

# STATE ETHICS COMMISSION

45 CALVERT STREET, 3<sup>RD</sup> FLOOR  
ANNAPOLIS, MARYLAND 21401  
410-260-7770 / 1-877-669-6085

November 28, 2022

This memorandum has been prepared by the Commission staff based on prior Commission opinions and interpretation of the lobbying provisions, the history of the lobbying registration program, and guidance provided by the report issued by the 2000 Study Commission on Lobbyist Ethics (Robertson Commission). Although the Commission has reviewed this document, its contents do not constitute an advisory opinion of the Commission. Should you have any questions related to specific factual situations not addressed by this or other Commission memoranda, you should request advice from the Commission staff. All references to sections of the law pertain to sections in Title 5 of the General Provisions Article (the Public Ethics Law).

## **Lobbying Registration Requirements - Frequently Asked Questions**

1. ***What are the registration requirements (triggers) for individuals who “communicate” with officials or employees to influence legislative action or executive action?***

Click here to see Commission Memo entitled [Lobbying Registration & Reporting Issues](#)

2. ***Are there any general exemptions from the requirement to register as a lobbyist?***

The following activities are exempt from the registration requirements:

- Appearances as part of the official duties of an elected or appointed official or employee of the State, a political subdivision of the State, or the United States, to the extent that the appearance is not on behalf of any other entity;
- Actions of a member of the news media, to the extent the actions are in the ordinary course of gathering and disseminating news or making editorial comment to the general public;
- Actions of a member of a bona fide religious organization to the extent the representation is for the purpose of protecting the right of its members to practice the doctrine of the organization;
- Appearances as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in representing counties or municipal corporations, to the extent that the appearance is not on behalf of any other entity;
- Actions as part of the official duties of a trustee, an administrator, or a faculty member of a nonprofit independent college or university in the State, provided the official duties of the individual do not consist primarily of attempting to influence legislative action or executive action; or

3. ***Are there other qualified exemptions from the requirement to register as a lobbyist?***

If an individual engages in no other actions requiring registration during a six-month reporting period, the following actions are exempt from the lobbying registration requirements:

- Appearances before an executive unit at the request of the executive unit if a person is asked to provide information to a State agency and his or her activity is limited to meetings with agency representatives pursuant to that particular request from the agency. Generally, this will be a documented request and involve a specific and time limited activity.
- Appearances before an executive unit at the specific request of a regulated lobbyist. This exemption is broader in that it can be triggered by a lobbyist rather than by an agency request, but narrower in that it contemplates serving as a witness at a formally structured assembly, hearing, or equivalent, rather than simply attending a meeting with agency staff. For example, a lobbyist may ask a client, staff or another expert to make a presentation during an open meeting to get formal comments on proposed or existing regulations.
- An individual seeking to secure a business grant or loan for the purpose of locating, relocating or expanding a business into the State.
- A bona fide full-time official or employee of a business entity seeking to secure a business grant or loan.
- Appearance before the entire General Assembly, or any committee or subcommittee of the General Assembly, at the specific request of the body involved.
- Appearances before a legislative committee at a lobbyist's request, if the individual notifies the committee that he or she is testifying at the request of a regulated lobbyist. The exemption requires that both conditions be met. If the individual testifies and then follows-up with visits and phone calls to legislators, registration would be required when the compensation, expense or gift giving standard has been met.

4. ***If the Executive Director of an organization holds a special event in Annapolis to educate legislators on the purposes of the organization, is the Executive Director required to register? Is the organization required to register?***

The Executive Director would need to register if, during a given six-month reporting period, he or she was "in the presence" of a State official or employee for the purpose of influencing legislative action and received cumulative compensation of \$2,500 for all such communication and activities or if the organization's special event expenditures exceed \$500. The Commission recognizes that the purpose of special events is to help organization members and State officials get to know each other but in the Commission's view such events are also designed to create a favorable atmosphere among legislators or members of the executive branch for the consideration of legislative or executive action, present or future.

