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Comment Points on Proposed Lobbying Regulations
Published at 38 Pa.B. 435, January 19, 2008

The Pennsylvania Association for Government Relations (PAGR) respectfully submits the following comments on Proposed Lobbying Regulations, published at 38 Pa. B. 435, January 19, 2008. By way of reference these comments are a compilation of the comments that PAGR received from its membership. The Mission of PAGR is to promote the purpose and effectiveness of the lobbying profession consistent with the public interest. Further, association members encourage high standards of personal and professional conduct among all lobbyists.

CHAPTER 51 -- GENERAL PROVISIONS

Section 51.1 Definitions

1. **Paying a lobbyist or lobbying firm a retainer without that lobbyist or lobbying firm engaging in direct or indirect communication as well as the monitoring of legislative or administrative action is not "lobbying" as defined by Act 134 and, therefore, does not trigger Act 134's registration and reporting requirements.**

The definition of "lobbying" in Section 1303-A of Act 134, constitutes "*an effort to influence legislative action or administrative action in this Commonwealth*" which includes "*direct or indirect communications*," "office expenses" and "providing any gift, hospitality, transportation or lodging to a State official or employee for the purpose of advancing the interest of a lobbyist or principal." (Emphasis added.)

"Direct communications" is defined in Section 1303-A of Act 134 as "[a]n *effort*, whether written, oral or by any other medium, made by a lobbyist or principal, *directed* to a State official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action. The term may include personnel expenses or office expenses." (Emphasis added.)

"Indirect communications" is defined in Section 1303-A of Act 134 to include:

> An *effort*, whether written, oral or by other medium, *to encourage others*, including the general public, *to take action*, the purpose or

> foreseeable effect of which is to directly influence legislative action or administrative action...(Emphasis added.)

The proposed regulations define "effort to influence legislative action or administrative action" to mean:

> Any attempt to initiate, support, promote, modify, oppose, delay or advance a legislative action or administrative action on behalf of a principal for economic consideration. The term includes any of the following:
>
> *(i) Paying a lobbyist or lobbying firm a retainer or other compensation, even if that lobbyist or lobbying firm does not make direct or indirect communications or take any other action.*
>
> *(ii) Monitoring legislation, legislative action or administrative action.* (Emphasis added.)

Subsection (i) is the Committee's way of stating that individuals who do not engage in "lobbying" under Act 134 still have to register and report their activities, which runs contrary to the language of Act 134. The term "effort" means "a serious attempt: try." WEBSTER'S DICTIONARY 368 (10th ed. 1994). Paying a lobbyist or lobbying firm a retainer or other compensation without any subsequent action by that lobbyist or lobbying firm to initiate, support, promote, modify, oppose, delay or advance a legislative action or administrative action on behalf of a principal does not constitute an "effort to influence legislative action or administrative action" within Act 134's definition of "lobbying." Moreover, as stated above, "direct communications" or "indirect communications" must be undertaken in order for an action to constitute "lobbying" under Section 1303-A of Act 134. If a retainer is paid to a lobbyist or lobbying firm without that lobbyist or lobbying firm engaging in direct or indirect communications, then such action is not "lobbying" under Section 1303-A of Act 134. Thus, subsection (i) to the definition of "effort to influence legislative action or administrative action," exceeds Act 134's definition of "lobbying" and is thereby illegal and void.

The term "monitor" is defined as "to watch, keep track of, or check usually for a special purpose." WEBSTER'S DICTIONARY 752 (10th ed. 1994). Applying this term to subsection (ii) of the definition of "effort to influence legislative action or administrative action," "monitoring" involves simply "watching" or "keeping track" of legislative action or administrative action and does not include an "effort" to initiate, support, promote, modify, oppose, delay or advance legislative action or administrative action on behalf of a principal. Furthermore, monitoring or gathering information about legislative action or administrative action does not involve communication directed to a State official or employee, thus it cannot fall within the definition of "direct communications." In addition, monitoring or gathering information about legislative action or administrative action also does not constitute an effort to encourage the general public to take action in order to directly influence legislative action or administrative action, thus it cannot fall within the definition of "indirect communications" either. Because the monitoring of legislative action and administrative action does not constitute an "effort to influence legislative

action or administrative action," "direct communications," or "indirect communications," such monitoring does not constitute "lobbying" as defined in Section 1303-A of Act 134 and thus subsection (ii) of the definition of "effort to influence legislative action or administrative action," exceeds Act 134's statutory language.

