

The Legislative Ethics Commission has approved generic advice on the topics listed below. The guidance offered is general in nature and the Commission's response to individual questions may vary according to the facts of each particular request. You are strongly advised to consult Commission staff or your counsel's office for advice pertaining to your individual situation.

Post Employment Restrictions

For employees who terminate legislative service on or before December 30, 2008

The current post-employment restrictions apply. These pertain to legislative employees who are subject to Public Officers Law (POL) § 73-a. You are subject to POL § 73-a if you exceed the file rate (earn more than \$82,389 from your legislative employment in 2008) or have been designated as a policy maker by your appointing authority. Employees who are subject to POL § 73-a file the eleven page (long form) annual statement of financial disclosure with the Commission.

The advice below applies to employees who are subject to the restrictions currently in effect and who leave on or before December 30, 2008.

Public Officers Law § 73 (8) (a) (iii)

GENERIC ADVICE

A former employee is restricted from lobbying with regard to issues pertaining to matters with which he was directly concerned and in which he personally participated throughout his legislative career for the duration of the legislative term. The Legislative Ethics Commission has interpreted "direct concern with and personal participation in a matter" to mean personal involvement in the development, negotiation and implementation of a matter to an important and material degree.

The Commission advises the employees to construe the term "development" in its broadest sense. The term includes influencing the substance or progression of legislation, even though the employee may not have personally participated in the drafting or negotiation of a matter. For example, efforts to promote, oppose or amend a bill based on policy or political considerations, or participation in strategy sessions on how to foster support for or opposition to legislation as examples of such involvement would be considered participating in the development of legislation. We recognize that an employee with a long legislative career may have participated in the development of many issues; nevertheless, the Commission feels strongly that a former employee must observe the ban meticulously for the restricted period.

The restriction against lobbying applies to any matters with which the employee was directly concerned and in which he personally participated during his entire period of legislative employment, including such employment prior to the current legislative term.

Members of the former employee's firm may lobby the legislature even though the former employee is restricted; however, the former employee may not provide input or guidance with

regard to such matters. Advising other members of his firm on how to impede or promote the progress of legislation would constitute indirect lobbying which is a prohibited activity.

No restrictions apply to a former employee with regard to lobbying the executive branch of government. For employees who terminate their legislative service on or before December 30, 2008, there will be no restrictions as of the beginning of the new legislative term on January 1, 2009.

If after receiving an advisory opinion a former employee is asked to lobby on additional issues which may relate to those he worked on during his legislative employment, we advise him to seek further guidance.

GOVERNMENT TO GOVERNMENT EXCEPTION

The post employment restrictions against lobbying do not apply to former members or employees of the legislature while carrying out duties as an elected official or as an employee of a federal, state or local government or a federal, state or local government agency.

SUPERVISORY EXCEPTION

Where an employee was involved in a matter only in a supervisory capacity, he must seek specific approval from the Commission for each engagement which would involve lobbying on any related matters.

EMPLOYEE NOT SUBJECT TO PUBLIC OFFICERS LAW § 73-a

(Short form filers)

An employee who is not subject to Public Officers Law § 73-a may lobby immediately after terminating his legislative service, even if he was subject to Public Officers Law § 73-a during a prior legislative term.