5. ***If, as part of an organization's lobbying efforts, the organization publishes a newsletter that includes articles designed to encourage its members to "communicate" the organization's position to legislators, are the members who do communicate with legislators required to register? What is the obligation of the organization to advise the members of the registration requirements?***

If an individual, responding to a "grassroots" publication, makes phone calls, sends emails, or otherwise communicates with legislators, that individual is not required to register unless the individual is compensated at least \$5,000 cumulatively for these efforts during a lobbying year.

Organizations implementing grassroots lobbying programs may want to advise their members of the compensation trigger for this registration requirement. The organization itself, as a general matter, is not required to report the activities of individuals responding to a grassroots publication encouraging members to contact officials or legislators.

6. ***Is a firm with registered lobbyists required to submit an entity registration when it hosts a legislative event? What if the firm says it is sponsoring the event for marketing purposes but firm lobbyists will be attending the reception “on behalf of” lobbying clients?***

In either case, if the expenses for the event exceed \$500, registration and reporting are required. Much like an event sponsored by a lobbyist’s client, the firm would be incurring expenses of at least \$500 for communications in the presence of legislative officials for the purpose of influencing legislative actions, due to the activities of firm lobbyists on behalf of their clients.

7. ***Is a member of the board of directors of a non-profit organization, who also is the president of his own business, unrelated to the non-profit organization, required to register as a lobbyist if he or she appears as part of the Bond Day activities and testifies?***

Similar to the Annapolis Day events, the Commission recognizes that the purpose of the lobbying provisions is to disclose lobbyists’ activities and not to require an infrequent visitor to register and report, particularly in situations in which the testimony is limited and part of a standard and recognized legislative process. Absent any additional lobbying activity that takes the individual over the spending or compensation thresholds, the board member is unlikely to reach the compensation standard and would likely be exempt from registration.

8. ***If a non-registered individual sits on a State board or commission that is subject to the Public Ethics Law whose members also include legislators or executive officials and the board or commission discusses legislation, must the individual register as a lobbyist?***

Absent other facts requiring registration, service on a board with legislators and executive officials does not trigger the need to register as a lobbyist. The individual serving on the board is a public official and has a duty of loyalty to the board.

9. ***In a situation in which a registered lobbyist arranges for a group to come to Annapolis for an Annapolis Day or a Meet-and-Greet reception, what are the reporting requirements for the registered lobbyist when the employer has claimed an exemption from registration and reporting?***

The registered lobbyist is required to report the expenses associated with the activity. This includes compensation paid to the employees of the employer who participated in the activity as well as related expenses for the lobbying effort.

10. ***If the President of an organization attends meetings in Annapolis with the lobbyist registered on behalf of the organization, is the President required to register as well?***

The President would need to register in addition to the lobbyist on behalf of the organization if, during a given six-month reporting period, he or she was “in the presence” of a State official or employee for the purpose of influencing legislative action and received cumulative compensation of \$2,500 for all such communication and activities.

## **Reporting for Legislative Unit Meals and Receptions - Frequently Asked Questions**

### **1. *What is required to be reported for meal and reception special events?***

If a regulated lobbyist plans to hold a legislative meal or reception event, the Public Ethics Law provides the following general requirements:

- The invitees must be members of a qualified group, known as a “legislative unit”. Qualified legislative units include all members of the General Assembly, either house thereof, all members of any standing committee or all members of a formally recognized (for ethics disclosure purposes) county or regional delegation. A list of the legislative delegations can be found at: <https://msa.maryland.gov/msa/mdmanual/07leg/html/gadel.html>.
- At least five days before the event, a notice of invitation must be sent to all members of the legislative unit through the lobbyist’s account in the Commission’s electronic lobbyist registration and reporting system.
- Within fourteen days after the event, the lobbyist must file a post-event report through the lobbyist’s account in the Commission’s electronic lobbyist registration and reporting system, disclosing the total cost of the event and identities of all sponsors and their respective cost shares. In cases where the full and final cost has not been determined by the fourteen-day deadline, the lobbyist must specify the nature of the expenses and estimate the cost of each item.

### **2. *Do the reporting requirements of § 5-709 apply if the lobbyist invites a legislative unit to a meeting at which no food and beverages are served?***

No.

