April, who doesn't care about the email and deletes it. Donna doesn't file her Q4 Report by the deadline and is issued a \$1,000 fine.

Donna argues that there's no way she could have filed a report while out of the country and blames April for not filing it for her.

Question

Is this a valid excuse for not filing the Q4 Report on time?

Answers

Yes. There's no way someone who is out of the country could have filed a report.

No. The lobbyist is responsible for timely filing reports. Lobbyists who fail to timely file a required report are subject to penalties in accordance with 36-11 (Part 4).

SET 3 SCENARIO 2

You are a registered lobbyist, lobbying on behalf of a local franchise, Food N' Stuff, owned by Ron. As you prepare to lobby the Chair of Health and Human Services to pass HB48, Ron pulls you aside and says, "If HB48 does not pass, you don't get paid for any of your lobbying efforts."

Question

Is Ron acting within the confines of the law?

Answers

Yes. An employer may choose if they pay their lobbyist based on the outcome of particular legislation.

No. An employer may not compensate their lobbyist based upon the outcome of legislative or executive action.

SET 3 SCENARIO 3

Corgi Clothing Co. employs two lobbyists: David and Michelle. They're working together to lobby Rep. Thomas, who is a veterinarian.

David says to Michelle, "Before we meet with Rep. Thomas, let's call her boss and tell her boss that this bill shouldn't pass. We will say the bill will negatively impact the entire veterinarian trade."

Michelle responds, "Not only is that a bad idea, it's illegal."

David says, "It's perfectly legal. Plus it'll make the rest of our job so much easier."

Question

Who is correct?

Answers

Michelle. A person may not seek to influence the vote of any legislator through communication with the legislator's employer.

David. All's fair in love, war, and lobbying.

SET 3 SCENARIO 4

Ginny is a lobbyist for a tech company in favor of SB2 -- a bill that would replace all textbooks in public schools with electronic versions of the text.

Ginny has a meeting with the House Speaker and Senate President to discuss why SB2 should sail through both chambers.

Ginny's boss tells her to use talking points which have been proven to be factual, such as, "The e-texts are constantly updated, environmentally responsible, and result in long-term savings." Ginny decides that those points aren't convincing on their own and chooses to make up negative talking points such as, "Textbooks are dangerous to students and can lead to irreversible harm or death."

Ginny's boss tells her she will be breaking the law if she makes up false information to influence the Speaker and President.

Question

Is Ginny's boss correct?

Answers

Yes. It is against the law to intentionally communicate false information to a public official which is materially related to a matter within the responsibility of the public official.

No. A lobbyist may fabricate information if they believe it will supplement the truth and help them.

Set 4 (one scenario and one question)

Learning Piece [36-11-201\(6\)](#) and [36-11-401](#)

A person who fails to renew their lobbyist license – or otherwise ceases to be licensed – is still required to file a financial report until the person files a [cancellation form](#).

A lobbyist (or principal) must continue filing required reports until the lobbyist (or principal) files a statement of dissolution that includes all previously unreported expenditures and a statement that includes:

- Lobbying activities have ceased
- The lobbyist surrenders his/her license
- The lobbyist (or principal) will not make additional expenditures unless they re-register and comply with UCA 36-11.

SET 4 SCENARIO

Peter was a lobbyist for The Shoe Company but recently got a new job. The Shoe Company says they are in charge of his lobbyist account since he only lobbied on their behalf (i.e., he had no other clients). The company tells him not to worry about any of his lobbyist responsibilities. However, Peter thinks he is the one who must file any outstanding reports and close his lobbyist account.

Question

Who is correct?

Answers

Peter. Reports must be filed until the lobbyist submits the proper cancellation form to the Lieutenant Governor's Office. An individual – not their (former) employer – is responsible for these reports and/or any penalties associated with required reports that are not submitted by the deadline.

The (former) employer. The (former) employer assumes all responsibilities of future reports and applicable fines upon termination of the lobbyist's employment because they were the sole principal of the lobbyist.

SET 4 QUESTION

After your lobbyist license expires and you do not renew, what does the law require of you before you can be relieved of the reporting requirement?

Answers

Nothing. Your license has expired, so it's no big deal.

Continue to report until you file a statement as defined in 36-11-201(6) which includes a declaration that you have ceased lobbying activity (i.e., continue to report until you file the [cancellation form](#)).

File a final report with your clients.

Set 5 (six scenarios and one question)

Learning Piece [36-11-102](#), [36-11-304](#)

The following expenditures are *allowed when they are reported*.

