



DISTRICT OF COLUMBIA LOBBYING DISCLOSURE

These resources are current as of 10/9/2019. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law.

Please email us at advocacy@afj.org.

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DEFINITIONS

Lobbying – communicating directly with any official in the legislative or executive branch of the District government with the purpose of influencing any legislative action or an administrative decision. D.C. Code § 1-1161.01(32)(A).

- “Administrative decision” means any activity directly related to action by an executive agency to issue a Mayor’s order, to cause to be undertaken a rulemaking proceeding, to make a contract or procure goods or services (it does not include a formal public hearing), or to propose legislation or make nominations to the Council, the President, or Congress. *Id.* at (1).
- “Legislative action” includes any activity conducted by an official in the legislative branch in the course of carrying out his or her duties as such an official, and relating to the introduction, passage, or defeat of any legislation in the Council. *Id.* at (31).

Lobbying **does not include**:

- The appearance or presentation of written testimony by a person on his or her own behalf, or representation by an attorney on behalf of any such person in a rulemaking (which includes a formal public hearing), rate-making, or adjudicatory hearing before an executive agency or the Tax Assessor;
- Information supplied in response to written inquiries by an executive agency, the Council, or any public official;
- Inquiries concerning only the status of specific actions by an executive agency or the Council;
- Testimony given before the Council or a committee of the Council, during which a public record is made of such proceedings or testimony submitted for inclusion in such a public record;
- A communication made through the instrumentality of a newspaper, television, or radio of general circulation, or a publication whose primary audience is the organization’s **membership**; and
- Communications by a bona fide political party. *Id.* at (32)(B).

Lobbyist – any person who engages in lobbying. *Id.* at (33)(A). D.C. recognizes three types of lobbyists: an individual lobbyist, a lobbying entity, and a lobbying client.

- Public officials communicating directly or soliciting others to communicate with other public officials **shall not** be deemed lobbyists for the purposes of this chapter; provided, that a public official does not receive compensation in addition to his or her salary for such communication or solicitation and makes such communication and solicitation in his or her official capacity. *Id.* at (33)(B).
- “Person” is defined to include an individual, partnership, committee, corporation, labor organization, or any other organization. *Id.* at (42).

****Non-Profit Exemption for Certain Lobbying Activity****

- It is possible that 501(c)(3) public charities might not have to register as a lobbyist despite surpassing the monetary threshold. However, an opinion from BEGA is required to provide assurance that your organization meets this exemption.
- D.C. Code § 1-1162.28(a)(4), on its face, exempts 501(c)(3) entities from registering as a lobbyist unless, as a result of the lobbying, the organization stands to benefit from the lobbying.
- However, as of 11/5/19, the Board of Ethics and Government Accountability is operating as though all entities that lobby stand to benefit unless the entity applies in writing for the non-profit exemption and is granted a waiver. Entities that believe they qualify for the exemption and wish to avoid registration and reporting, are encouraged to submit their planned lobbying activities to BEGA for permission to avail themselves of the purported exemption.
(bega.lobby@dc.gov)

Other Actors

- “Official in the executive branch” means:
 - The Mayor;
 - Any officer or employee in the Executive Service;
 - Excepted service employees paid at a rate of DS-13 or above in the General Schedule or equivalent compensation;
 - Certain designated officials (see D.C. Code § 1-609.08, except (9)); or
 - Members of boards and commissions.

- “Official in the legislative branch” means any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, Excepted Service employees of the Council, or certain designated officials (see D.C. Code § 1-609.08).

Grassroots Lobbying – The District’s definition of lobbying does not cover grassroots lobbying. D.C. Code § 1-1161.01(32)(A).

LOBBYIST REGISTRATION

Trigger: Registration is triggered if a lobbyist (individual lobbyists, lobbying entities, or lobbying clients) receives compensation *or* expends funds for lobbying in an amount of **\$250 or more** in any three consecutive month time period. D.C. Code § 1-1162.27(a).

