

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.

21 (3) “Direct communication” means appearing as a witness before, talking to (either by  
22 telephone or in person), corresponding with, or answering questions or inquiries from, any

1 qualifying official, either personally or through an agent who acts under one's direct supervision,  
2 control, or direction.

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

7 (B) For the purpose of determining whether an individual qualifies as a lobbyist pursuant  
8 to subdivisions ~~(b)~~ or (c), an individual does not engage in “direct communication” when the  
9 individual is an employee of a lobbyist employer, he or she meets or speaks with a qualifying  
10 official in the company of a registered lobbyist retained by the ~~individual or individual’s~~ lobbyist  
11 employer, and participates as a subject matter expert regarding a legislative or administrative  
12 action at issue. For purposes of this exception, an employee includes a member of or by a bona  
13 fide trade association or membership organization of which the individual or individual’s  
14 employer is a bona fide member.

15 (4) “Influencing legislative or administrative action” means communicating directly or  
16 taking any other action for the principal purpose of supporting, promoting, influencing,  
17 modifying, opposing, delaying, or advancing any legislative or administrative action.

18 (5) “Qualifying official” means:

19 (A) Any elected state official;

20 (B) Any legislative official;

21 (C) Any appointed, elected, or statutory member or director of any state agency;

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

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