In addition, in its current form, Section 1305-A(b)(2) of Act 134, 65 Pa. C.S. §1305-A(b)(2), does not require registrants to report the costs of retainers without direct or indirect communication or the costs of monitoring legislative action and administrative action. Section 1305-A(b)(2) of Act 134 provides as follows:

> Each expense report shall include the total costs of all lobbying for the period. The total shall include all office expenses, personnel expenses, expenditures related to gifts, hospitality, transportation and lodging to State officials or employees, and any other lobbying costs. The total amount reported under this paragraph shall be allocated in its entirety among the following categories:
>
> (i) The costs for gifts, hospitality, transportation and lodging given to or provided to State officials or employees or their immediate families.
>
> (ii) The costs for direct communication.
>
> (iii) The costs for indirect communication.
>
> *(iv) Expenses required to be reported under this subsection shall be allocated to one of the three categories listed under this section and shall not be included in more than one category.* (Emphasis added.)

It has been clearly established above that paying a lobbyist or lobbying firm a retainer without that lobbyist or lobbying firm making direct or indirect communications as well as the monitoring of legislative action and administrative action do not constitute "direct communications" or "indirect communications" and since Section 1305-A(b)(iv) of Act 134 requires that costs be reported in one of these two categories (the costs for gifts, hospitality, transportation and lodging is not a relevant category), it is unlawful for individuals to report the costs of such actions. Furthermore, the language provided in Section 1305-A(b)(iv) of Act 134 reveals that the General Assembly never intended the costs of retainers to lobbyists and lobbying firms without conducting direct and indirect communications and the costs of monitoring legislative action and administrative action to be included within Act 134's definition of "lobbying." Therefore, by including subsections (i) and (ii) within the definition of "effort to influence legislative action or administrative action," the Committee has disregarded the letter of Act 134 under the pretext of pursuing its spirit in violation of Section 1921(b) of the Statutory Construction Act and thus, this language should be stricken from the regulations.

2. Grants of funds from the capital budget, loans and investments may not be included in the regulatory definitions of "administrative action" or "legislative action."

Section 1303-A of Act 134 of 2007 ("Act 134"), 65 Pa. C.S. §1303-A, defines "administrative action" in relevant part to include:

> (1) An agency's:
>
> (i) proposal, consideration, promulgation or rescission of a regulation;
>
> (ii) development or modification of a statement of policy;
>
> (iii) approval or rejection of a regulation; or
>
> *(iv) procurement of supplies, services and construction under 62 Pa.C.S. (relating to procurement).* (Emphasis added.)

In order to clarify Subsection (1)(iv) mentioned above, the Lobbying Disclosure Regulations Committee ("Committee") inserted Subsection (vi) to the proposed regulatory definition for "administrative action" to include "[g]rants, the release of funds from the capital budget, loans and investment of funds." Such language is not found within Act 134's definition of "administrative action," nor is it included in the Procurement Code. In fact, the Committee added this new language based on an erroneous legal assumption that these terms are covered under the Procurement Code. Accordingly, this additional language inserted by the Committee exceeds the definition of "administrative action" found in Section 1303-A of Act 134 and is not permissible pursuant to Section 1921(b) of the Statutory Construction Act, 1 Pa. C.S. §1921(b), which provides that "[w]hen the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit." The words "procurement of supplies, services and construction" are clear and free from ambiguity, therefore, the Committee cannot move beyond this language and consider the General Assembly's intent when enacting Section 1303-A of Act 134. Based on the above analysis, the inclusion of subparagraph (vi) by the Committee to the definition of "administrative action" in the proposed regulations is illegal and invalid insofar as such language constitutes impermissible legislation by the Committee, not proper regulation.

Section 1303-A of Act 134 defines "legislative action" to mean:

> An action taken by a State official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of:
>
> (1) legislation;

(2) legislative motions;

(3) a veto by the Governor; or

(4) confirmation of appointments by the Governor or appointments to public boards or commissions by a member of the General Assembly.

Subparagraph (v) within the definition of "legislative action" in the proposed regulations likewise includes "[g]rants, the release of funds from the capital budget, loans and investment of funds." As explained above, neither the definition of "legislative action" found in Section 1303-A of Act 134 nor the Procurement Code include those terms and Act 134's language is clear and free from all ambiguity. Accordingly, after employing the same analysis used for the proposed regulatory definition of "administrative action," the proposed regulatory definition of "legislative action" is similarly illegal and invalid insofar as such language constitutes impermissible legislation, not proper regulation, by the Committee.

