



Chapter 3: Direct and Grassroots Lobbying

Lobbying or **Lobbying Activity** can take two forms: Direct Lobbying and/or Grassroots Lobbying. The regulations seek to clarify what constitutes Direct and Grassroots Lobbying as well as provide guidance and clarification relating to the use of social media in lobbying campaigns.

In order for *any* activity to constitute reportable Lobbying, there must be (1) an Attempt to Influence a Lobbying Activity and (2) the *cumulative* Compensation and Expenses received, expended or incurred by the filer for *any* such activities must exceed \$5,000 in a calendar year. The following guidance related to Direct and Grassroots Lobbying applies assuming, of course, that these two conditions are met.

Direct Lobbying is an Attempt to Influence a **Lobbying Activity** through **Direct or Preliminary Contact** with a Public Official, or through communication or interaction directed to a Public Official, or the Public Official's staff.

Grassroots Lobbying is an Attempt to Influence a Public Official **indirectly**, or through a person or organization who solicits another to deliver a message to a Public Official.

See **Chapter 1: Lobbying Definitions** for more detailed definitions related to Direct and Grassroots Lobbying.

DIRECT LOBBYING

What is Direct Contact?

Any communication or interaction directed to a Public Official, including:

- Verbal or written communications;
- Electronic, social media and internet communications;
- Attendance at a meeting with a Public Official; and
- Presence on phone call if the Public Official is aware of such presence.

What is Preliminary Contact?

When the Lobbyist knows or has reason to know that the Client will Attempt to Influence a Public Official, including:

- Scheduling a meeting or phone call with a Public Official and a Client;
- Introducing a Client to a Public Official; and
- Any other contact with the Public Official on behalf of a Client.

What is NOT Direct Lobbying?

The following is **not** considered Direct Lobbying, when the person plays no role in the strategy, planning messaging or other substantive aspect of the overall lobbying effort:

- Attending a meeting with a Public Official only to provide technical information or address technical questions; provide clerical or administrative assistance (including audio/visual, translation or interpretation, and sign language), or to observe for educational purposes.
- When a person schedules a meeting or places a call in a purely administrative capacity (even if lobbying is expected to occur at such meeting – such activity is attributable to the person who directed that the call be made or the meeting be set up).

Are activities conducted at a Lobby Day considered reportable Lobbying?

Any activity engaged in by an organization coordinating a Lobby Day that meets the definition of a **Lobbying Activity** is reportable by the organization (assuming the organization has met the \$5,000 threshold in combined **Reportable Compensation** and **Reportable Expenses** for **Lobbying Activities** on a State and/or Municipal level). Therefore, any **Lobbying Activity** conducted at a Lobby Day is considered a covered activity.

When must an individual be identified as an Individual Lobbyist on a Lobbying Report based on activities related to a Lobby Day?

An **employee** or **Designated Lobbyist** of an organization coordinating a Lobby Day is engaged in Direct Lobbying via the Lobby Day and must be identified as an Individual Lobbyist on its Lobbying Reports **only if** the employee or Designated Lobbyist:

- Makes Direct Contact with a Public Official; **and**
- Speaks on behalf of the organization at the Lobby Day relating to a Lobbying Activity.

NOTE: Volunteers or members of the organization coordinating the Lobby Day need not be listed as Individual Lobbyists.

Must members of an organization or its volunteers be listed as Individual Lobbyists based on their presence or attendance at a Lobby Day?

No. Again, the **only** persons who should be listed as Individual Lobbyists related to an organization's Lobby Day are the organization's **employees** or **Designated Lobbyists** who make Direct Contact with a Public Official and speak (a lobbying message to a Public Official) on behalf of the organization at the Lobby Day.

Can a mere member of an organization or its volunteers be considered a

Designated Lobbyist of the organization at a Lobby Day?

No. A Designated Lobbyist means a person who is a **board member, director or officer** of the organization that lobbies on behalf of the organization. Members and volunteers are not Designated Lobbyists.

What are Reportable Expenses at a Lobby Day?

An Organization coordinating a Lobby Day must report Lobbying Expenses which may include, but are not limited to:

- Compensated staff time for attendance at the Lobby Day;
- Staff time spent planning the Lobby Day;
- Expenses related to transportation to the Lobby Day.

When is a Social Media communication considered Direct Lobbying?

