LOBBYING OVERVIEW
LOBBYING IS ANY ATTEMPT TO INFLUENCE:

- State or local legislation or resolutions
- State or local executive orders
- State or local rules or regulations
- Rate making proceedings by a State agency or municipality
- Governmental procurements
- Tribal-state compacts, memoranda of understanding, or any other tribal-state agreements.

These are known as the Lobbying Act “1-c(c) activities”
Direct lobbying involves direct contact between a Lobbyist and the individual you are attempting to influence, including but not limited to:

- face-to-face **meetings**
- telephone **calls**
- distribution of **written materials**
- **e-mails**
- **social media** interactions
Grassroots Lobbying involves a communication that takes a clear position on a specific “government action” and urges the public or a segment of the public to contact a Public Official in support of that position.

Grassroots Lobbying is an attempt to influence Public Officials through their constituency, by motivating or enabling the public to contact their elected officials.
REPORTABLE LOBBYING ACTIVITY
TRIGGERS FOR REQUIRED REPORTING

REPORTING IS REQUIRED IF:

1. There is lobbying on any of the 1-c(c) activities and

2. The Lobbyist or Client exceeds, or anticipates exceeding, the $5,000 threshold.
CALCULATING THE $5,000 LOBBYING THRESHOLD

You will have reached the $5,000 threshold if you incur, expend, or receive or reasonably anticipate incurring, expending, or receiving more than $5,000 in combined reportable compensation and expenses for Lobbying Activities on a State and/or local level per year.

- **Reportable compensation** is generally money paid to an external Lobbyist, or internal spending (salaries).

- **Reportable expenses** include things like advertising, social events, and bill tracking.
WHAT’S NEW?

• Comprehensive Lobbying Regulations – Part 943

• Corresponding Amendments to Source of Funding Regulations – Part 938
Every Registration and Report must include a **Contractual Client** and a **Beneficial Client** (even if the same). We require the “true client” to be disclosed.

- Greater specificity on **Lobbying targets** – who you lobbied.

- **Direct Lobbying** includes “door opening” and certain activity conducted at Lobby Days.

- **Grassroots Lobbying** is defined and reportable.

- Lobbying using **Social Media** is reportable.

- **Coalitions** are defined and filing options and associated filing requirements are provided.

- Filing requirements are **streamlined** wherever possible, including the use of Auto-Generated Client Semi-Annual Reports.
WHO ARE YOU AND HOW DO YOU FILE?

- Clients – Contractual and Beneficial
- Lobbyists – Employed, Retained and Designated
- Multi-Party Relationships – Sub and Co-Lobbyists
- Coalitions
CLIENTS

Contractual and Beneficial Client
THE CONCEPT

- Lobbyists and Clients must identify both the Contractual Client and Beneficial Client on all lobbying filings.

- Contractual Client and Beneficial Client can be the same.

- Designed to close loopholes in Source of Funding disclosure and promote transparency by requiring Lobbyists and Clients to identify the “true” Client on all lobbying reports.
I am a **CONTRACTUAL CLIENT**...

An individual or organization that retains the services of a Lobbyist for the benefit of itself or another.

- Responsible for filing the CSA, except for the Source of Funding Disclosure section of the CSA
- Responsible Party of the Contractual Client signs Lobbying Agreements or Authorizations
- Party that typically compensates the Lobbyist (internal or external), although sometimes the Beneficial Client pays all or a portion of the compensation and expenses
- Listed by Lobbyist and Client on all lobbying filings
I am a **BENEFICIAL CLIENT**…

The specific individual or organization on whose behalf and at whose request or behest lobbying activity is conducted. The “true” client.

- Listed by Lobbyist and Client on all lobbying filings
- Coalition Members (of Coalitions filing lobbying reports) exceeding $5,000 in cumulative annual lobbying compensation and expenses
- An individual or organization that lobbies on its own behalf (in which case they are the Lobbyist, BC and CC)
- Responsible for Source of Funding Disclosure requirements
When should Subsidiary Companies be listed as Beneficial Clients of a lobbying arrangement between the Corporate Parent and a Lobbyist? Factors to consider:

- Will the Subsidiary benefit from the lobbying?
- Is the Subsidiary paying for part or all of the lobbying?
- What type of Subsidiary is paying for the lobbying – is it a Subsidiary that only provides administrative services to the Parent Company (i.e. a management company)?
LOBBYISTS
Employed, Designated and Retained Prime, Co and Sub-Lobbyists
I am an EMPLOYED LOBBYIST...