### **3. *Do the reporting requirements of § 5-709 apply if the lobbyist invites a legislative unit to a meeting at which snacks, finger foods and/or beverages are served?***

The reporting requirements of § 5-709 are not triggered if the refreshments consist only of soft drinks, coffee, pastries, or similar modest snack items not constituting a meal. However, any time alcohol is served, with or without food items, the reporting requirements of § 5-709 are triggered. Note that even if the reporting requirements of § 5-709 do not apply, a lobbyist is still required to account for the costs incurred in providing snacks and non-alcoholic beverages the activity report.

### **4. *If a lobbyist invites a legislative unit to (a) a ceremonial reception to which the public is also invited or (b) to a regular membership meeting of an association, must the lobbyist file a notice of invitation and a post-event report? Does the lobbyist need to report the “total cost” of the event if only one or two legislators attend a public event, or should the lobbyist prorate the legislative share?***

The notice of invitation must be filed for both a ceremonial reception to which the public is also invited and for a regular membership meeting of an association to which a legislative unit has been invited. The Law is clear that the post-event report must include the “total cost” of a meal or reception, even if only one or two legislators appeared. However, in order to put the total cost in perspective when most of the expenses relate to “non-legislator” attendees, the report will also include a section for the total cost attributed only to the legislative unit members who attended.

5. ***If a lobbyist hosts a meal or reception that includes elected Executive branch officials (Governor, Lt. Governor, Attorney General, or Comptroller), must a notice of invitation be filed that includes these guests?***

No. The notice of invitation applies to legislators only. If a lobbyist hosts an event where the invited guests include members of a legislative unit and elected Executive branch officials, the notice of invitation pertains to the legislative unit only.

6. ***If, in addition to legislators, a meal or reception is attended by elected Executive branch officials, are the costs for these officials included in the post-event report?***

The Law is clear that the post-event report must include the “total cost” of a meal or reception, which would include the costs associated with the attendance of elected Executive branch officials (Governor, Lt. Governor, Attorney General, or Comptroller). However, they are not included in the notice of invitation, which applies to legislators only, nor are they listed in the post-event report other than having the cost of their attendance included in the total cost of the event. The expenses associated with the attendance of any elected Executive branch officials must be reported on the activity report. Gifts of meals and beverages to these four elected Executive officials must be disclosed regardless of the dollar amount.

7. ***If a lobbyist hosts a meal or reception for a legislative unit and, as part of the event, gifts, flowers, or some other mementos are given to members of the legislative unit who also attend, how is this expense reported?***

The post-event report should include the total cost of the meal or reception, but should not reflect the cost of any gifts, flowers or mementos. Any gifts associated with the meal or reception should be disclosed on the activity report filed at the end of each six-month reporting period.

8. ***An organization has a ticketed fundraising event that is funded solely by its members and does not cost the organization any money. If members of the General Assembly are invited to attend and are given tickets by the sponsoring organization, what should be reported on the activity report?***

The face value of the ticket.

9. ***If all members of a legislative unit are invited to speak at a meal or reception of members of an association or entity pursuant to § 5-505(c)(2)(vi), are the notice of invitation and the post-event report required?***

No. If all members of a legislative unit are invited to participate on a panel or a speaking engagement at a meeting pursuant to § 5-505(c)(2)(vi), the notice of invitation and the post-event report are not required. However, the lobbyist must report the expenses related to this activity on the activity report pursuant to § 5-705(b)(ix).

10. ***Can a lobbyist give tickets or free admission to a member of a legislative unit to attend charitable, cultural and political events? If given, where are those gifts reported?***

No. Tickets and free admissions to attend charitable, cultural and political events may be extended only by the sponsor of the event and not by a regulated lobbyist. If a lobbyist’s client gives tickets or free admission to a member of a legislative unit to attend a charitable, cultural, or political event as the sponsor of the event and the client has chosen to be exempt from reporting, the lobbyist must disclose the gift on the activity report.

