

Advice from panelists Miranda Motter and Robert Eshenbaugh: **have a set process in place internally to review potential lobbying expenditures at the earliest planning stages. Check in with caucus counsel and the Joint Legislative Ethics Committee.**

Scenario 1. A lobbyist calls a legislative aide (not a financial disclosure statement filer) and offers the employee two tickets to a prominent sporting event taking place this weekend. The tickets are valued at \$76 each. Although the lobbyist was the original contact, the lobbyist has an assistant deliver the tickets.

- ❖ Who is the source of the gift? (*Lobbyist*)
- ❖ What if these are company tickets or the lobbyist purchased them with a company credit card? (*Lobbyist*)
- ❖ Does it matter that the legislative employee is not a financial disclosure statement filer? (*No*)
- ❖ Can the legislative aide accept? (*No, members and legislative staff are prohibited from accepting more than \$75 in gifts, aggregated per calendar year, from a lobbyist. See R.C. 102.031 and Section 5(B) of the Legislative Code of Ethics*) <http://www.jlec-olig.state.oh.us/PDFs/Ethics/CodeOfEthics.pdf>
- ❖ This can sidestep into additional scenarios where the source of the gift/meal/beverage is unclear or additional explanation regarding the point of sale test.
- ❖ Both tickets are attributable to employee? (*Yes*)

Scenario 2. I am an in-house lobbyist and the head of government relations for a large company. My company holds an annual ticketed event to which several legislators are invited. The in-house lobbyist/head of government relations for the company signed/sent out the original invite to the legislators.

- ❖ Who is the source of the tickets and how is this reported? (*Lobbyist/gift*)
 - Working with caucus counsel/JLEC on the front end, may prevent some confusion.

Scenario 3. An entity is considering holding an event only for legislative staff. All legislative staff will be invited.

- ❖ Does this trigger disclosure? (*Yes, if the legislative staffer is an FDS filer*)
- ❖ There is no such thing as an all-invited staff event. If All Members of the General Assembly or all members of either the House or Senate are not invited, then it cannot be an all-invited event. Reporting is triggered for those staff members attending that are financial disclosure filers. If this event is being hosted by a lobbyist - keep in mind

although reporting of non-FDS filers is not triggered, all legislative employees are subject to the \$75 aggregated limit on meals/beverages per calendar year from a lobbyist.

- ❖ Lobbyist/Employer may want to alert caucus counsel prior to the event as to what type of event it is and where it is being held.

Scenario 4. The employer of a lobbyist is hosting a charitable fundraiser (ticket cost of \$125) and wants to invite all Members of the General Assembly to attend.

- ❖ Is this an all-invited event? *(No) (fact that all Members are invited is irrelevant in this scenario. Ticketed events cannot be all invited events.)*
- ❖ If the employer is the host of a charitable fundraiser, then these tickets may not be reportable. See, 2000 JLEC Advisory Op. 2000-002 and 2014 JLEC Advisory Op. 2014-003. <http://www.jlec-olig.state.oh.us/PDFs/AdvisoryOpinions/00-002.pdf>
<http://www.jlec-olig.state.oh.us/PDFs/AdvisoryOpinions/14-003.pdf>
- ❖ If the source of the ticket is a 3rd party (not the hosting entity) then the recipient legislator/staff member has received a reportable gift. The value of the gift is the portion of the complimentary ticket that is not a tax-deductible charitable donation. See, 2014 JLEC Advisory Op. 2014-003.
- ❖ If the 3rd party source is a lobbyist, the non tax-deductible charitable donation must be less than \$75 (when added to any other gifts received by this lobbyist for the calendar year) or the legislator/staff member must reimburse to get under the \$75 limit. Exception: if the lobbyist is directly provided tickets by the charity, for purposes of distribution of tickets on behalf of the charity, the source is likely considered to be the charity. The lobbyist is not a third party source.
- ❖ A complimentary ticket to a charitable fundraiser provided by a 3rd party accrues towards the member's or employee's acceptance and reporting thresholds.

Scenario 5. The employer of a lobbyist is holding a factory tour. There is no admission cost for the tour and state legislators have been invited. There will be a buffet lunch.

- ❖ Is there an admission cost for tour? *(If no, then no gift reporting relative to the tour)*
- ❖ Is the lunch reportable? *(Yes)*
- ❖ If legislators or staff members who file an FDS attend and eat from the buffet lunch, there will be reportable expenditures. *(The Employer should determine a per person cost for the buffet and attribute that cost to each legislator in attendance who eats.)*
- ❖ If the legislator brings their spouse, the spouse's cost is attributed to the legislator and must be disclosed as well. The Employer will disclose the event date, recipient name, and the cost attributed to that recipient in Section B Meals and Beverages.

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- ❖ If the legislator does not eat and there is no other cost associated with attending the event, then no reportable expenditures have been made for that person's benefit and there is no reporting.

- ❖ If the factory is outside of Columbus and the employer wants to provide bus transportation to the factory, this can trigger lobbying expenditure reporting. It WILL trigger legislator financial disclosure obligations. If the per person cost of the transportation exceeds \$25.00 – employer will report. Legislators report official travel from dollar One. See JLEC Advisory Op.97-006. <http://www.jlec-olig.state.oh.us/PDFs/AdvisoryOpinions/97-006.pdf>