In this case, the Advocacy Center is both its own Lobbyist and Client.
I am a DESIGNATED LOBBYIST...

DESIGNATED LOBBYIST

Lobbies on behalf of an Organization as a Board Member, Director or Officer

DESIGNATED LOBBYIST

Lobbies on behalf of themselves
I am a **RETIRED LOBBYIST**...
MULTI-PARTY RELATIONSHIPS

- Prime Lobbyists
- Sub-Lobbyists
- Co-Lobbyists
REPORTING OBLIGATIONS FOR **ALL PARTIES**
TO A LOBBYING ACTIVITY

**LOBBYIST**
- STATEMENT OF REGISTRATION
- BI-MONTHLY REPORTS
- DISBURSEMENT OF PUBLIC MONIES (If applicable)

**CONTRACTUAL CLIENT**
- CLIENT SEMI-ANNUAL REPORT

**BENEFICIAL CLIENT**
- SOURCE OF FUNDING
CLIENT

Retains Lobby Firm A

(Contractual and Beneficial)

LOBBY FIRM A
(Prime Lobbyist)

Lobby Firm A retains Lobby Firm B to do a portion of the work

(Contractual Client of Sub)

LOBBY FIRM B
(Sub-Lobbyist)

The Sub-Lobbyist may or may not have interaction with the Client

PRIME OR SUB LOBBYIST?
CLIENT (BOTH CONTRACTUAL AND BENEFICIAL) SEMI-ANNUAL REPORT

Lists Prime Lobbyist as the Lobbyist and discloses lobbying activity by Prime Lobbyist on their behalf.
MULTI-PARTY – **PRIME LOBBYIST** REQUIRED FILINGS

**STATEMENT OF REGISTRATION AND BI-MONTHLY REPORTS**
- Disclose Client and all Sub-Lobbyists
- Describes own lobbying activity

**PRIME LOBBYIST**

**A CONTRACTUAL CLIENT (OF SUB-LOBBYIST)**

**CLIENT SEMI-ANNUAL REPORT**
- Describes Contractual Client/Lobbyist relationship between Prime (as the Contractual Client on behalf of the Beneficial Client) and Sub-Lobbyist
MULTI-PARTY – **SUB-LOBBYIST** REQUIRED FILINGS

**SUB-LOBBYIST**

**STATEMENT OF REGISTRATION AND BI-MONTHLY REPORTS**

**DISCLOSES THE CONTRACTUAL CLIENT (= PRIME LOBBYIST) AND BENEFICIAL CLIENT (= ORIGINAL CLIENT/“TRUE” CLIENT)**

**DEScribes THEIR OWN LOBBYING ACTIVITY**
CO-LOBBYISTS

- EACH CO-LOBBYIST MUST FILE OWN REGISTRATION STATEMENT
- MUST IDENTIFY CO-LOBBYIST
- BUT ONLY LIST ITS OWN COMPENSATION AND EXPENSES

CLIENT

SINGLE CONTRACT

LOBBY FIRM A
(Co-Lobbyist)

LOBBY FIRM B
(Co-Lobbyist)
MULTI-PARTY RELATIONSHIPS – COALITIONS

Striking a balance between improved transparency surrounding who is behind Coalitions without discouraging their formation
WHAT IS A COALITION?

A group of otherwise-unaffiliated entities or members who pool funds for the primary purpose of engaging in lobbying activities on behalf of the members of the Coalition.
FILE A LOBBYING REPORT AS A LOBBYIST OR CLIENT

• Name a Responsible Party for the filings

• List as Beneficial Clients all members who exceed $5,000 in cumulative annual Lobbying Compensation and Expenses

OR

Each member who is required to file a Lobbying report (either through the Coalition activity and/or other Lobbying Activity engaged in by the member) must disclose in such report their own contribution to such Coalition, including the amount and the name of the Coalition to which it contributed
If the Coalition identifies itself as a LOBBYIST and/or a CLIENT, then:

1. The Coalition must **FILE** a lobbying report on behalf of the Coalition and identify a Responsible Party for the filings.

