



**OFFICE OF THE CITY CLERK
LOBBYING BUREAU**

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City Clerk, Clerk of the Council**

**LOBBYING FOR BEGINNERS:
LOBBYIST/CLIENT FILERS**

BRIEF HISTORY OF THE LOBBYING LAW

- Local Law 79 of 1972: First attempt to regulate lobbying activity in NYC
 - Municipal Legislative Advocate
- Throughout the past 39 years, the law has been amended several times leading to an increase in transparency in government.
 - Local Law 86 of 1973
 - Local Law 14 of 1986
 - Local Law 67 of 1993
 - Local Law 46 of 2003
- Local Law 15 of 2006: Most significant lobbying law reform.
 - substantially increased public disclosure of lobbying activities
 - created much needed enforcement mechanisms
 - expanded the City Clerk's powers in administering the lobbying law
- Local Law 129 of 2013 based on recommendations made by the Lobbying Commission

Local Law 129 of 2013

- Definitions of lobbying (Ad. Code §3-211)
- Reporting obligations of the Clerk (Ad. Code §§3-212; 221)
- Changes to Filings Requirements:
 - Statements of Registration (Ad. Code §3-213)
 - Periodic Reports (Ad. Code §3-216)
 - Fundraising and Political Consulting Reports (Ad. Code §3-216.1)
 - Client Annual Reports (Ad. Code §3-217)
- Training requirement (Ad. Code §3-219)
- Late filing penalties (Ad. Code §3-223)

AMENDED RULES

- The amended rules were published in the City Record on October 5, 2015.
- The rules amend chapter 1 of title 51 of the Rules of the City of New York, by replacing the current version in its entirety, to conform the existing rules to the amendments enacted by Local Law 129 of 2013.

AMENDED RULES

- Important changes include:
 - Criteria for requesting advisory opinions;
 - Procedure for enrolling in e-Lobbyist;
 - Defines the roles of principal officer, designee and compliance officer;
 - Provides requirements for retainers and authorization letters;
 - Includes a process to deactivate statements of registration;
 - Requirements for filing extensions;
 - Procedures for obtaining a waiver of late filing penalties;
 - Establish Lobbying Bureau enforcement procedures;
 - Details the procedures for the amnesty program.

WHAT IS LOBBYING?

Eleven actions constitute lobbying, including the attempt to influence:

1. The introduction, passage, defeat or substance of local legislation or resolution by the city council;
2. The support, opposition, approval or disapproval of local legislation or resolution by the mayor whether or not it has been introduced;
3. Any determination with respect to the solicitation, award or administration of a contract, grant, loan, or agreement involving the disbursement of public monies;
4. Any determination made by the mayor, the city council, the city planning commission, a borough president, a borough board or a community board with respect to zoning or the use, development or improvement of real property subject to city regulation;

5. Any determination made by an elected city official or an officer or employee of the city with respect to the terms of the acquisition or disposition by the city of any interest in real property, with respect to a license or permit for the use of real property of or by the city, or with respect to a franchise, concession or revocable consent;
6. The proposal, adoption, amendment or rejection by an agency of any rule having the force and effect of law;
7. The decision to hold, timing or outcome of any rate making proceeding before an agency;
8. The agenda or determination of a board or commission;

Definitions Added by Local Law 129 of 2013

9. Any determination regarding the calendaring or scope of any city council oversight hearing;
10. The issuance, repeal, modification or substance of a mayoral executive order; or
11. Any determination made by an elected city official or an officer or employee of the city to support or oppose any state or federal legislation, rule or regulation, whether or not it has been introduced.

WHAT ACTIVITIES ARE NOT LOBBYING?

Eleven types of actions are excluded from the lobbying law:

1. Persons who prepare or submit a response to a request for information or comments by the city council or one of its committees, the mayor, or other elected city official or an agency;
2. Contractors or prospective contractors who communicate with or appear before city contracting officers or employees in the regular course of procurement planning, contract development, the contractor selection process, the administration of a contract, or the audit of a contract, except communications with elected officials or deputies of elected officials;
3. Persons engaged in advising clients, rendering opinions and drafting, in relation to proposed legislation, resolutions, rules, rates, or other proposed legislative, executive or administrative action, where such persons do not themselves engage in an attempt to influence such action;
4. Newspapers and other periodicals and radio and television stations, and owners and employees thereof, provided that their activities are limited to the publication or broadcast of news items, editorials or other comment, or paid advertisements;