## **Campaign Finance Activity Limitations -Frequently Asked Questions**

### **1. *What are the limitations on a lobbyist's ability to solicit and transmit campaign contributions?***

In accordance with § 5-715, a regulated lobbyist (other than a grassroots lobbyist), or a person acting on behalf of the lobbyist, may not, for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller, member of the General Assembly or a candidate for these offices:

- Solicit or transmit a contribution from any person or political committee;
- Serve on a fund raising committee;
- Act as a treasurer for a candidate or official or as treasurer or chairman of a political committee;
- Organize or establish a political committee for the purpose of soliciting or transmitting contributions from any person; or
- Forward tickets for fundraising activities or other solicitations for political contributions to a potential contributor.

The Public Ethics Law specifically allows the lobbyist to 1) make a personal political contribution under the Election Law, 2) inform the lobbyist's employer, or others, of a position taken by a particular candidate for office and 3) participate in activities not otherwise specifically prohibited.

### **2. *What is the time period covered by the restrictions in § 5-715?***

The restrictions apply from the starting date of the lobbyist's registration to the end of the calendar year in which the registration period ends. This time period is important to remember, since a lobbyist who terminates lobbying activities during a calendar year will still be subject to the restrictions until the end of that calendar year.

### **3. *How does the Commission interpret the language in § 5-715 regarding a person acting on behalf of a lobbyist?***

The purpose of the language is to close the loophole that might permit a person who is not a registered lobbyist to act on behalf of a lobbyist to carry out prohibited campaign finance activities. Persons engaged in soliciting or transmitting contributions should not do so under the direction, supervision, or control of a regulated lobbyist. Employees of a lobbyist-owned law or lobbying firm will generally be presumed to be acting on behalf of a lobbyist.

### **4. *May an Executive Director of a non-profit advocacy organization who is required to register as a lobbyist participate in political action committee (PAC) activities?***

As a regulated lobbyist, an Executive Director of a non-profit advocacy organization is subject to the same limitations discussed in question 1 above. Assuming the Executive Director is not serving on a fundraising committee or acting as an officer or treasurer of a committee, he or she may perform very limited ministerial tasks that do not amount to solicitation, transmittal, contribution or organization of a PAC. Great care should be taken to avoid activities that could identify or otherwise directly involve the lobbyist as making, soliciting, transmitting or organizing a committee. For example, lobbyists should not write texts for fundraising appeals; contact, schedule, or attend meetings with potential contributors; facilitate events by contacting potential hosts for fundraising activities; or participate in telemarketing activities. Lobbyists should not

direct staff in these activities and a lobbyist's name should not appear on contribution solicitations or transmittal documents.

5. ***Is a regulated lobbyist permitted to do the computer bookkeeping for a PAC?***

If the bookkeeping is limited to the use of a computer program and has no soliciting or transmitting activity, it is a permissible activity, but any reports or filings should be signed and delivered by the Treasurer, who is not a lobbyist. The best practice would have the lobbyist avoid any PAC activity in order to assure compliance with the law.

6. ***May a regulated lobbyist forward mail to a PAC chairman when the organization and the PAC have the same mailing address and the lobbyist or lobbyist's staff sorts the mail?***

The regulated lobbyist may not forward solicitations from covered officials or candidates. The best practice under the circumstances is to have separate mailing addresses for the organization and the PAC.

7. ***What should a regulated lobbyist do with a fundraising ticket he or she receives in the mail?***

The lobbyist may accept a ticket for his or her own personal use. The law specifically permits the lobbyist to make personal contributions, such as purchasing tickets to campaign fundraisers. In the event multiple tickets are received, the additional tickets may be discarded or returned to the sender.

8. ***If a regulated lobbyist returns fundraising tickets to the sender, may he or she advise the sender of the appropriate mailing address for his or her employer or the employer's PAC?***

Yes, but a lobbyist should uniformly advise all senders of the correct address and be sure not to include any solicitation language.

9. ***If asked by a legislator, may a regulated lobbyist provide a list of his or her employers for political contribution purposes?***

Yes, but the list should include all employers.

