

## OLLS GUIDELINES FOR WORKING WITH LOBBYISTS

NOTE: For purposes of these guidelines, "lobbyist" includes a professional lobbyist, as defined in section 24-6-301 (6), C.R.S., volunteer lobbyist, as defined in section 24-6-301 (7), C.R.S., and state officials and employees registered with the secretary of state who are responsible for lobbying as defined in section 24-6-303.5, C.R.S.

### 1. PRIORITY OF SERVICE

The Office of Legislative Legal Services (OLLS) is a staff agency of the General Assembly and the Office's first priority is the provision of services directly to members. Therefore, the following guideline will apply to all persons in the OLLS (legislative assistants in the front office and attorneys should be particularly sensitive to this issue):

**A staff person in the OLLS should always assist a legislator who is seeking help, either in person or by phone, before assisting a lobbyist even if the lobbyist is seeking help at the behest of a legislator. If the staff person is already assisting a lobbyist when the legislator asks for help, the lobbyist should be asked to wait while the legislator is being helped or the lobbyist should be assisted by another staff person. A legislator should not be asked to wait until the staff person is finished assisting a lobbyist.**

### 2. BILL REQUESTS AND AMENDMENT REQUESTS

Section 2-3-505, C.R.S.,<sup>1</sup> requires that a request for the drafting of a bill be submitted by a legislator, either in writing or orally. If a lobbyist makes a bill request on behalf of a legislator, the OLLS will accept the bill request but will not consider the request "submitted by the legislator" until the legislator has notified the OLLS, either orally or in writing, that he or she will actually sponsor the bill request made by the lobbyist. Unlike prior practice, the OLLS will no longer call a legislator to verify sponsorship on a bill submitted by a lobbyist; however, the OLLS can verify sponsorship on the bill if the OLLS has occasion to speak to the legislator on some other matter. The lobbyist should be responsible for making sure the legislator calls the OLLS and officially "submits" the bill request. The mere acceptance by the OLLS of a bill request from a lobbyist will not be sufficient to meet bill request deadlines; the legislator must contact the OLLS and verify the request prior to the request deadline.

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<sup>1</sup> **2-3-505. Requests for drafting bills and amendments - confidential nature thereof - lobbying for bills.**

(1) All requests made to the office for the drafting of bills or amendments thereto shall be submitted, either in writing or orally, by the legislator, or by the governor or the governor's representative making the request, with a general statement respecting the policies and purposes which the person making the request desires the bill or amendment to accomplish. The office shall draft each bill or amendment to conform to the purposes so stated or to supplementary instructions of the person making the original request. (remainder of section omitted)

Like bills, a request for the drafting of an amendment must be submitted by a legislator, either in writing or orally. The OLLS may accept a request for an amendment from a lobbyist on behalf of a member only if the lobbyist has the member's authorization, in writing, to make the amendment request. The member's written authorization serves as the member's written request for the drafting of the amendment. A business card or note with the member's authorization and signature is sufficient.

**NOTE:** The provisions outlined above for bill requests and amendment requests do not apply when a legislator has made the bill request or amendment request himself or herself and has authorized the OLLS to work with a specific lobbyist. The provisions are intended to apply in the situation where a lobbyist is making a bill request or amendment request on behalf of a legislator and the OLLS has had no prior contact, either orally or in writing, with the legislator concerning the request.

### **3. INFORMATION RELATING TO THE DRAFTING OF A BILL OR THE DRAFTING OF AN AMENDMENT**

In accordance with section 2-3-505, C.R.S., the OLLS drafter should rely only on information received directly from the bill sponsor or amendment sponsor, either orally or in writing, concerning the specifics relating to the drafting of a bill or an amendment. The OLLS drafter may also rely on information concerning a bill or an amendment provided by a lobbyist who is listed as the contact person on the bill request form, amendment request form, or other written authorization from the sponsor. The OLLS drafter should not rely on information provided by a lobbyist not listed as the contact person unless the drafter has been authorized by the sponsor to rely on such information, either orally or in writing.

### **4. COPIES OF BILLS AND AMENDMENTS**

In accordance with the confidentiality provisions of section 2-3-505, C.R.S., the OLLS will release a copy of a bill or an amendment only to the bill or amendment sponsor. The OLLS may release a copy of a bill or amendment directly to a lobbyist who is working on the bill or a specific amendment and who is listed as the contact person on the bill request form, the amendment request form, or other written authorization from the sponsor. The OLLS may also release a copy to any other lobbyist who the sponsor has authorized on such request form or other written authorization to receive a copy of the bill or amendment. The OLLS should not release a copy of a bill or amendment to any other lobbyist until the OLLS has confirmed with the bill sponsor or amendment sponsor, either orally or in writing, that the sponsor has authorized the lobbyist to receive a copy of the bill or amendment. A lobbyist who is listed as the contact person on the amendment request form or other written authorization from a sponsor may receive copies of only the amendments he or she is working with the sponsor on -- not all amendments to the bill. Lobbyists are advised that a drafter may elect to deliver a bill or amendment to the sponsor prior to releasing a copy to the authorized lobbyist.

**NOTE:** For purposes of guidelines 2 through 4, the term "bill" includes both bill drafts and

finalized bills prior to introduction and the term "amendment" includes both amendment drafts and finalized amendments prior to offering in committee or on the floor. Guidelines 2 through 4 do not apply once a bill is introduced or an amendment is offered by a committee or on the floor.

