



LAO/10-5

The Commonwealth of Massachusetts
William Francis Galvin, Secretary of the Commonwealth
Public Records Division - Lobbyist Section

Alan N. Coe
Director

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[REDACTED]
[REDACTED]
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I have received your December 17, 2009 request for an advisory opinion on behalf of [REDACTED]. See G.L. c. 3, § 41 (2008 ed.). Specifically, you inquired whether high school internship program participants must register as lobbyists. Participants receive a stipend of more than \$2,500 every six months and occasionally meet with and seek to influence government employees on legislation and the like related to the campaigns they have developed.

The amended definition of executive agent is:

a person who for compensation or reward engages in executive lobbying, which includes at least 1 lobbying communication with a government employee made by said person. The term "executive agent" shall include a person who, as part of his regular and usual business or professional activities and not simply incidental thereto, engages in executive lobbying, whether or not any compensation in addition to the salary for such activities is received for such services. For the purposes of this definition a person shall be presumed to be engaged in executive lobbying that is simply incidental to his regular and usual business or professional activities if he: (i) engages in executive lobbying for not more than 25 hours during any reporting period; and (ii) receives less than \$2,500 during any reporting period for executive lobbying.

G.L. c. 3, § 39 (2008 ed.).


The definition of executive lobbying is:

any act to promote, oppose, influence, or attempt to influence the decision of any officer or employee of the executive branch or an authority, including but not limited to, statewide constitutional officers and employees thereof, where such decision concerns legislation or the adoption, defeat or postponement of a standard, rate, rule or regulation promulgated pursuant to any general or special law, or any act to communicate directly with a covered executive official to influence a decision concerning policy or procurement; provided further, that executive lobbying shall include acts to influence or attempt to influence the decision of any officer or employee of a city or town when those acts are intended to carry out a common purpose with executive lobbying at the state level; and provided further, that executive lobbying shall include strategizing, planning, and research if performed in connection with, or for use in, an actual communication with a government employee; and provided, further, that "executive lobbying" shall not include providing information in writing in response to a written request from an officer or employee of the executive branch or an authority for technical advice or factual information regarding a standard, rate, rule or regulation, policy or procurement for the purposes of this chapter.

G.L. c. 3, § 39 (2008 ed.).

Similarly, the definition of legislative lobbying includes, "any act to promote, oppose, influence or attempt to influence legislation, or to promote, oppose or influence the governor's approval or veto thereof..." G.L. c. 3, § 39 (2008 ed.). A legislative agent includes "a person who for compensation or reward engages in legislative lobbying, which includes at least one lobbying communication with a government employee made by said person..." *Id.*

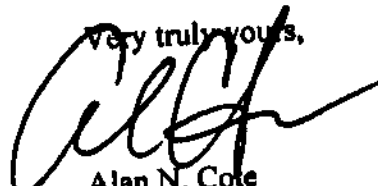
The definitions of executive agent and legislative agent (collectively, lobbyist) include two parts. That is, one who for compensation or reward engages in lobbying, which includes at least one lobbying communication and one who engages in lobbying as part of his regular and usual business or professional activities and not simply incidental thereto regardless of whether compensation in addition to salary is received. The individuals in question in this case are not salaried employees and presumably do not have "regular and usual business or professional activities," as they are high school interns. Therefore, the second portion of the definition is not relevant to this analysis. As such, an examination of the first part of the definition of lobbyist is merited.


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A lobbyist is defined as a person who "for compensation or reward engages in [executive or legislative] lobbying, which includes at least 1 lobbying communication with a government employee made by said person." G.L. c. 3, § 39 (2008 ed.). As the plain language of the statute indicates, there is no accounting for one's age as an exemption to the definition; therefore, that the individuals are teenage participants does not factor into this analysis. The participants in this program receive a stipend, and as such, meet the requirement of receiving compensation or reward. If a participant also engages in lobbying consisting of at least one lobbying communication with a government employee, he would accordingly meet the criteria of being a lobbyist.

The legislation was intended to cast a wider net on those required to register and report. See Governor's Task Force on Public Integrity, *Report and Recommendations*, 16-17, 19 (January 6, 2009). This broadening of the criteria that triggers registration is evident not only with the inclusion of the behind the scenes acts in the revised definitions of lobbying, but also with the reduction of the incidental lobbying standards and the inclusion of municipal lobbying in the new legislation. Id.

Whereas the legislation was intended to increase the reporting of lobbying activity and whereas the definitions provide no exemption for age or status, if the individuals in question engage in lobbying and perform at least one lobbying communication, registration is required.

Very truly yours,

Alan N. Cote
Director