10. ***The law permits PACs of an affiliated entity to collect voluntary contributions paid by members through payroll deductions together with payroll withholdings from employees that are made for the payment of dues to the affiliated entity. May an employee-lobbyist of the affiliated entity prepare and send dues billing statements to its members containing a request for a voluntary contribution to the PAC, assuming the PAC solicits and transmits contributions to the State officials and candidates covered by the law?***

No. The law specifically prohibits soliciting of contributions by regulated lobbyists. It also should not be done by anyone acting on behalf of the lobbyist.

11. ***May a contract lobbyist respond to questions from his or her employer(s) regarding whether or not the employer should organize a PAC?***

If the lobbyist is asked, he or she may advise the employer on creating a PAC. If asked how to organize a PAC, the lobbyist may advise only that the employer should contact the State Board of Elections for that information. The lobbyist should have no other activity related to participating in the organization of a PAC for one of his or her clients.

12. ***Is a lobbyist limited in responding to questions raised by an employer regarding how favorable a candidate or State official may be to an employer?***

The lobbyist may respond, provided he or she does not engage in soliciting, transmitting or other specific conduct prohibited under the statute. The general intent of the legislation is not to limit communication with employers, except in the circumstances specifically prohibited by the law. For example, a lobbyist may respond to reasonably contemporaneous contribution related questions from his or her employer regarding a State official or candidate. Discussions may include substantive evaluation and may also include specific contribution recommendations if such information is requested. The central test for compliance with § 5-715 is whether the lobbyist's conduct is in fact a solicitation or transmittal of a contribution in violation of the statute. A key factor in evaluating this activity is whether the lobbyist is responding to an inquiry or initiating a solicitation.

13. ***If asked by a legislator, may a lobbyist prepare and give to the legislator a list of appropriate PAC contact persons for all of his or her clients?***

Yes, if it is done in response to a legislator's request for the information, and the list is provided to any legislator who makes such a request.

14. ***If the owner of a business that makes occasional political contributions and has an affiliated PAC finds that he has to register as a lobbyist due to having met the expense threshold, do the limitations on soliciting or transmitting campaign contributions affect his business' political contributions and the affiliated PAC contributions?***

Yes. The owner-lobbyist would not be able to transmit the contributions himself and if the owner-lobbyist were to designate an employee to transmit a contribution, the employee would be a person acting on behalf of a lobbyist. Under the circumstances described, the business and the affiliated PAC would not be able to make political contributions to State officials and candidates covered by the Public Ethics Law.

15. ***How do the restrictions on campaign contributions impact on lobbyists who choose to be candidates for elective office?***

Section 5-715 prohibits regulated lobbyists from "soliciting and transmitting" campaign contributions on behalf of the Governor, Lt. Governor, Attorney General, Comptroller, members of the General Assembly or candidates for those offices. It does not prohibit personal contributions. The law also addresses situations in which the regulated lobbyist is a candidate for office. Section 5-715(b)(2) provides that the section does not apply to "...a regulated lobbyist who is a candidate with respect to the regulated lobbyist's own campaign..." The Commission views this section as allowing the individual to solicit campaign contributions for his or her personal campaign after he or she files the certificate of candidacy with the appropriate elections office. It does not, however, allow the lobbyist-candidate to transfer funds raised by his or her campaign to other State officials and candidates covered by the restrictions in the law. Therefore, transfers from the lobbyist-candidate's campaign to slate and other candidates' campaign accounts would not be allowed if covered officials and candidates are involved.

16. ***With regard to reporting a lobbyist's personal campaign contributions, what date should be used to determine the date of the contribution?***

The effective date of the contribution is the date it was mailed or delivered.

17. ***Does a lobbyist need to report an independent contribution by a spouse from a joint checking account?***

With regard to the joint bank account, the Commission will not "go behind" the signature on the



check, and it would presume that the spouse's check was issued as an independent contribution. However, this is a rebuttable presumption.

18. ***May a lobbyist solicit contributions for a major political party?***

If any of the money is to be used for the benefit of a member of the General Assembly or one of the four State Executive offices or a candidate for one of those offices, the lobbyist may not solicit contributions. If the money is to pay only for administrative and overhead costs of the party's offices, the solicitation is permissible.