- An organization with in-house lobbyists should register as a “lobbying entity,” listing its in-house lobbyists in its own registration.
- In-house lobbyists **do not** separately register, only their employer organization is required to register as a “lobbying entity.”
- An organization with only contract lobbyists should register as a “client.”
- A contract lobbyist must separately register *for each client* from whom the lobbyist receives compensation. D.C. Code § 1-1162.29(a).

Note: A non-profit organization that is not required to register/report because its activity does not inure to the financial gain/benefit of the organization, see D.C. Code § 1-1162.28(a)(4), **would be** required to register if it begins engaging in activity that falls **outside** the non-profit exemption and would otherwise meet the \$250 trigger. However, the non-profit would **only** be required to register/report regarding activity that falls outside the non-profit exemption.

Timing: A lobbyist (including individual lobbyists, lobbying entities, and lobbying clients) must register by January 15 **of each year**, or no later than **15 days** after meeting the registration trigger. D.C. Code § 1-1162.29(a). Lobbyist registration expires each year on December 31st.

Fee: A registration fee of \$250 is required, reduced to \$50 for lobbyists who lobby **solely** for 501(c)(3) nonprofit organizations. D.C. Code § 1-1162.27(b).

Electronic registration: All lobbyist filings, including registration, must be completed through the DC Bega Electronic Filing System, available at <https://efiling.bega-dc.gov/efs/login.aspx>. To obtain a User Name, Password, and Pin, email bega.lobby@dc.gov.

Information required:

- Identify type of lobbyist:
 - **Lobbyist:** A contract lobbyist; does not include in-house lobbyists (they are included on their employer's "lobbying entity" registration)
 - **Lobbying Entity:** An entity, including a non-profit organization, which employs in-house lobbyists (may also employ contract lobbyists)
 - **Client:** An entity, including a non-profit organization, which employs **only** contract lobbyists and **not** in-house lobbyists

- Name and contact information for registrant;

- List all lobbyists working for the registrant (both in-house and contract), if any;

- List client of registrant, if any;

- List terms of compensation;

- List lobbyist matters by subject and bill number or specific contract as applicable;

Amending registration: If registration information changes, including the addition or removal of in-house or contract lobbyists, it must be amended by editing the registration through the BEGA DC portal.

LOBBYIST REPORTING

Reporting by Lobbyists: Each registered lobbyist (individual lobbyist, lobbying entities, or lobbying clients) is required to electronically file a quarterly Lobbyist Activity Report. D.C. Code § 1-1162.30.

Note: Separate reports by a contract lobbyist are required for each person from whom the lobbyist receives compensation. D.C. Code § 1-1162.30(a).

Quarterly reporting:

- January 15 report: covers October 1 – December 31
- April 15 report: covers January 1 – March 31
- July 15 report: covers April 1 – June 30
- October 15 report: covers July 1 – September 31

Note: if deadline falls on a weekend or holiday, it is extended until the next business day.

Report contents:

- Identify lobbyists, both in-house/contract, working for the registrant;
- List terms of compensation – should be the same as the Lobbyist Registration Form, unless terms have changed.
 - Details of compensation provided in Schedule A
- List lobbyist matters by subject and bill number or specific contract as applicable;
- List lobbyist business relationships or personal services relationship with any official in the executive or legislative branch (or their staff);
- List lobbyist communications with legislative or executive officials, including the type of communication and its nature and purpose
 - You must report any written or oral communication, including
 - electronic mail, text messages, or any other form of
 - communication related to lobbying activities.