3. The proposed regulations do not adequately clarify the term "office expense."

Section 1303-A of Act 134 defines "office expense" to mean "[a]n expenditure for an office, equipment or supplies, utilized for lobbying." The proposed regulations provide the exact same definition without clarification as to how to value multiple uses of offices, equipment or supplies. For instance, if an office, equipment or supplies were used by a law firm for both the practice of law and lobbying, how is the value of that expenditure to be properly allocated?

It is unclear from the regulation where those office expenses are to be reported. For instance, some office personnel, equipment and supplies may be allocated for both direct and indirect lobbying purposes during the reporting quarter while some expenses may be allocated for non-lobbying activities. The regulations provide no guidance as to how the expenses shall be allocated or in which category they should be reported.

We suggest that in order to add clarity to those situations where offices, equipment and supplies are used for purposes in addition to lobbying, the reviewing body must add the following language to the definition of "office expense" in the regulations: "An expenditure for an office, equipment or supplies <u>reasonably allocated</u> for lobbying."

4. It is unclear whether the forgiving of a loan or forbearance of a loan by a principal, lobbyist of lobbying firm is not a "gift" under Act 134 and thereby is not subject to Act 134's registration and reporting requirements.

Section 1303-A of Act 134 defines "gift" to include "[a]nything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a *commercially reasonable loan made in the ordinary course of business.* The term shall not include hospitality, transportation or lodging." (Emphasis added.) It is clear that "a commercially reasonable loan made in the ordinary course of business"

is not a "gift" under Act 134; however, it is unclear whether the forgiveness or forbearance of a commercially reasonable loan by a principal, lobbyist or lobbying firm is likewise not covered under the definition of "gift." Such a clarification needs to be made in order to facilitate compliance with Act 134.

5. The proposed regulations need to define the terms "recreation" and "entertainment" within its definition of "hospitality."

Section 1303-A of Act 134 defines "hospitality" to mean:

> (1) Meals.
>
> (2) Beverages.
>
> (3) *Recreation and entertainment.*
>
> The term shall not include gifts, transportation or lodging. (Emphasis added.)

The proposed regulations provide the exact same definition without defining the terms "recreation" or "entertainment." The term "recreation" is defined as "a means of refreshment or diversion: HOBBY." WEBSTER'S DICTIONARY 977 (10th ed. 1994). The term "entertainment" is defined as "something diverting or engaging: as **a:** a public performance..." *Id.* at 386. The terms "recreation" and "entertainment" should be included within the proposed regulations' definition of "hospitality" as follows:

> (C) Recreation and entertainment. <u>Entertainment includes, but is not limited to, performances like concerts, theater productions, motion pictures or sporting events. Recreation includes, but is not limited to, hobbies like boating, hunting, fishing, golf, skiing and tennis.</u>

The terms "entertainment" and "recreation" should be added to the proposed regulations for the addition of these terms will provide needed clarification for lobbyists completing their expense reports pursuant to Section 1305-A of Act 134.

A further question arises as to whether a lobbyist's allowance of a State official or employee to stay for free at a lobbyist's vacation home, either with or without the lobbyist present in the vacation home, would constitute "hospitality" or "lodging." An argument could be made that such action constitutes "hospitality" insofar as the lobbyist is providing recreation to the State official or employee by allowing him or her to stay for free at the lobbyist's vacation home. The term "lodging" is not defined in either Act 134 or in the proposed regulations; its dictionary definition includes "sleeping accommodations <found ~ in the barn>" or "a temporary place to stay <a ~ for the night>." WEBSTER'S DICTIONARY 685 (10th ed. 1994). After reading these definitions, one could likewise argue that allowing a State official or employee to stay for free at a lobbyist's vacation home would constitute "lodging" and thus would be reportable under Act

134. The distinction between "lodging" and "hospitality" must be clarified as well as whether the allowance of a State official or employee to stay for free at a lobbyist's vacation home is reportable under Act 134.

CHAPTER 53 -- REGISTRATION AND TERMINATION

Sections 53.2-53.4 Principal, Lobbying Firm and Lobbyist Registration

1. **The proposed regulations pertaining to principal, lobbying firm and lobbyist registration conflict with Act 134.**

Section 1304-A(a) of Act 134 states as follows:

> **General rule.**--Unless excluded under section 13A06 (relating to exemption from registration and reporting), a lobbyist, lobbying firm or a principal must register with the department within ten days of *acting in any capacity as a lobbyist, lobbying firm or principal.* Registration shall be biennial and shall begin January 1, 2007. (Emphasis added.)