19. ***May a lawyer-lobbyist do the legal work to form a PAC for a lobbying client? May a lawyer-lobbyist do the legal work to form a PAC for a non-lobbying client? May a lawyer-lobbyist refer a client to a partner in his or her firm to do the legal work to form a PAC?***

No. Section 5-715(d)(1)(iv) prohibits a regulated lobbyist, or a person acting on behalf of a regulated lobbyist, from organizing or establishing a political action committee for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller, or a member of the General Assembly, or a candidate for any of those offices. The plain meaning of "organize" is to put in working order, which the drafting of legal documents would do. The same answer pertains to doing legal work to form a PAC for a non-lobbying client and for referring the work to a partner in the firm.

### **Campaign Contribution Reporting - Frequently Asked Questions**

1. ***What lobbyist campaign contributions are reportable under § 5-708 of the Public Ethics Law?***

At the time of filing the activity report, a regulated lobbyist must disclose any political contributions made by the lobbyist, either directly or indirectly, during the reporting period, as required in the Election Law Article, for the benefit of the Governor, Lt. Governor, Attorney General, Comptroller, a member of the General Assembly or a candidate for election to any of those offices. Indirect contributions include contributions made by a lobbying firm on behalf of, or at the direction of, a lobbyist. The lobbyist must also report political contributions to a PAC or a slate in which an applicable candidate is a member, political contributions to a PAC created to support a specific candidate or a group of candidates, or political contributions to a PAC designated for transfer to a particular candidate or candidates. In addition, a political contribution to an independent expenditure entity (as defined in the Election Law Article) whose stated purpose is to elect an applicable candidate is considered to be for the benefit of that candidate and must be reported under this section of the Law. The contributions must be reported on the lobbyist's personal disclosure report submitted at the time of filing the activity report. Contributions made by a lobbying firm on behalf of the lobbyists of the firm only need to be reported by one lobbyist.

2. ***Does a lobbyist with multiple clients need to file a personal disclosure statement reporting campaign contributions each time the lobbyist submits an activity report for a client?***

Unlike the activity report itself, a personal disclosure represents actions personal to the lobbyist and do not cover activities of the employer(s). A lobbyist is required to submit only one personal disclosure statement during a reporting period, to be completed in conjunction with filing an activity report for a client. Note, however, that a lobbyist who represents multiple employers, and who submits an activity report on behalf of at least one such employer prior to the end of a six-month reporting period along with the required personal disclosure, must update the personal disclosure as necessary each time an activity report is filed through the end of the six-month reporting period to reflect any changes since the previous filing.

3. ***Section 5-716 of the Public Ethics Law addresses lobbyist employers campaign contribution***

*disclosures filed with the State Board of Elections. How is this program administered?*

The purpose of the disclosure of campaign contributions by lobbyist employers is to promote public confidence in government and is similar to a long-standing State Board of Elections reporting requirement for persons doing \$100,000 or more of business with the State or a local government of the State. Section 5-716 of the Public Ethics Law describes the program and gives the State Board of Elections the authority to prescribe the forms for the disclosure statement and the responsibility to report violations to the State Ethics Commission. You should contact the Board of Elections for details of this program (410) 269-2840 or (800) 222-VOTE, ext. 4, or view the Board's web site: [www.elections.state.md.us/](http://www.elections.state.md.us/).

**4. *What are the reporting periods for the lobbyist employers' disclosure program under §5-716 of the Public Ethics Law? Are the reporting periods different from the lobbyist reporting periods?***

The Employer's Contribution Disclosure Form reporting periods are the same as the lobbyist reporting periods – November 1 through April 30 and May 1 through October 31. The reports are due to the Board of Elections on the last day of the month immediately following the day on which the reporting period ends (i.e. May 31 for the November-April reporting period and November 30 for the May-October reporting period).

### **Lobbyists Serving on State Boards and Commissions**

With certain caveats, lobbyists may serve on State boards and commissions. Subtitles 5 and 7 of the Public Ethics Law (Md. Code Ann., General Provisions, Title 5) and the Commission's regulations address the ability of individual regulated lobbyists to serve on State boards and commissions.