2. The report must **DISCLOSE** all members who **EXCEED $5,000** in annual lobbying compensation or expenses. Such members are considered **Beneficial Clients**.
MEMBER CONTRIBUTIONS TO COALITION

ARE NOT CONSIDERED

• Lobbying expenditures by the member to determine if the member must file its own lobbying report

ARE CONSIDERED

• Lobbying expenditures by the member to determine if (1) the member must be listed as a BC on the Coalition’s filing and (2) the member has met the $15k/3% Source of Funding threshold
WHEN THE COALITION DOES NOT FILE ITS OWN REPORT

MEMBER CONTRIBUTIONS ARE CONSIDERED

LOBBYING EXPENDITURES TO DETERMINE IF EACH MEMBER:

• Has met $5k threshold

• Has met the $15k / 3% Source of Funding Threshold
If the Coalition DOES NOT file as a LOBBYIST and/or a CLIENT, then:

Each member who is required to file a lobbying report (either through the Coalition activity and/or other lobbying activity engaged in by the member) must disclose in the report their own member contribution to such Coalition, including the contribution amount and name of the Coalition to which it contributed.
I AM A **COALITION MEMBER** (OF A NON-FILING COALITION) AND I **EXCEED THE $5,000 THRESHOLD**

How and where do I report my contribution to the Coalition?

**If only** Lobbying Activity involves member’s Contribution to Coalition:
- Register and file lobbying reports as a Lobbyist lobbying on its own behalf, identify the named Coalition, and list contribution as an expense.

**If member already files a CSA**:
- In CSA list the contribution as an expense to the named Coalition.

**If member is already a registered Lobbyist and submits Bi-Monthly Reports**:
- In Bi-Monthly Report list the contribution as an expense to the named Coalition.
WHAT’S NEW?...
WHAT KIND OF LOBBYING?

Direct and Grassroots Lobbying and the New Regulations
DIRECT LOBBYING
Direct lobbying involves direct contact between a Lobbyist and the individual you are attempting to influence, including but not limited to:

- face-to-face **meetings**
- telephone **calls**
- distribution of **written materials**
- **e-mails**
- **social media** interactions
### 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 Public Official
- Presence on phone call if Public Official is aware of such presence

### Preliminary Contact

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

- Scheduling a meeting or phone call with a Public Official and a Client
- Introducing a Client to a Public Official
- Any other contact with the Public Official on behalf of a Client
DIRECT LOBBYING DOES **NOT** INCLUDE

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)
- to **observe** for educational purposes
  - When the person plays no role in the strategy, planning, messaging or other substantive aspect of the overall lobbying effort

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 set up)
DIRECT LOBBYING:
LOBBY DAYS
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 filings** 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.
DIRECT LOBBYING

LOBBY DAYS - REPORTING EXPENSES

Reportable expenses for a Lobby Day may include, but are not limited to:

- compensated staff time for **attendance**
- staff time spent **planning**
- expenses for advocacy **paraphernalia**
- expenses related to **transportation**
DIRECT LOBBYING: SOCIAL MEDIA
SOCIAL MEDIA COMMUNICATION = DIRECT LOBBYING IF:

1. It is **directly sent** to a social media account known to be owned or controlled by a Public Official; or

2. Creates a direct electronic link to any social media account known to be owned or controlled by a Public Official; or

3. It is targeted to a Public Official’s staff with knowledge that the person is a member of the Public Official’s staff.
EXAMPLES: SOCIAL MEDIA – DIRECT LOBBYING

LOBBYIST SENDS LOBBYING MESSAGE DIRECTLY TO OR LINKS TO PUBLIC OFFICIAL

LOBBYIST TWEETS LOBBYING MESSAGE WITH TAG TO PUBLIC OFFICIAL
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
A Grassroots Lobbyist is a person or organization who solicits another to deliver a message to a Public Official.

The audience or recipients of grassroots communications who voluntarily (and without compensation) subsequently deliver the message to the Public Official are not Grassroots Lobbyists.
WHAT IS A GRASSROOTS COMMUNICATION?

COMMUNICATION REFERENCES A LOBBYING ACTIVITY

TAKES A CLEAR POSITION ON THAT LOBBYING ACTIVITY

INCLUDES A CALL TO ACTION
WHAT IS A CALL TO ACTION?