Section 1303-A of Act 134 defines "lobbyist" to include "[a]ny individual, association, corporation, partnership, business trust or other entity that *engages in lobbying* on behalf of a principal for economic consideration. The term includes an attorney at law while engaged in lobbying." (Emphasis added.) Section 1303-A of Act 134 defines "lobbying firm" as "[a]n entity that *engages in lobbying* for economic consideration on behalf of a principal other than the entity itself." (Emphasis added.) Section 1303-A of Act 134 defines "principal" to include "[a]n individual, association, corporation, partnership, business trust or other entity: (1) on whose behalf a lobbying firm or lobbyist *engages in lobbying*; or (2) that *engages in lobbying* on the principal's own behalf." (Emphasis added.)

Section 51.1 of the proposed regulations defines "engaging in lobbying" as "[a]ny act by a lobbyist, lobbying firm or principal that constitutes *an effort to influence legislative action or administrative action* in this Commonwealth, as defined in the definition of "lobbying" in section 13A03 of the act (relating to definitions)." (Emphasis added.) Clearly, this definition is consistent with the definition of "lobbying" found in Section 1303-A, which includes the same language.

Having said that, Section 53.2(a)(1) of the proposed regulations states as follows:

> (a) Unless exempt under section 13A06 of the act (relating to exemption from registration and reporting), a principal shall register with the Department within 10 days of acting in any capacity as a principal.

> (1) *Engaging a lobbyist* or lobbying firm for purposes including lobbying constitutes acting in the capacity of a principal. (Emphasis added.)

Section 51.1 of the proposed regulations defines "engaging a lobbyist" to mean "[c]ontracting or otherwise arranging for the services of a lobbyist or lobbying firm for lobbying on behalf of a principal for economic consideration."

The proposed regulations are in direct conflict with the language of Act 134, insofar as the contracting or arranging of services between a principal and a lobbyist or lobbying firm does not constitute an effort to influence legislative action or administrative action. The "effort to influence legislative action or administrative action" occurs when the lobbyist or lobbying firm engages in direct communications, indirect communications or provides any gift, hospitality, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal, not when the lobbyist or lobbying enters into a contract for service with the principal. It is clear from Act 134's language that a principal acts in his capacity as a principal when the lobbyist or lobbying firm makes an affirmative effort to advance the interest of the principal whether it be through direct or indirect communications or by providing gifts, hospitality, transportation or lodging. Accordingly, the language provided in Section 53.2(a)(1) should be removed from the proposed regulations.

Furthermore, Section 53.3(a)(1) of the proposed regulations states as follows:

> (a) Unless exempt under section 13A06 of the act (relating to exemption from registration and reporting), a lobbying firm shall register with the Department within 10 days of acting in any capacity as a lobbying firm.
>
> (1) *Accepting an engagement to lobby* or accepting a retainer or other compensation for purposes including lobbying constitutes acting in the capacity of a lobbying firm. (Emphasis added.)

Section 53.4(a)(1) of the proposed regulations states as follows:

> (a) Unless exempt under section 13A06 of the act (relating to exemption from registration and reporting), a lobbyist shall register with the Department within 10 days of acting in any capacity as a lobbyist.
>
> (1) Accepting an engagement to lobby or accepting a retainer or other compensation for purposes including lobbying constitutes acting in the capacity of a lobbyist.

Once again, this language is in direct conflict with the language provided in Act 134 insofar as a lobbying firms and lobbyists do not act in their capacities as lobbying firms or lobbyists until they make an affirmative effort to influence legislative action or administrative action through

direct or indirect communications, or by providing a gift, hospitality, transportation or lodging to a State official or employee, not when they accept an engagement to lobby or a retainer to lobby from a principal. As such, the language provided in Sections 53.3(a)(1) and 53.4(a)(1) of the proposed regulations should likewise be removed from the proposed regulations.

CHAPTER 55 -- REPORTING

Section 55.1 Quarterly Expense Reports

1. Section 55.1(h) of the proposed regulations pertaining to quarterly expense reports needs to be further clarified by IRRC.

Section 55.1(h) of the proposed regulations states as follows:

> A registered principal that attempts or that retains a lobbying firm or lobbyist to attempt to influence an agency's preparing, bidding, entering into or approving a contract shall ensure that the related expenses are included in calculating the totals referenced by subsection (g)(3).