5. Persons who participate as witnesses, attorneys or other representatives in public rule making or rate making proceedings of an agency, with respect to all participation by such persons which is part of the public record thereof and all preparation by such persons for such participation;
6. Persons who appear before an agency in an adjudicatory proceeding;
7. Persons or organizations who advertise the availability of goods or services with fliers, leaflets or other advertising circulars;

Architects & Engineers

Local Law 129 gave specific exclusions:

8. Appearances before community boards provided that the proceeding before the final decision-making board or commission is adjudicatory;
9. Designing/drafting plans even if work is preceded or followed by lobbying activity;
10. Work performed in connection with capital projects provided that such work is performed pursuant to a contract with the City; or
11. Actions designated as minor by the City Clerk (Rules).

WHEN IS LOBBYING REPORTABLE?

1. Did your organization engage in a lobbying activity?
2. Did your organization exceed the reporting threshold for that lobbying activity by expending or incurring in excess of **\$5,000** in combined compensation and expenses in a calendar year?
 - **\$10,000 for Architects and Engineers**

WHEN IS LOBBYING REPORTABLE?

The Reporting Threshold

To determine if your organization exceeds the reporting threshold:

COMPENSATION

1. Salary paid to employees who engage in lobbying
2. Pro-rate portion of the salary paid for lobbying efforts
3. Lobbying efforts
 - a. Preparation work
 - b. Staff meetings
 - c. Telephone calls
 - d. Time spent making photocopies

EXPENSES

Total amount of expenses incurred for lobbying

WHEN IS LOBBYING REPORTABLE?

If the total amount of salary combined with expenses exceeds \$5,000 then the organization is required to comply with the lobbying law.

HOW TO COMPLY WITH THE LOBBYING LAW

- Enroll in e-Lobbyist;
- Statement of Registration;
- Periodic Reports;
- Fundraising and Political Consulting Reports (if applicable);
- Client Annual Report (if applicable) and
- Subject to other restrictions outlined in the Administrative Code.

ENROLLMENT PROCESS IN E-LOBBYIST

- Prior to filing a Statement of Registration, must enroll in the e-Lobbyist System
- Enrollment is a one-time process
- No fee to enroll
- Terms of use agreement
- Enroll as lobbyist AND client
- Submit proof of corporate filing

Principal Officer (PO)

Chief administrative officer or the person who has the legal capacity to enter into a contract on behalf of the organization.

- PO must complete the enrollment form
- PO may designate an employee to complete all reports
- Only PO can certify all reports

DESIGNEE

- A Principal Officer may select up to two persons to be Designees. The Principal Officer enters the name and email address of the Designee in e-Lobbyist. Each designee will have his or her own e-Lobbyist account.
- Designee may:
 - enter information in Reports
 - receive copies of emails from e-Lobbyist
 - communicate with the Lobbying Bureau about specific reports
 - requests extensions
 - submit a waiver application
- Designee may not:
 - certify Reports
 - have access to the Principal Officer's e-Lobbyist password

COMPLIANCE OFFICER

- **Compliance Officer** is an individual retained by a lobbyist or client whose job duties include compliance work.
- A compliance officer may:
 - assist the Principal Officer or the Designee in completing Reports;
 - communicate with the Lobbying Bureau regarding specific Reports
 - requests extensions
 - apply for waiver on behalf of lobbyist or client
 - submit payment of any late filing or civil penalty
- A compliance officer may not:
 - certify Reports
 - have access to the Principal Officer's or Designee's e-Lobbyist password.

STATEMENT OF REGISTRATION

- If employed to lobby and anticipate exceeding the threshold prior to December 31: file by January 15.
- If employed to lobby and anticipate exceeding the threshold after December 31: file within 15 days.
- Required to be filed each year - automatically expires on December 31.
- \$150 registration fee.
- Anticipatory filing: a description of the lobbying activities the organization anticipates it will be engaging in in the upcoming year.
- Filed in the name of the organization and list employees that it anticipates will lobby in upcoming year.

STATEMENT OF REGISTRATION

- Must upload or mail an authorization letter signed by the PO authorizing the employees listed on the statement of registration to lobby on behalf of the entity (online form).
- Each time an employee is added, must amended statement of registration and submit authorization for the additional employee(s).
- Start date in authorization **MUST** match start date on statement of registration.
 - The start date is the date the employee started lobbying on behalf of the entity **NOT** the date employment began.