SOLICITATION TO THE PUBLIC/PERSO

1. To directly contact Public Official
   OR

2. Have them solicit others to directly contact Public Official

Other examples of a Call to Action may include:

- Inclusion of Public Official contact info without specific solicitation to the public to make contact = call to action
- Inclusion of paper/electronic petition, text message, social media communication, or similar material for the recipient to use to communicate with Public Official even without specific solicitation to the public to use the material.
GRASSROOTS LOBBYING EXAMPLES INCLUDE:
An organization engages in Grassroots Lobbying on its own behalf 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.

Every Grassroots Lobbying Communication is attributable to a Lobbyist (which may be the organization as a whole) but not necessarily require the identification of any Individual Lobbyists.
Reportable Expenses attributable to the Organization’s Grassroots Lobbying may include:

- consulting services
- sponsoring posts
- staff time allocated to planning and posting
- search engine optimization
- advertising
REVIEW OF TRAINING

- Who are you and how do you file lobbying reports?

- If lobbying effort involves multi-party relationships, what role do you play and who is responsible for disclosing what activities?

- What kind of lobbying are you engaged in (Direct or Grassroots) and what requirements attach to each type?
WHAT’S NEW RELATING TO REPORTING REQUIREMENTS?

• New Late Fee Schedule
• Streamlined Reporting
• Greater Specificity Required
NEW REPORTING REQUIREMENTS
STATEMENT OF REGISTRATION – BI-MONTHLY REPORTS – CLIENT SEMI-ANNUAL REPORTS

• Identify all parties to the Lobbying (as described in 943.9(h)) including all Lobbyists, Clients, and Coalitions

• Greater specificity regarding “Subjects Lobbied” (this replaces old “Business Nature” categories)

• Disclosure of bill, rule, rate, Procurement, and Executive Order numbers lobbied or expected to be lobbied on, if available, or description of activity related to the intended introduction/issuance of legislation or lobbying related to tribal-state contacts

• Disclosure of the intended (in Registration) or actual (in Bi-Monthlies and CSAs) targets of the Lobbying, including the name of the person, organization, agency, municipality, office and/or specific legislative body lobbied.

• Indicate whether it is Direct Lobbying, Grassroots Lobbying, or both.
NEW REQUIREMENTS

• Option to either include a copy of a Lobbying agreement or authorization OR, instead, a *Lobbying Agreement form* as provided by JCOPE.

• Lobbyists and Clients will no longer be required to notify JCOPE of a *Termination* if the agreement/authorization terminates on the date specified in the agreement/authorization. Likewise, no need to notify JCOPE if it terminates at the end of a biennial registration cycle.
NEW REQUIREMENTS

If a Lobbyist files Bi-Monthly Reports, only lobbies on its own behalf and does not retain outside Lobbyists, then it will not be required to also submit Client Semi-Annual Reports covering the same reporting period, other than Source of Funding disclosures prescribed by Part 938 and any Reportable Business Relationships as prescribed by Section 943.14.

The CSA will be Auto-Generated.
# NEW LATE FEE SCHEDULE

<table>
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<th>DAYS LATE</th>
<th>ACTION</th>
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<tr>
<td>First Time Filers</td>
<td>All Other Filers</td>
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<tr>
<td>1 – 7 days</td>
<td>Grace Period/No Late Fee</td>
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<tr>
<td>8 – 14 days</td>
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<td>15 – 30 days</td>
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<td>91 – 180 days</td>
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<td></td>
<td>$1,000 flat late fee</td>
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<tr>
<td>181 days and more</td>
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<tr>
<td></td>
<td>$2,000 flat late fee</td>
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Beginning with the 2019-2020 biennial period, all new and existing filers were required to register and file lobbying reports with JCOPE in the new JCOPE Lobbying Application ("LA").

- Better interface
- User-friendly
- Streamlined
- Greatly improved Search Functions
For Filing Assistance – Contact the JCOPE Helpdesk

- Hotline – Dial 1-800-87-ETHICS (873-8442) and Press ‘1’ to speak to the Lobbying Unit
- Email – Helpdesk@jcope.ny.gov

For Legal Advice – Contact the JCOPE Attorney of the Day

- Hotline – Dial 1-800-87-ETHICS (873-8442) and Press ‘2’
- Email – legal@jcope.ny.gov