Kansas Administrative Regulations

Kansas Public Disclosure Commission

Article 60.—Lobbying Regulation Provisions

19-60-3. Definitions.

The following words and phrases shall have these meanings:

(a) "Employer" means any of the following:

(1) A person who employs another person to a considerable degree for the purpose of lobbying;

(2) a person who formally appoints a person as the primary representative of an organization or of other persons to lobby in person on state-owned or state-leased property; or

(3) a person on whose behalf a person otherwise registers or is required to register as a lobbyist. If a lobbyist has more than one employer, the provisions of articles 60, 61, 62, and 63 of these regulations that relate to employers shall apply independently to each of the lobbyist's employers.

(b) "Expenditure" means a payment or a contract to pay for any of the following:

(1) The provision of hospitality in the form of recreation, food, and beverage to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business entertainment as defined in subsection (c) below;

(2) the provision of any entertainment, gift, honoraria, or payment to any state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, except bona fide personal or business gifts, entertainment, honoraria, or payments;

(3) the production and communication of lobbying information to any state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect by any person other than an individual; or

(4) the production and dissemination of mass media communications, letter-writing campaigns, and similar transactions that explicitly promote or oppose a clearly identified

legislative matter or regulation and that urge or request the recipient to communicate directly with state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect regarding that matter.

A person shall be considered to have made an expenditure if the person does so directly or if another person does so on the person's behalf. In addition, in the case of membership organizations, associations, or similar entities, the entity shall be deemed to make an expenditure associated with membership events if the entity plays an integral role initiating, planning, or operating these membership events.

(5) The term "expenditure" shall not mean a payment or contract that meets any of the following conditions:

(A) Is made for the preparation of proposals, position papers, and similar documents;

(B) is made to employ another to lobby on one's behalf;

(C) is made for personal travel and subsistence of an individual engaged in lobbying;

(D) is reported in compliance with the campaign finance act;

(E) is made in association with any news story, commentary, or editorial distributed in the ordinary course of business by a broadcasting station, newspaper, or other periodical publication; or

(F) is made for contributions to membership organizations, associations, or similar entities in which the funds are used to make expenditures attributable to the entity or its representatives.

(c) "Bona fide personal or business entertainment or gifts" means entertainment or gifts provided to state officers or employees of the legislative branch, candidates for the legislature, or legislators-elect, or their spouses, that are based solely on a business or personal relationship totally unrelated to the duties of the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect. The factors that shall be taken into consideration in determining whether a specific entertainment or gift falls within this definition include the following:

(1) The intent of the parties;

(2) the length of time a business or personal relationship has existed;

(3) the topics of discussion;

(4) the setting;

(5) the persons attending;

(6) the reimbursement of the person providing the entertainment or gift by an organization that engages in lobbying; and

(7) the deduction by the person providing the entertainment or gift, or that person's principal, of the expenditures as lobbying expenditures.

(d)(1) "Gift" means the transfer of money or anything of value without receiving legal consideration of a reasonably equal or greater value in return. The value of a gift shall be the fair market value or a reasonable estimate of it. If a transfer is made for less than reasonable consideration, the amount by which the value of the transfer exceeds the value of the consideration received shall be deemed a gift.

(2) The term "gift" shall not include any of the following:

(A) The provision of hospitality in the form of recreation with a value of less than $100, food, or beverage;

(B) any bona fide personal or business gift or entertainment; or

(C) any contribution reported in compliance with the campaign finance act.

(e) "Hospitality in the form of recreation, food and beverage" means the provision of recreation to or consumption of food and beverage by a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect while the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is in the company of the donor or the donor's authorized agent.

(f) "Entertainment" means the provision of recreation, food, or beverage to a state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect, when the state officer or employee of the legislative branch, candidate for the legislature, or legislator-elect is not in the company of the donor or the donor's authorized agent.

(g) Invitations. In order for an invitation to comply with K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and amendments thereto, an invitation shall be meaningful and issued in good faith. In determining whether an invitation is meaningful and issued in good faith, the factors that shall be considered include the following:

(1) Actual notice. The person extending the invitation shall provide notification in a manner that ensures that the majority of the invitees receive actual notice. The manner in which the invitation is distributed or communicated to the invitees shall remain within the discretion of the invitor.

(2) Timeliness of notice. The invitees shall receive notice in a manner sufficiently timely to allow them a reasonable likelihood of attending the event. Considerations shall include the location of the event, the location of the invitees, the necessity of travel to the event, and the scheduling of other events generally attended by a significant portion of the invitees.

(3) Likelihood of attendance. There shall be a reasonable likelihood that the majority or a reasonable mix of the invitees will or reasonably could attend the event. An invitation to an event that is historically attended only by certain individuals and that carries no reasonable likelihood that the majority or a reasonable mix of the invitees will attend shall not be deemed to be an invitation pursuant to K.S.A. 46-269(c)(2)(E)(i) or (c)(2)(E)(ii) and amendments thereto.

(Authorized by K.S.A. 46-253; implementing K.S.A. 46-237 and 46-271; effective, E-77-7, March 19, 1976; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980; amended June 22, 1992; amended Jan. 23, 2004.)