

**ADVISORY OPINION AO-1989-003
RECONSTITUTED AS ETHICS INTERPRETATION EI-1989-003
ISSUED APRIL 5, 1989**

The Oklahoma Council on Campaign Compliance and Ethical Standards ["the Council"] has received your request for an advisory opinion asking, in effect:

Are persons who are retained or employed to lobby before municipal or county governmental bodies required to register as lobbyists under the provisions of Title 74 O.S. Supp. 1988, §4227?

The law under consideration reads, in pertinent part:

A. The following persons shall register with the Oklahoma Council on Campaign Compliance and Ethical Standards as lobbyist:

* * *

3. Any person who is retained or employed in whole or in part as a lobbyist or legislative agent by any person, firm, corporation, association, labor union, or labor organization, to promote, oppose, or otherwise influence official action or the passage of any legislation, whether or not any compensation in addition to the salary for that regular employment is received for such lobbying.

The definition of "lobbying" is found in Title 74 O.S. Supp. 1988, §4202 (13) and reads:

13. "Lobbying", or any derivative of the word thereof, means promoting, opposing or attempting to influence any official action; but shall not include any person representing himself or a client in a professional capacity in a court proceeding or before any governmental entity;

The term "official action" is not a defined term in the Oklahoma Campaign Compliance and Ethical Standards Act [the "Act"] but was defined in Title 74 O.S. 1981, §4001 as follows:

10. "Official action" means any judicial, executive, legislative or administrative action which shall include, but is not limited to, the promulgation of rules and regulations and the setting of rates;

While action, whether judicial, executive, legislative or administrative, is not defined in Title 74 O.S. 1981, §4001, the following terms were defined:

3. "Executive Branch" means an officer, officer-elect, member or employee of any state agency, commission, board, department or office in the executive branch of state government;

* * *

5. "Judicial branch" means an officer, officer-elect, member or employee of any part of the judicial system in this state;

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7. "Legislative branch" means a member, member-elect, or officer of the Legislature, or a legislative committee, or an employee of the Legislature.

Title 74 O.S. 1981, §§ 4001 and 4001.1 were repealed and §§ 4002 through 4015 were amended and recodified into the Oklahoma Ethics Commission Act which was amended by the Oklahoma Campaign Compliance and Ethical Standards Act at Title 74 O.S. Supp. 1988, § 4200 et seq. Many of the definitions contained in § 4001 were carried forward into § 4202 of both amendatory acts, but the definitions of official action, executive branch, judicial branch or legislative branch were not.

Title 25 O.S. 1981, § 2 reads:

Whenever the meaning of a word or phrase is defined in any statute, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears.

The Oklahoma Supreme Court has interpreted this statutory provision in *Letteer v. Conservancy District No. 30*, 385 P.2d 796 (Okl. 1963) where they wrote:

Antecedent legislative enactments which have been repealed or superseded may be resorted to and considered in construction of amendatory acts in *pari materia*.

The Court further wrote:

Words employed in the original or antecedent Act will be presumed to be used in the same sense in the amendatory enactment.

It is clear from the definitions contained in the original Lobbying Act that lobbying that would require registration would only be done at the state level. While the section containing the definitions needed to arrive at the same conclusion were not carried forward into the Oklahoma Ethics Commission Act, which also repealed the section containing the definitions, the words continue to be used both in the Oklahoma Ethics Commission Act and its successor, the Oklahoma Campaign Compliance and Ethical Standards Act with no attempt to redefine them. Since no contrary intention appears, we must presume that the words have been used in the same sense as the antecedent act.

It is, therefore, the advisory opinion of the Council, as voted on at its regular meeting on April 5, 1989, that persons who are retained or employed to lobby before municipal or county governmental bodies are not required to register as lobbyists under Title 74 O.S. Supp. 1988, § 4227.

WITHDRAWN. Ethics Interpretation EI-1989-003 was withdrawn on June 28, 2011, because the Commission no longer had jurisdiction over lobbyist registration.