As is the case in any form of contact, a social media communication is not considered Lobbying unless it Attempts to Influence an activity listed in 1-c(c) of the Lobbying Act. A social media communication is considered Direct Lobbying if it:

- Is directly sent to a social media account known to be owned or controlled by a Public Official; or
- Creates a direct link to any social media account known to be owned or controlled by a Public Official; or
- Is targeted to a Public Official's staff with knowledge that the person is a member of the Public Official's staff.

NOTE: A social media post standing alone (even if it clearly contains a lobbying message) is not Direct Lobbying; there must be Direct Contact with a Public Official. For example, a post that references *but does not tag* a Public Official would not constitute Direct Lobbying.

When must an organization identify its employees as an Individual Lobbyist based on the employee's Social Media communication?

Only when Direct Contact via social media was made by the employee ***in the course of his employment*** **and** such contact was ***not*** part of a coordinated, mass social media campaign conducted by the organization.

NOTE: If an organization requires its employees to share a post from the organization's Facebook page and tag a Public Official (which is an example of a mass social media campaign coordinated by the organization), such employees:

- Would not need to be identified as Individual Lobbyists;

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- Time spent posting the message would, however, constitute a reportable Lobbying Expense of the organization.

What Expenses must be reported related to the use of Social Media?

Reportable Expenses attributable to an Organization's social media activities that constitute Direct Lobbying may include, but are not limited to:

- Consulting services;
- Staff time allocated to planning and posting;
- Search engine optimization and sponsoring; and
- Advertising.

GRASSROOTS LOBBYING

Grassroots Lobbying is an Attempt to Influence a Public Official **indirectly**, or through a person or organization who solicits another to deliver a message to a Public Official.

A Grassroots Lobbyist is a person or organization who solicits another to deliver a lobbying message to a Public Official. The audience or recipients of grassroots communications who voluntarily (and without compensation) subsequently deliver the message to a Public Official are **not** Grassroots Lobbyists.

What constitutes a Grassroots Lobbying Communication?

A communication that:

- References or otherwise implicates a **Lobbying Activity**;
- Takes a clear position on such Activity; and
- Includes a Call to Action.

What is a Call to Action?

A solicitation to a person or the public to:

- Directly contact a Public Official; or
- Have them solicit others to directly contact a Public Official.

NOTE: the inclusion of a Public Official's contact information on the Grassroots Lobbying Communication constitutes a Call to Action even if there is no specific solicitation for the public to contact the Public Official.

Likewise, the inclusion of a paper/electronic petition, text message, social media communication, or similar material for the recipient to use to communicate with a Public Official constitutes a Call to Action

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even if there is no specific solicitation for the public to use the material included.

When does an organization engage in Grassroots Lobbying?

When a **Grassroots Lobbying Communication** is issued by the organization, including when an employee delivers a Grassroots Lobbying Communication at the direction of the organization.

Does every Grassroots Lobbying Communication require the identification of Individual Lobbyists?

No. Sometimes there is no “face” to the **Lobbying**. For example, if an organization buys billboard space to advertise and places a Grassroots Lobbying Communication, there is no “face” to the Lobbying and no Individual Lobbyist should be listed for the billboard buy.

When must an organization identify its employees as an Individual Lobbyist based on its Grassroots Lobbying?

Employees must be listed as Individual Lobbyists based on Grassroots Lobbying Activity if they:

- Deliver the Grassroots Lobbying Communication;
- Can be identified as the speaker of such Communication; and
- In the course of their employment, participate in the shaping of the message expressed in the Communication.

On a Client Semi-Annual Report, when must a Client Organization identify a Retained Lobbyist who conducted Grassroots Lobbying on the Client Organization’s behalf?

If the Retained Lobbyist delivers a Grassroots Lobbying Communication and can be identified as speaking for, representing or endorsing the position of the Client Organization.

On a Bi-Monthly Report, when must a Principal, Retained Lobbyist identify an Individual Lobbyist based on Grassroots Lobbying it conducted on a Client’s behalf?

If the Individual Lobbyist delivers a Grassroots Lobbying Communication and can be identified as speaking for, representing or endorsing the position of the Client Organization.

What Expenses should be reported related to Grassroots Lobbying?

Reportable Expenses attributable to an Organization's Grassroots Lobbying may include, but are not limited to:

- Consulting services;
- Sponsoring posts;
- Staff time allocated to planning and posting;
- Search engine optimization; or
- Advertising.