## **5. LEGAL MEMORANDA**

The OLLS will release a copy of a legal memorandum requested by and prepared for a member only to that member. Because of the confidential nature of the memorandum, the OLLS will release a copy of a memorandum to a lobbyist only if the member has authorized the OLLS, orally or in writing, to provide the lobbyist with a copy. A legal memorandum requested by and prepared for a member is "work product", as defined in section 24-72-202 (6.5), C.R.S., is not a public record, and is subject to the statutory requirements governing work product.

## **6. COPIES OF OLLS MATERIALS**

The OLLS will provide a copy of any material prepared or held by the OLLS (charts, bill summaries, memoranda, preamended bills, court cases, etc.) that is not confidential to any member. The OLLS will provide a copy of any such material to a lobbyist, without charge, if a member has directed the OLLS, either orally or in writing, to provide the lobbyist or if the material is ten or fewer pages in length. If the material exceeds ten pages in length, the OLLS will provide a copy of the material to a lobbyist for purposes of allowing the lobbyist to copy the material on the public copying machine as allowed by the "Public Records Act", part 2 of article 72 of title 24, Colorado Revised Statutes.

**NOTE:** This provision does not apply to the Digest of Bills prepared by the OLLS.

## **7. REQUESTS FOR RESEARCH**

The OLLS will take research requests from members either orally or in writing. The OLLS will take a research request from a lobbyist only if the lobbyist has a member's authorization, in writing, to make the research request.

## **8. USE OF OLLS OFFICE EQUIPMENT BY OR FOR LOBBYISTS**

OLLS office equipment including, but not limited to, telephones, copying machines, and FAX machines, can be used by a lobbyist or by an OLLS staff person on a lobbyist's behalf only if the OLLS determines the use is directly related to furthering work by the OLLS for a member. Under no circumstances should OLLS office equipment be used for a lobbyist's personal business. OLLS staff persons who are notaries and whose notary seal is paid for from OLLS funds should not notarize any document for a lobbyist.

## 9. GIFTS FROM LOBBYISTS AND ATTENDANCE AT LOBBYIST-SPONSORED ACTIVITIES

The provisions of article XXIX of the Colorado constitution (more commonly known as "Amendment 41"), which became effective on December 31, 2006, expressly prohibit a professional lobbyist, personally or on behalf of any other person or entity, from knowingly offering, giving, or arranging to give to certain persons covered by the article, including government employees such as employees of the OLLS, or to such covered persons' immediate family members, any gift or thing of value or any meal, beverage, or other consumable item<sup>2</sup>. Accordingly, and in order to comply with the letter and spirit of Article XXIX, employees of the OLLS are prohibited from receiving, accepting, taking, seeking, or soliciting, directly or indirectly, *any* gift from a lobbyist. The term "gift" has the same meaning as described and used in section 3 of article XXIX. This restriction prohibits OLLS employees from attending lobbyist-sponsored activities or programs, as well, unless the OLLS employee pays for the cost of attending or the office pays the cost on behalf of the employee. However, an OLLS employee may have a meal with a lobbyist so long as the OLLS employee pays for his or her own meal.

OLLS employees attending a conference or meeting the registration fee or other costs for which has been paid by the employee or on the employee's behalf by the state, may partake in meals or activities that are a scheduled part of the conference or meeting and that may be underwritten, in whole or in part, by one or more organizations that may be represented by a lobbyist if: 1) The meal or activity is offered by the sponsor of the program or meeting to every attendee; and 2) it is not given or offered individually to the OLLS employee to influence an official act that he or she may perform in the course and scope of his or her public duties.

In certain circumstances, the director of the OLLS may accept or receive on behalf of the entire office a gift of nominal value from a lobbyist that is intended for the benefit and enjoyment of the office as a whole.

If you have any questions regarding compliance with article XXIX, please see the director of the OLLS or your immediate supervisor.

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<sup>2</sup>On May 31, 2007, the Denver district court entered a preliminary injunction enjoining the enforcement of sections 2 and 3 of article XXIX. Subsequently, on February 25, 2008, the Colorado Supreme Court held, *inter alia*, that because the independent ethics commission, the body created in article XXIX to enforce the measure, had not yet had an opportunity to act, any as-applied challenges to the provisions of the article are not ripe for adjudication. Accordingly, the district court did not have jurisdiction to grant a preliminary injunction and the district court was directed to vacate the same which it did on April 22, 2008. *Developmental Pathways v. Ritter*, 178 P.3d 524 (Colo. 2008). As of September 2008, there are no new developments concerning this action, and the provisions of article XXIX remain in full force and effect. On October 6, 2008, the commission issued its first position statement for the purpose of clarifying the provisions of section 3 (1) and (2) of article XXIX relating to the receipt of various gifts or other benefits. It is expected that this is the first of additional position statements that will be issued by the commission.

## **10. DATING LOBBYISTS AND OTHER LOBBYIST RELATIONS**

An OLLS staff person is strongly discouraged from dating a lobbyist, especially if the staff person is working directly with the lobbyist on official business.

If, because of a personal relationship with a lobbyist, an OLLS staff person believes that there may be an appearance of impropriety, the OLLS staff person shall disclose the existence of the relationship to the member and to the OLLS.

## **11. NONCOMPLIANCE WITH GUIDELINES.**

Knowing noncompliance with one or more of these guidelines by an OLLS staff person may result in the taking of appropriate disciplinary or remedial action in the interest of preserving the role and integrity of the office. Noncompliance with a guideline will be addressed on a case-by-case basis.

If a lobbyist knowingly asks an OLLS staff person to disregard one of these guidelines, the OLLS staff person should report such request to the director of the OLLS for appropriate action.

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