- Food and beverage that exceeds the food reimbursement rate
- Travel and lodging that exceeds \$10
- Admission to or attendance at a tour or meeting (not approved activity) that exceeds \$10

A lobbyist, principal, or government officer may NOT make or offer to make expenditures that are not included on the list above (36-11-304(2)) – even if the lobbyist reports it. If an expenditure is for something other than food/beverage, travel/lodging, admission to a tour/meeting, that expenditure is likely prohibited.

(6) "Event" means entertainment, a performance, a contest, or a recreational activity that an individual

participates in or is a spectator at, including a sporting event, an artistic event, a play, a movie, dancing, or singing.

(16) "Meeting" means a gathering of people to discuss an issue, receive instruction, or make a decision, including a conference, seminar, or summit.

(24) "Tour" means visiting a location, for a purpose relating to the duties of a public official, and not primarily for entertainment, including:

(a) viewing a facility;

(b) viewing the sight of a natural disaster; or

(c) assessing a circumstance in relation to which a public official may need to take action within the scope of the public official's duties.

(2) "Approved activity" means a tour or a meeting:

(a)(i) to which a legislator is invited; and

(ii) attendance at which is approved by:

(A) the speaker of the House of Representatives, if the public official is a member of the House of Representatives; or

(B) the president of the Senate, if the public official is a member of the Senate; or

(b)(i) to which a public official who holds a position in the executive branch of state government is invited; and

(ii) attendance at which is approved by the governor or the lieutenant governor.

SET 5 SCENARIO 1

Your employer is organizing a luncheon. All legislators are invited to the luncheon, however, it is not an approved activity. Your employer considers this luncheon to be educational on behalf of their industry's impact on Utah's economy. This event is being held at your employer's facility so the only out-of-pocket expenses will be food, beverages, and shuttle busses from the Capitol to the facility.

The luncheon will cost \$12 per person. The cost to rent and fuel shuttle busses is \$1,500 for the day.

Question

Is this allowed? If it is allowed, is there a reporting requirement under lobbyist statute?

Answers

Yes-allowed. No reporting required. (This activity is allowed because the only expenditures fall into the categories of food/beverage and travel. There is no reporting required because the luncheon cost is less than the food reimbursement rate.)

Yes-allowed. Reporting required (This activity is allowed because the only expenditures fall into the categories of food/beverage and travel. This activity is reportable because the travel expenditures exceed \$10 and therefore must be reported.)

No-not allowed.

SET 5 SCENARIO 2

Your employer, who works in the homelessness and permanent housing industry, is organizing a series of gatherings with legislators. The gatherings will take place at homeless shelters -- which receive state funds - throughout the state, and every legislator is invited to every site visit. The purpose of each gathering is to visit the shelters and see how different parts of the state manage homeless populations using public funds.

Question

Is this allowed? If it is allowed, is there a reporting requirement under lobbyist statute?

Answers

Yes-allowed. No reporting required. (This activity is allowed, likely falls into the category of "tour," and therefore is not likely to have a reporting requirement.)

Yes-allowed. Reporting required. (This activity is allowed and likely falls into the category of "tour." You report your own travel costs.)

No-not allowed.

SET 5 SCENARIO 3

You and a colleague are planning a gathering with a few legislators and industry stakeholders. You plan to discuss an issue in order to decide whether or not one of the legislators will open a bill file. There will be no food or beverages.

Question

Is this allowed? If it is allowed, is there a reporting requirement under lobbyist statute?

Answers

Yes-allowed. No reporting required. (This activity is allowed and likely falls into the category of "meeting." There is no reporting required because there are no expenditures made.)

Yes-allowed. Reporting required. (This activity is allowed and likely falls into the category of "meeting." You report your travel costs to attend the meeting.)

No-not allowed.

SET 5 SCENARIO 4

Your employer is throwing a masquerade-dinner party. The event is private, though certain members of the public are allowed if they purchase a ticket at \$500/person. Your employer will be paying for a venue, food, beverages, a live band, professional dancers, costumes for each attendee, and a valet service. The party is not a fundraiser of any kind. Your employer wants to invite legislators who have brown hair, and pay for their event ticket.

Question

Is your employer allowed to pay for the event tickets for these legislators?

Answers

Yes. Your employer may invite whomever they like, regardless of what an event is like. There are likely reporting requirements.

No. It is likely prohibited to invite public officials to this event for several reasons, including expenditures.

