

December 11, 2017

Martin Levine, Esq.  
Director of Lobbying  
New York State Joint Commission on Public Ethics  
540 Broadway  
Albany, NY 12207

Transmitted electronically to: [martin.levine@jcope.ny.gov](mailto:martin.levine@jcope.ny.gov)

Dear Mr. Levine:

On behalf of the Board of Directors and members of the Empire State Society of Association Executives (ESSAE), we respectfully submit the following comments regarding the revised JCOPE Staff Proposal for Comprehensive Lobbying Regulations, which will echo comments already made to JCOPE by a number of professional associations and citizen groups.

ESSAE is a nonprofit professional organization for persons engaged in the management of voluntary trade and professional organizations. ESSAE provides quality educational, leadership, and professional development opportunities to association executives and supplier members, to encourage high professional standards in the management of associations. ESSAE membership comprises over 475 members statewide.

This past July, ESSAE leaders shared our concerns at a meeting with JCOPE staff at your Albany Office. We welcomed the news of the further revisions and public hearings, as well as JCOPE's plans to revise its website and its online resources for assisting the public in searching for important information about compliance, filing, and how they interact with New York State government.

Upon review of the most recent revisions of Title 19 NYCRR Part 943, ESSAE respectfully asks for clarification or reconsideration of the following:

**Preliminary Contact - 943.6(a)(2)**

As written this clause may be interpreted to require reporting by an administrative assistant, intern, or volunteer who is scheduling a meeting with a public official. We assert such administrative support is strictly procedural and does not constitute an effort to influence public policy making.

**Lobby Day – 943.6(b)(4)**

Granting that clarification of preliminary contact may serve to remedy part of the uncertainty here, we also maintain that not all staff-time spent planning a lobby day should be deemed reportable lobbying. Lobby Days require a significant amount of administrative and logistical preparation, as well as follow-ups and communications with volunteers. The purposes of many Lobby or Advocacy Days held by New York State associations can transcend efforts to influence public

policy. Many of such Lobby or Advocacy Days equally pursue educational and member services goals. Many associations organize and conduct Lobby or Advocacy Days without the use of professional lobbying or government affairs staff. These events are organized by staff and volunteers of the association.

**Social Media Lobbying – 943.6(c)(4)**

The use of social media is a challenge to report because it may bear little or no expense and cannot readily be controlled nor even comprehensively monitored. For example, a volunteer of an association offers a viewpoint via a free social media platform. It should be expected that employees, volunteer leaders, and members of any association may be politically active and express views or ideas that may come in line with the public policy positions of their association or non-profit. It is unreasonable to assume that a staff member tasked with JCOPE filings as part of their duties would be aware or responsible for all social media activities that may appear to constitute lobbying.

**Requirements for Lobbyist Registration Statements – 943.10**

943.10(j)(9) requires lobbyists to identify “other parties to the Lobbying,” including “Coalitions” and 943.10(j)(i) “a list of all members of the Coalition who exceed \$5,000 in cumulative annual Lobbying compensation and expenses.” These requirements would be burdensome and impractical. At the time of registration, it will be difficult for organizers to know their coalition partners. Moreover, requiring lobbyists to know the filing status and lobby expenditure levels of each of its coalition partners would be extremely time consuming and provide little benefit to JCOPE, as the entities otherwise required to report will provide that information.

Moreover, these requirements will have a chilling effect on the formation of coalitions—and infringe upon protected free speech and associational rights. ESSAE recommends that all filers meet requirements by either including a list of coalition members on each communication or provide a link to a website that lists current coalition partners.

ESSAE believes that issues listed above can be seen as inflating the political activities of many non-profit associations across New York State. This threatens to add compliance costs to these non-profit organizations and can distort common perceptions of these organizations and their missions.

Additionally, we continue to encourage JCOPE to offer opportunities for training on the new Lobbying Regulations and the use of the planned upgraded JCOPE website, when all are promulgated. All New York State associations (whether they retain a lobbyist or not) would benefit by understanding the new regulations, their impact on an association’s operations and to ensure compliance. ESSAE would be pleased to work with JCOPE in offering such training to our members.

ESSAE looks forward to final regulations which balance the cost and complexity of compliance with the public good derived from such regulations.

If you have any questions, or would like additional information about the impact of associations on the life of New York State, please feel free to contact Executive Director Vanessa LaClair at (518) 463-1755 or [vanessa@essae.org](mailto:vanessa@essae.org).

Thank you for your fullest consideration of our comments.

Sincerely,

Handwritten signature of Thomas J. Côté in black ink.

Thomas J. Côté, MBA, CAE  
Chair, Board of Directors

Handwritten signature of Vanessa LaClair in black ink.

Vanessa LaClair, CMP  
Executive Director