STATEMENT OF REGISTRATION

- Incorrect information on the retainer agreement and/or statement of registration must be corrected.
 - If the start and/or end dates on the statement of registration do not match the start and/or end dates on the authorization, the filer is required to either:
 - File an amended statement of registration and
 - Correct the dates on the registration OR
 - Correct dates on the authorization letter.
- May be subject to a civil penalty if not corrected in a timely manner.

PERIODIC REPORTS

- Six Periodic Reports per year
- Reporting Periods:
 - January 1 through last day of February, due March 15
 - March 1 through April 30, due May 15
 - May 1 through June 30, due July 15
 - July 1 through August 31, due September 15
 - September 1 through October 31, due November 15
 - November 1 through December 31, due January 15
- If a filing deadline falls on a weekend or city holiday, the deadline is the next business day.

PERIODIC REPORTS

- Reports the lobbying activity that actually takes place in the given period.
- Information listed in the Periodic Report:
 - The employees who lobbied (pre-populated from the Statement of Registration);
 - A description of the subject(s) lobbied;
 - The person/agency lobbied;
 - The salary paid to the employees who lobbied (itemized by employee in the report); and
 - The expenses incurred for lobbying in the period.

PERIODIC REPORTS

Must be filed regardless of if lobbying activity took place within the period.

- Except if a termination notice is filed with e-Lobbyist.
 - A termination notice is filed when lobbying activity ceases.
 - No further periodic reports are required unless:
 - Terminate in the middle of a reporting period, then periodic report for that period is required, even if no lobbying activity took place.
 - The sixth periodic report/annual report always required.

PERIODIC REPORTS: LOCAL LAW 129

- Lobbyist/client filers whose combined compensation and expenses for lobbying is between \$5,000 and \$10,000
- Less filing requirements
 - Statement of registration
 - Two periodic reports - P3 and P6
- Effective when DOITT has certified that the City Clerk is capable of implementing

FUNDRAISING AND POLITICAL CONSULTING REPORT

If file a Statement of Registration and in the given year or in past 6 months engage in fundraising or political consulting.

- Reporting pertinent information regarding such activities. Including expenses incurred for such activities.
- Same schedule as Periodic Reports, but only if engage in such activities.
- Compare reports filed with NYC Campaign Finance Board.

CLIENT ANNUAL REPORT

- Report to be filed by clients who retain a lobbyist to lobby on its behalf and exceed the **\$5,000** reporting threshold.
- Lobbyist/client filers are only required to file a client annual report if retain an outside lobbyist and exceed the **\$5,000** reporting threshold.

REVIEW OF REQUIREMENTS

- If your organization:
 - Exceeds the reporting threshold
 - For engaging in one of the eleven lobbying activities
- Must file Reports including:
 - A Statement of Registration;
 - Six Periodic Reports per year (unless terminate);
 - Fundraising and Political Consulting Reports (if applicable); and
 - Client annual report (if applicable).
 - Extensions may be granted if made in writing, for good cause prior to the deadline.
- Must comply with other requirements of the Administrative Code.

Other Requirements of the Administrative Code

- **Mandatory Training Requirement**
 - All first time filers must register to attend training within 15 days of commencement of lobbying commencing.
 - May be penalized if not registered for training
 - Training program to begin in 2015

Other Requirements of the Administrative Code

- Retain records for five years including books, papers and documents to substantiate finances in reports.
- Prohibited from compensating a lobbying employee on a contingent basis.
- “Willful” violations of the Lobbying Law may be referred to the Department of Investigations. (DOI)
- Prohibited from making gifts to public servants. (COIB)
- Campaign contributions are ineligible for taxpayer-financed public matching funds. (CFB)

Violations of the Lobbying Law

- Knowing and willful violation
 - May be subject to a cease order and/or
 - A civil penalty of up to \$30,000.
- Violation of the prohibition on contingent salaries, may be subject to a civil penalty of up to \$30,000.

Non-Filing or Late Filing of Reports

- \$10 per day per filing for first time filers and
- \$25 per day per filing for repeat filers.

Waiver/Reduction of Late Filing Penalties based on:

- whether/how often late in the past;
 - annual operating budget of filer;
 - lobbyist/client filer;
 - periodic reports - amount of unreported detail; and
 - significance of the impediments to timely filing.
- A civil penalty up to \$20,000 if violation is not cured may be imposed after a hearing at the Office of Administrative Trials and Hearings (OATH).

Civil Penalties

- Violations subject only to civil penalties
 - Failure to correct an incorrect report
 - Failure to file a termination notice (by client and/or lobbyist)
- Only subject to penalty if fail to file within 14 business days from the date of the mailing of a notice to cure.