

COMMENTS SUBMITTED BY COMMON CAUSE/NY
ON JCOPE'S PROPOSED SOURCE OF FUNDING REGULATIONS - PART 938
AND PROPOSED COMPREHENSIVE LOBBYING REGULATIONS -PART 943

Common Cause/New York is a nonpartisan citizens' lobby and a leading force in the battle for honest and accountable government. We are the state chapter of Common Cause, a national organization that fights to strengthen public participation and faith in our institutions of self-government and to ensure that government and political processes serve the general interest, and not simply the special interests. For nearly 50 years, we have worked at both the state and municipal level to bring about honest, open and accountable government. Representing more than 70,000 members, activists and supporters throughout New York State, we have been a long-standing advocate for innovative campaign finance, lobbying, and ethics laws in New York, as well as throughout the country.

We thank the Commission for this opportunity to submit comments on the proposed regulations. We particularly commend the Commission and staff for the consideration and significant review, as well as opportunities for discussion and feedback, that have gone into the process of developing these proposed regulations.

Proposed Source of Funding Regulations

1. We believe that the regulations should be effective as of the January 15, 2018 Client Semi-Annual Report. We have consistently opposed retroactive regulations except in very unusual circumstances.
2. Prior guidance from the Commission staff clarified the manner of reporting for local chapters or affiliates of national organizations, by clarifying that contributions to and expenditures by the local chapter or affiliate, rather than contributions and expenditures made at the national level or in chapters for other states unless specifically ear-marked for New York lobbying or activities, were subject to New York reporting requirements. New York has no interest in disclosure of a contribution given by a resident of another state to that state's local chapter for activities, which could include lobbying, in that other state. The proposed regulations are silent in this regard, which creates confusion. Common Cause/NY recommends that the earlier guidance be incorporated into the proposed regulations.

Proposed Comprehensive Lobbying Regulations

1. We oppose the inclusion of uncompensated board members, directors or officers as Designated Lobbyists. Such inclusion is outside the intent of the lobbying laws, which predicates reporting on expenditure of money.

2. We oppose the proposed carve out to the exception for requested information contained at proposed 943.4(f)(2). Providing complete and relevant information should not be limited to the information specifically requested by the public official. This unduly complicates and discourages providing helpful information on a general topic requested by the official.

3. We support the inclusion of the definition of grassroots lobbying as contained in the proposed regulation. However, we believe that the inclusion of public communications, such as on a billboard as direct lobby in proposed 943.6 (a)(1)(i)(f) is misplaced. Such communication falls under Grassroots Lobbying as defined in the proposed regulations.

4. We remain concerned that the proposed regulations relating to coalitions are unclear and potentially could chill organizations' associational rights. We agree with NYPIRG's suggestion that the term "pool funds" should be defined so as to clarify that "paper coalitions" have no additional reporting requirements. We share the concern of several organizations who have filed comments that requiring either the coalition or members of a coalition to know the filing status of individual members or to identify all coalition members on an individual members' registration statement is burdensome and unreasonable. The regulation should be clarified to make it clear under what circumstances a lobbying-reportable coalition has been formed, i.e., by opening a joint or coalition account to which money is contributed or solicited for use as approved by the coalition, with the coalition responsible for identifying each source of funding that in excess of \$2500. The regulation should further clarify that individual members are only responsible for disclosing as lobbying expenditures contributions made to the coalition that aggregate less than \$2500 in an amount proportional to the proportional amount spent by the coalition on lobbying activities. Otherwise, unnecessary and confusing duplication of disclosure results.

5. Since our 2011 report, *LIFTING THE VEIL A Report Analyzing Grassroots Lobbying in New York State and Recommending Amendments to the Lobbying Act*, we have advocated for clearer and more detailed reporting of grassroots lobbying. We support the inclusion of the definition of grassroots lobbying as contained in the proposed regulation. We further support the requirement that the specific public official who is lobbied be identified in the reports.

6. Starting with our 2011 report, we have pointed out the lack of standardization and wide disparity in the manner in which lobbying activities are reported. This lack of standardization makes analysis of lobbying activities by the public and by advocacy organizations such as Common Cause New York unnecessarily difficult. We believe that the proposed regulations should encourage more detailed and standardized reporting, as well as provide specific examples of acceptably detailed reporting. For instance, proposed 943.6(b)(4)(II) should specify that the identified expenses should be detailed if each individual category incurs expenditures in excess of \$75, rather than all aggregated under a general description such as "lobby day expenses".

7. We further support the requirement that the specific public official who is lobbied be identified in the reports. Such specificity is essential for true transparency.

8. We particularly support proposed regulation 943.12 (d)(1)(i), which would eliminate the need for Organizational Lobbyists to file Semi-Annual Reports the merely aggregate the information provided in the Organizational Lobbyist's Bi-Monthly Reports. The unnecessary duplication of reports resulted in inadvertent errors and served no public purpose.