SET 5 SCENARIO 5

Your employer is throwing a campaign fundraiser for a legislative candidate. The employer covers all costs for the fundraiser, but attendees must purchase a ticket (proceeds go to the candidate's campaign).

Question

Is there a reporting requirement under lobbyist statute?

Answers

Yes. If you as the lobbyist attend this event, you must report any expenditures that occur.

No. This is likely not reportable under Utah Code 36-11 (Lobbyist Disclosures & Regulation Act), but is instead reportable under Utah Code 20A-11 (Campaign & Financial Reporting Requirements).

SET 5 SCENARIO 6

A lobbyist invites all members of the legislature to a non-approved, private sporting event (not for charity or political purposes).

Question

Is this allowed under lobbyist statute? If this is allowed, is it reportable?

Answers

Yes-allowed. No reporting required.

Yes-allowed. Reporting required. (This event is allowed. You must report the expense of the event tickets.)

No-not allowed. (This expenditure is prohibited because an event is not one of the 'exempted-must-report' items listed in 36-11-304(2), rather, it fits into Subsection (1) which states: "a lobbyist... may not make or offer to make... expenditures that exceed... \$10 for expenditures other than food or beverage.")

SET 5 QUESTION 1

Other than for food or beverage, a lobbyist may not make or offer to make aggregate daily expenditures that exceed:

\$1

\$10

\$50

\$100

Learning Piece [36-11-102\(9\)](#) and [36-11-304\(1\)](#)

“Food reimbursement rate” is a defined term and means “the total amount set by the director of the Division of Finance, by rule, under Section 63A-3-107, for in-state meal reimbursement, for an employee of the executive branch, for an entire day.” The website of the [Utah Office of Administrative Rules](#) is a helpful resource regarding the food reimbursement rate.

Question

Choose the best answer. The food reimbursement rate is:

Answers

\$10 regardless of the time of day

The total amount set by the Division of Finance for in-state meal reimbursement, for an employee of the executive branch, for the entire day (\$43.00 as of December 2018)

Irrelevant to a lobbyist

None of the above

Set 7

Learning Piece [36-11-305](#)

It is unlawful for a person, lobbyist, principal, or political committee to make a campaign contribution, or contract, promise, or agree to make a campaign contribution, to any of the following during the time the Legislature is convened in annual general session, veto override session, special session, or during the time period established by the Utah Constitution, Article VII, Section 8, for the governor to approve or veto bills passed by the Legislature in the annual general session:

- (i) a legislator or a political action committee controlled by a legislator;
- (ii) the lieutenant governor or a political action committee controlled by the lieutenant governor;
- (iii) the attorney general or a political action committee controlled by the attorney general;
- (iv) the state auditor or a political action committee controlled by the state auditor;
- (v) the state treasurer or a political action committee controlled by the state treasurer;
- (vi) the governor or a political action committee controlled by the governor.

Question

When the legislature is meeting for interim committees, does this code section apply?

Answers

Yes. This code section applies whenever the legislature is meeting.

No. This code section does not apply when the legislature is meeting for interim committees; however, check with the House and Senate regarding their specific rules.

Set 8

Learning Piece [36-11-201\(1\)\(a\)](#)

A lobbyist is not required to file a quarterly financial report *if* he or she has not made an expenditure during that reporting period. *All lobbyists are still required to file the Year End Report (Quarter 4) on January 10 of each year.*

Question: true or false?

All lobbyists are required to file a Year End Report (Quarter 4) on January 10, but a lobbyist who does not make any expenditures during a quarterly reporting period is not required to file the quarterly report.

Answers

True. Quarterly reports are due during quarters when a lobbyist has expenditures to report. The Year End Report (Q4) is due for all lobbyists, regardless of whether or not the lobbyist had expenditures to report during the year.

False. A lobbyist does not need to file any reports if there are no expenditures made.

Set 9

Learning Piece [36-11-102](#), [36-11-201](#)

36-11-102

(1) "Aggregate daily expenditures" means:

- (a) for a single lobbyist, principal, or government officer, the total of all expenditures made within a calendar day by the lobbyist, principal, or government officer for the benefit of an individual public official;
- (b) for an expenditure made by a member of a lobbyist group, the total of all expenditures made within a calendar day by every member of the lobbyist group for the benefit of an individual public official; or
- (c) for a multiclient lobbyist, the total of all expenditures made by the multiclient lobbyist within a calendar day for the benefit of an individual public official, regardless of whether the expenditures were attributed to different clients.