The manner in which the proposed regulations are drafted indicates that an agency engages in the bidding of contracts, which it does not; rather, agencies award bids to contractors. Furthermore, Section 1303-A of Act 134 includes within the definition of "administrative action" the "procurement of supplies, services and construction under 62 Pa.C.S. (relating to procurement)." In order to be consistent with Act 134's language, Section 55.1(h) of the regulations must reference an agency's preparation and approval of contracts pursuant to the Procurement Code. Accordingly, Section 55.1(h) of the proposed regulations should read as follows: "A registered principal that attempts or that retains a lobbying firm or lobbyist to attempt to influence an agency's preparing <u>and awarding</u> bidding <u>and</u> entering into or approving a contract <u>pursuant to 62 Pa.C.S. (relating to procurement)</u> shall ensure that the related expenses are included in calculating the totals referenced by subsection (g)(3)."

2. The valuation requirements listed in Section 55.1(k) of the proposed regulations are unclear and are in need of further explanation.

Section 1305-A(b)(2) of Act 134 states in pertinent part:

> Each expense report shall include the total costs of all lobbying for the period. The total shall include all office expenses, personnel expenses, expenditures related to gifts, hospitality, transportation and lodging to State officials or employees, and any other lobbying costs...

Section 55.1(k) of the proposed regulations states in pertinent part:

> For purposes of reporting the value of gifts or transportation, lodging or hospitality to be disclosed under section 13A05 of the act, the following apply:
>
> (1) Any gift, transportation, lodging or hospitality *item* that is returned unused, declined or is *fully reimbursed* to the registrant within 30 days of the date of receipt need not be reported. For a gift, the date of receipt is the date the State official or employee first has possession or control of the gift. For purposes of calculating the 30 days for fully reimbursing an item of transportation, lodging or hospitality, the date of receipt is the date the State official or employee actually receives the benefit of the item.
>
> * * *
>
> (3) The value of gifts, transportation, lodging or hospitality must equal the *costs* to the registrant if the items or services to be valued were in fact obtained by the registrant in marketplace transactions.
>
> (4) When paragraph (3) is not applicable, the value of the gifts, transportation, lodging or hospitality must equal the fair market values as determined by the replacement costs, that is, the costs of purchasing the same or similar items or services in marketplace transactions.
>
> (5) When paragraphs (3) and (4) are not applicable, the registrant may use any reasonable method to determine the value of gifts, transportation, lodging or hospitality. (Emphasis added.)

Section 51.1 of the proposed regulations defines "marketplace transaction" to include the costs for:

> (i) *Goods.* The usual and normal charge for goods purchased in an arms-length transaction in the market in which they ordinarily would have been purchased.
>
> (ii) *Services.* The hourly or piecemeal charge for the services at a commercially reasonable rate prevailing at the time the services were rendered. (Emphasis in original.)

Section 55.1(k)(1) of the proposed regulations refers to gift, transportation, lodging or hospitality "items," but does not define the term "item." Is an "item" the cost of both dinner and beverages or are dinner and beverages two separate "items" that need to be separately itemized on an expense report? The proposed regulations do not answer this question and as a result, the term "item" needs to be defined in order to facilitate compliance with Act 134.

Furthermore, Section 55.1(k)(1) states that any gift or hospitality item that is returned unused, declined or is *fully* reimbursed to the registrant within 30 days of the date of receipt need not be reported. However, Section 55.1(k)(1) is silent when addressing cases where a State official or employee were to *partially* reimburse a registrant for a gift or hospitality item in order to drop below the $650 reporting threshold. Does a registrant need to report only the portion of the gift or hospitality that it paid or must it include the portion of the amount of the gift or hospitality item reimbursed by the State official or employee? We need guidance addressing this issue.

Pursuant to Section 55.1(k)(3) of the proposed regulations, the value of gifts, transportation, lodging or hospitality must equal the "costs" to the registrant if the items or services to be valued were in fact obtained by the registrant in marketplace transactions. For goods, the "marketplace transaction" consists of "the usual and normal charge for goods purchased in an arms-length transaction in the market in which they ordinarily would have been purchased." That means if a registrant were to purchase tickets to a sporting event or concert at face-value and give them as a gift to a State official or employee, then the registrant must report that value in the expense report. However, as it is currently written, Section 55.1(k)(4) provides that when Section 55.1(k)(3) is inapplicable, "the value of the gifts, transportation, lodging or hospitality must equal the fair market values as determined by the replacement costs, that is, the costs of purchasing the same or similar items or services in marketplace transactions." That means if a registrant were to purchase sporting event or concert tickets at a higher price from a ticket exchange service like Stubhub.com® or a scalper and give them as a gift to a State official or employee, then the registrant must report the higher price paid in the expense report, not the face value on the ticket. If this interpretation of the proposed regulations is correct, Section 55.1(k)(3)-(4) arbitrarily distinguishes between those registrants who purchase tickets earlier in time from those registrants who purchase last-minute tickets to sporting events or concerts without a rational basis.