- Pursuant to DC Official Code §1-1162.30(a)(5) and (5a), these communications must be reported separately by date and official, and must identify:
 - The name, position, and agency or office of each official in the executive or legislative branch and member of the official's staff with whom the registrant has had written or oral communications during the reporting period related to lobbying activities conducted by the registrant; and
 - A precise description of the subject matter, including the title of any bill, proposed resolution, contract, reprogramming, or other legislation, of all written or oral communications related to lobbying activities conducted by the registrant with any official in the executive or legislative branch or member of the official's staff during the reporting period;
 - The official with whom the communication was made;
 - The specific date on which the communication was made to a specific official;
 - The type of communication; and
 - The nature and purpose of the communication.
- List total expenditures in Schedule A-1, broken down by category and itemized for expenditures of \$50 or more:
 - Office expenses
 - Advertising and publications
 - Personal sustenance, lodging, and travel (if compensated)
- List other expenditures in Schedule A-2 – includes political expenditures, loans, gifts, honoraria, or contributions to benefit a legislative or executive branch official, itemizing those of \$50 or more
- List all campaign contributions “bundled” by registrant on Schedule C

Non-profit reporting: A non-profit that is required to register/report because its lobbying activity inures to the financial benefit of the organization is only required to report lobbying activity that falls **outside** the non-profit exemption. So such an organization should track lobbying time that has a nexus to the organization’s own financial benefit; lobbying time that lacks such a nexus is not required to be reported.

Membership communications exception: A publication whose primary audience is an organization’s members does not constitute lobbying activity, and need not be reported. D.C. Code § 1-1161-01(32)(B)(v).

Exempt communications: Communications made through newspaper, tv, or radio of “general circulation does not constitute lobbying and need not be reported. D.C. Code § 1-1161-01(32)(B)(v).

No donor disclosure: An organization is not required to disclose the source of funds it uses for its lobbying activity.

Grassroots lobbying not reportable: Grassroots lobbying does not fall within the District’s definition of lobbying, so does not need to be reported.

LOBBYING RESTRICTIONS

\$100 gift limit: No registrant or anyone acting on behalf of a registrant shall offer, give, or cause to be given a gift or service to an official in the legislative or executive branch or a member of his or her staff that exceeds \$100 in value in the aggregate in any calendar year. This does not cover political contributions. D.C. Code § 1-1162.31(a).

- “Gift” means a payment, subscription, advance, forbearance, rendering, or deposit of money, services, or anything of value, unless consideration of equal or greater value is received.
- The term “gift” **shall not include:**
 - A political contribution otherwise reported as required by law; o A commercially reasonable loan made in the ordinary course of business; or
 - A gift received from a member of the person's immediate family.

Prohibition on false or misleading statements: No person shall knowingly or willfully make or cause to be made any false or misleading statement or misrepresentation of the facts relating to pending administrative decisions or legislative actions to any official in the legislative or executive branch. *Id.* at (d). This includes transmitting a document to an official that includes false statements without notifying the official in writing of the truth. *Id.* at (d). This prohibition may raise First Amendment concerns.

Public officials may not be paid to lobby: No public official, acting outside his/her official capacity, shall be employed as a lobbyist while acting as a public official. There is an exception for Advisory Neighborhood Commission members. *Id.* At (f).

Ban on providing discounted legal or professional services: Legal or professional services provided by a lobbyist, or person acting on behalf of the lobbyist, to a covered official must be provided at market rate. There is an exception for services routinely provided by a non-profit at no cost. *Id.* at (g).

No lobbying badge required: DC does not require that a lobbyist wear a distinctive badge.

No time restrictions: DC does not impose limits on when lobbying activity may be conducted.

PENALTIES

Criminal Penalties: Willful and knowing violation of lobbying rules may result in a fine up to \$5,000, 12 months imprisonment, or both. D.C. Code § 1-1162.32(a).

Civil penalties for late registration/reporting: A civil penalty of \$10 per day up to 30 days (excluding weekends and holidays) shall be assessed for late registration and/or reporting. Penalty may be waived for good cause. *Id.* at (c).

Citizen suits: Any DC resident may file a suit in the D.C. Superior Court to direct the Ethics Board to enforce these lobbying rules.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Board of Ethics and Government Accountability

One Judiciary Square
441 4th Street, NW, 830 South
Washington, DC 20001
202-481-3411
Email: bega@dc.gov

FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney for one-on-one counseling service:

Email: Advocacy@afj.org
Telephone: 1-866-NPLOBBY
(675-6229)

For assistance regarding state law in District of Columbia, please contact:

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