Generally, boards and commissions are subject to the Public Ethics Law if they are created by statutory authority, pursuant to an Executive Order having the force of Law, or by regulation. The State Ethics Commission maintains a comprehensive list of boards and commissions subject to the Public Ethics Law. The Public Ethics Law does not apply to boards or commissions created by Executive Orders not having the force of law, by legislative resolution, or by executive letter. Questions regarding whether a specific board is subject to the jurisdiction of the State Ethics Commission should be referred directly to the Commission.

All members of State boards, commissions and similar entities that are created by statute, executive order, or regulation having the force of law are "public officials" of the State and are subject to the Public Ethics Law. As public officials in their board capacities, these individuals are subject to ethical standards of conduct regarding prohibited employment, prohibited interests, gift restrictions, abuse of position, misuse of confidential information, post-employment restrictions, assistance limitations and other requirements. Members of boards are also required to file limited public financial disclosure statements unless the Commission determines that the board member is exempt from this requirement. **All Board and Commission members are required to complete an Appointee Exemption Disclosure Form in advance of their appointment that provides the appointing authority with information regarding the nature and extent of any conflicts that the appointee may have as a result of the appointment to the board or commission.** The specific exemptions resulting from this disclosure apply to the appointee throughout his or her term on the board or commission, but the form must be updated as appropriate and resubmitted in conjunction with any reappointment.

A lobbyist faces special issues if the lobbyist's private affiliations or work relates to the subject matter or specific activities of the board or commission, particularly if compensated by an employer (or client) to influence the board.

As required by the Ethics Law and COMAR 19A.07.01.06, if a regulated lobbyist is appointed to a board or commission under the jurisdiction of the Commission, or if a board or commission member becomes a regulated lobbyist, he or she:

- must complete a board & commission disclosure form through the lobbyist's account in the Commission's electronic lobbyist registration and reporting system within 5 days of the dual status reporting any:
  - current representation of a person for compensation before a State governmental unit, except in a judicial or quasi-judicial proceeding;
  - current representation of a State agency for compensation, any contractual relationship with State government, or any transaction with State government for monetary consideration;
  - any current interest held by the regulated lobbyist, the regulated lobbyist's spouse or dependent children, together or separately, having either 10 percent or more of the capital stock, or stock worth \$35,000 or more, in a corporation subject to regulation by or doing business with the board or commission, or any interest in a partnership, limited liability partnership, or limited liability company subject to regulation by or doing business with the board or commission;
  - the name of the primary employer of the regulated lobbyist; and
  - the name of any business entity from which the regulated lobbyist or spouse of the regulated lobbyist receives earned income as a result of an ownership interest.
- must send a copy of the board & commission disclosure form to the Appointing Authority;
- shall update the information required to reflect the lobbyist's current registrations throughout each reporting period; and
- shall, when an issue arises within the board or commission related to the disclosed information, submit a statement of recusal, on the record of the board or commission, from discussion of, voting on, or any other action required by the circumstances concerning the issue.

In some instances, a lobbyist may serve on a State board unrelated to his or her lobbying activity, but after the board has completed its work or after the lobbyist leaves the board, the lobbyist may wish to lobby the board, or perhaps lobby on the legislative recommendations the board or commission developed while the lobbyist was a member. This activity is impacted by § 5-504(d), which provides that former officials, including members of State boards and commissions, may not assist or represent anyone other than the State for compensation in any specific matter where they significantly participated as State officials or employees. Therefore, in some instances, subsequent activity by a lobbyist related to the work of that lobbyist's board is barred by the Public Ethics Law.

## **Miscellaneous**

### ***1. How may a lobbyist obtain advice from the State Ethics Commission?***

A lobbyist may call the Commission staff at 410-260-7770 for advice. If it is possible to answer the lobbyist's question based on prior Commission advice, the staff member will do so. If the inquiry is a matter that will require some analysis and research, the staff member will ask the lobbyist to submit the question, and any view he or she may have on the issue, in writing. If, as a result of analysis and research, the staff member can respond to the inquiry, he/she will do so in writing. If the staff member concludes that the Commission must address the inquiry, the question will be presented for informal advice at a regularly scheduled Commission meeting and the staff member will provide the Commission's response to the lobbyist. If the lobbyist disagrees with the informal advice, he or she may request a formal advisory opinion from the Commission, a process that may involve the lobbyist's appearance before the Commission. The advisory opinion will then appear in the Maryland Register.