(15) "Lobbyist group" means two or more lobbyists, principals, government officers, or any combination of lobbyists, principals, and officers who each contribute a portion of an expenditure made to benefit a public official or member of the public official's immediate family.

(17) "Multiclient lobbyist" means a single lobbyist, principal, or government officer who represents two or more clients and divides the aggregate daily expenditure made to benefit a public official or member of the public official's immediate family between two or more of those clients.

36-11-201

(3) A financial report shall contain:

- (e) a disclosure of aggregate daily expenditures greater than \$10

SCENARIO

You and Sally June are both lobbyists for an advertising company and are lobbying Representative Granger to vote for HB97. You take Rep. Granger to lunch and spend \$10. Sally June takes Rep. Granger to dinner and spends \$35. The aggregate daily expenditure amount is \$45.

Your boss says because neither of you individually met the food reimbursement rate, neither of you have a

reporting requirement.

Question

Is your boss correct?

Answers

Yes. A lobbyist who does not break a reporting threshold does not have a reporting requirement -- regardless of who else is a lobbyist with the same client.

No. Once the expenditure threshold has been met by a lobbyist group, each lobbyist must report the total of all expenditures made by every member of that lobbyist group, benefiting an individual public official, within a calendar day. Each lobbyist must report the total of all expenditures made within a calendar day by every member of the lobbyist group. The law does not contain provisions which enable a lobbyist to avoid reporting expenditures by splitting the cost with other lobbyists.

Set 10

Learning Piece [36-11-307](#), [R623-1-4](#)

36-11-307

(5) A lobbyist shall successfully complete the key training exercises of the ethics training course once each year.

R623-1-4(A)(1)

(a) The training for the first year of a two-year license period must be completed before the registration can be approved.

(b) To maintain the license for the second year in a two-year license period, the training for that year must be completed within the first 60 days of the second year or before engaging in lobbying activity, whichever is first.

Question

How often must you successfully complete the key exercises of the ethics training course?

Answers

Quarterly

Monthly

Once each year and before your registration is approved

Once every 2 years

Set 11

Learning Piece [36-11-306](#)

36-11-306

(1) As used in this section, "conflict of interest" means a circumstance where:

- (a) the representation of one principal or client will be directly adverse to another principal or client; or
- (b) there is a significant risk that the representation of one or more principals or clients will be materially limited by the lobbyist's responsibilities to:
 - (i) another principal or client; or
 - (ii) a personal interest of the lobbyist.

(2) Except as provided in Subsection (3), a lobbyist may not represent a principal or client if the representation involves a conflict of interest.

(3) Notwithstanding the existence of a conflict of interest, a lobbyist may represent a principal or client if:

- (a) the lobbyist reasonably believes that the lobbyist will be able to provide competent and diligent representation to each principal or client;
- (b) the representation is not otherwise prohibited by law;
- (c) the representation does not require the lobbyist to assert a position on behalf of one principal or client that is opposed to the position of another principal or client represented by the lobbyist involving the same legislative issue; and
- (d) each affected principal or client gives informed consent to the conflict of interest in writing.

Question

When a conflict of interest exists (see 36-11-306), is a lobbyist allowed to represent a principal/client if the lobbyist believes that he or she will be able to provide competent and diligent representation to each, but the affected principals/clients do NOT give informed consent of the conflict in writing?

Answers

Yes. A lobbyist must either receive informed, written consent from the affected principals, or believe that he or she will be able to provide competent and diligent representation.

Yes. A lobbyist may represent any principal they want, regardless of the circumstances.

Yes. A principal does not need to know if the lobbyist's representation of them is directly adverse to another of the lobbyist's principals.

No. A lobbyist may only represent a principal/client with the existence of a conflict of interest when ALL four conditions in 36-11-306 are met, one of which is a requirement that each affected principal or client gives informed consent to the conflict of interest in writing.

Learning Piece [36-11-102](#)

36-11-102

(19) "Public official" means:

(a) (i) a member of the Legislature;

(ii) an individual elected to a position in the executive branch of state government; or

(iii) an individual appointed to or employed in a position in the executive or legislative branch of state government if that individual:

(A) occupies a policymaking position or makes purchasing or contracting decisions;

(B) drafts legislation or makes rules;

(C) determines rates or fees; or

(D) makes adjudicative decisions; or

(b) an immediate family member of a person described in Subsection (19)(a).

Question

Is someone who is employed by the executive branch considered a "public official" under lobbyist statute?

Answers

Yes. If that person meets at least one of four criteria set in the definition of "public official" (36-11-102(19)).

No. Only people who are elected are considered public officials.