Along these same lines, Section 55.1(k)(3)-(5) of the proposed regulations does not provide a clear calculation for valuing the costs of luxury box tickets at a sporting event or concert. Should a registrant include the cost of its annual luxury box rental fee and/or the price of the individual luxury box ticket when valuing the cost of the ticket gift in its expense report? The regulations are silent on this issue. One way to remedy this situation would be to have guidance issued as to what constitute "costs" in situations such as the ones mentioned above.

3. **As a point of further clarification on reporting; in a situation where a public official is the spouse of a lobbyist for a principal must the lobbyist and principal report expenses incurred when the spouse attends a function in connection with the lobbyist's principal pays those expenses, and the public official is attending in their role as a spouse, not a public official. For example, lobbyist x's wife attends the annual convention of the trade association lobbyist x is employed by. The trade association comps a spouse registration to lobbyist x's spouse who is attending the convention in her role as a spouse, not at a representative of the government office in which she works. Likewise, lobbyist x's spouse attends the PA Society function each year in which lobbyist x's principal pays the hotel room charge for the lobbyist and his spouse. Must the cost of one half of the room be reported by the lobbyist and his principal?**

"An effort to influence legislative action or administrative action in this Commonwealth. The term includes:

(1) direct or indirect communication;
(2) office expenses; and
(3) providing any gift, hospitality, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal."

Scenario #1: Lobbyist X's wife is a Senate staffer. Lobbyist X's wife attends the annual convention of the trade association who employs lobbyist X. The trade association comps a spouse registration to lobbyist X's spouse who is attending the convention in her role as a spouse, not as a representative of the Senate office in which she works. Does this type of expense have to be reported?

Answer: The short answer is "it depends." Lobbying constitutes the providing of a gift, hospitality or lodging to a state employee for the purpose of advancing the interest of the lobbyist or principal. If the spouses of every attendee to the trade association's convention were comped the registration fee, then an argument could be made that it would not have to be reported because Lobbyist X's wife is being comped because she is the wife of Lobbyist X, not because she is a state employee. However, if Lobbyist X's wife were the only attendee spouse comped the registration fee, then the argument could be made that the fee would be reportable because Lobbyist X's wife is being comped because she is a state employee, not because she is the spouse of Lobbyist X. Such action would constitute "lobbying" because the trade association is comping her "for the purpose of advancing the interest of the lobbyist or principal."

Scenario #2: Lobbyist X's wife is a Senate staffer. Lobbyist X's wife attends Pennsylvania Society annually and Lobbyist X's principal pays the hotel room charge for the lobbyist and his spouse. Must the cost of one half of the room be reported by the lobbyist and principal?

Answer: The same analysis applies, only slightly modified. On the facts as they are written, because both Lobbyist X and his wife had their hotel room paid for by the principal, an argument could be made that this is not reportable insofar as the lodging is being provided because she is the wife of Lobbyist X, not because she is a state employee. However, given the fact that the event is Pennsylvania Society and the sole reason Lobbyist X is there is to advance the interest of the principal, an equally convincing argument could be made that the lodging provided to Lobbyist X's wife is being given to her as a state employee for the purpose of advancing the interest of the principal albeit indirectly.

As is evident from the analyses above there is no clear answer under the proposed regulations. Given that the above scenarios are common occurrences it would be helpful for the proposed regulations to provide clear guidance for reporting purposes.

CONCLUSION

Based on all of the above comments solicited from our membership, PAGR believes that the Proposed Regulations should be withdrawn or significantly rewritten. Additionally, the Proposed Regulations should be the subject of further public hearings in order that clarity may be imposed on the regulations so that the general public can easily understand its obligations under the regulations.

We urge that additional bright-line standards and a significant number of practical examples be added to the Proposed Regulations and that the Proposed Regulations be issued again as a proposed rulemaking for additional public comment.