2. ***How does the Commission provide new lobbyists with training and specific information about the Public Ethics Law?***

An individual regulated lobbyist is required to complete training within 6 months of the lobbyist's initial registration with the Commission, and thereafter every two years measured from the date of the most recently completed training course. If the lobbyist's initial registration is terminated earlier than 6 months after the date of the registration, and the lobbyist did not complete training during that time, the lobbyist must complete training before any subsequent registration with the Commission.

The Commission provides "live" training for lobbyists at least twice each year, including once in January. Each training class is approximately two hours long. Information on training classes, including dates, time, places, and registration forms, can be found on the Commission's website, under the "Mandatory Training" section on the website's Lobbyist page (click on "registration form"). In addition, the Commission offers online training, which may also be accessed through the lobbyist's account at <https://lobby-ethics.maryland.gov>.

3. ***Does an out-of-State lobbyist who comes into Maryland only a few days each session need to complete the lobbying training?***

Yes. A lobbyist is required to complete the training if he or she is registered in any two-year period. There is no exception addressing this circumstance in the Public Ethics Law. As noted above, the training can be completed online.

4. ***What are the Commission's procedures for levying fines, taking suspension or revocation action, or reinstating lobbyists who have been revoked or suspended?***

The Public Ethics Law §§ 5-405, 5-901, 5-902, and 5-903 provide the statutory framework for the imposition of fines, suspension, revocation, and reinstatement. The current regulations related to the enforcement process are found in COMAR 19A.01.03.

5. ***Can lobbying reports be electronically submitted and accessed by the public?***

Electronic filing is mandatory for all lobbyists/employers. Electronic reports are available to the public through the Commission's website. If you are a registered lobbyist, you already have login credentials. Your user name is the email address you provided for your account. If you do not remember your password, you may reset it through the electronic filing system by clicking on "Forgot your password?" on the login page. The system will then take you through the password reset process.

## **Prohibited Lobbyist Practices**

The following activities are prohibited:

- Engaging in lobbying where compensation is contingent on the outcome of the lobbying activity;
- Initiating or encouraging the introduction of legislation for the purpose of opposing it;
- Knowingly counseling any person to violate any provision of the Public Ethics Law or any other State or federal law;
- Engaging in or counseling any person to engage in fraudulent conduct;
- Knowingly making, to a State official or employee, a statement of material fact relating to lobbying activity that the lobbyist knows to be false;
- Engaging in lobbying without being properly registered as a lobbyist;
- Requesting that an official or employee recommend the lobbying services of a lobbyist to a potential client;
- Giving a gift to an official or employee that the official or employee is not permitted to receive;
- Giving a gift that has been solicited in violation of the Public Ethics Law;
- Engaging in any charitable fund-raising activity at the request of an official or employee, including soliciting or transmitting a charitable contribution;
- Giving, or facilitating the giving of, any loan of money, goods, or services to a State official or employee, except in the ordinary course of business;
- Knowingly concealing the identity of a lobbying client from an official or employee;
- Committing a criminal offense arising from lobbying activity;
- Serving as an officer, participating in fundraising, or participating in actions relating to filling a vacancy in a public office while serving on a State or local central committee;
- Forwarding fund-raiser tickets or other fundraising solicitations to benefit a member of the General Assembly, the incumbent in one of the four statewide offices, or candidates for any of those positions. Also prohibited are soliciting or transmitting a contribution from any person or a political committee to these persons, serving on fundraising committees or political committees for these persons, or acting as a treasurer or chairman for such committees; and
- Organizing or establishing a political committee for the purpose of soliciting or transmitting contributions to benefit a member of the General Assembly, the incumbent in one of the four statewide offices, or a candidate for any of those positions.
- While engaged in lobbying, unlawfully harassing or discriminating against, based on any characteristic protected by law, an official or employee, an intern, a page, or a fellow in any branch of State government, an individual regulated lobbyist, or a credentialed member of the press.