



NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS

Frequently Asked Questions Lobbying Activities – Grassroots Lobbying

The Commission issued [Advisory Opinion No. 16-01](#) to clarify the test under Article 1-A of the Legislative Law (the “Lobbying Act”) for when grassroots advocacy constitutes a reportable lobbying activity.

What does the Lobbying Act currently cover?

Presently, the [Lobbying Act](#) applies to lobbyists, clients of lobbyists, and public corporations, who in a year expend, incur, receive, or reasonably anticipate expending, incurring, or receiving more than \$5,000 in state and/or local lobbying activity. Entities that do not exceed, or anticipate exceeding, the \$5,000 threshold do not need to register.

What is grassroots lobbying under this advisory opinion?

The advisory opinion clarifies that grassroots lobbying is a communication that takes a clear position on a specific “government action” and asks the public or a segment of the public to contact a public official in support of that position. Grassroots lobbying essentially is an attempt to influence public opinion in favor of or in opposition to a particular “government action” with the expectation that the public will then influence a public official to act in the same manner. A complete list of government actions is set forth in the Lobbying Act, and examples include the passage or defeat of legislation, the adoption of an executive order or a state agency regulation, or a decision related to a governmental procurement.

When is a communication considered reportable grassroots lobbying under this opinion?

A communication is grassroots lobbying when it: (1) references, suggests, or implicates a “government action”; (2) takes a clear position on the issue in question; and (3) is an attempt to influence a public official through a call to action, *i.e.*, a solicitation, exhortation, or encouragement to the public or a segment of the public to contact a public official. An individual or entity who receives or expends more than \$5,000 for this and/or any other lobbying activity must register with the Commission.

Must a grassroots communication reference a specific piece of legislation, executive order or regulation to constitute lobbying?

No, it need only relate to a specific “government action”.

What activities by consultants constitute reportable grassroots lobbying under this opinion?

A consultant engages in reportable grassroots lobbying under this opinion when: (1) the consultant helps develop the client’s position on a specific government action; and (2) then “controls the delivery” of the client’s position. An individual or entity who receives or expends more than \$5,000 for this and/or any other lobbying activity must register with the Commission.

When does a consultant “control the delivery” of a client’s position?

The consultant “controls the delivery” of the client’s position on a specific government action when he or she participates in actively communicating the position to an individual, organization, or the general public. For example, a consultant “controls the delivery” when he or she:

- Speaks to a trade group to encourage them to contact a public official about a specific government action.

Does a consultant who communicates with the media have to register as a lobbyist?

No. Part I of S. 8160/A.10742 (2016) amended the Lobbying Act to specifically exclude communications with the media from the definition of Lobbying. The law now excludes communications with a professional journalist, or newscaster, including an editorial board or editorial writer of a newspaper, magazine, news agency, press association or wire service, relating to news.

What are some examples of grassroots lobbying activity?

Any of the following could be grassroots lobbying if the required elements are present:

- Rallies to “get involved”
- Billboards with a call to “Contact the Governor”
- Radio or television ads stating “Tell your Senator”
- Websites/online petitions to “click here to sign this petition to our Assemblyperson”
- Letter writing campaigns organized to oppose a regulation before a State agency

Are there examples of roles that, in and of itself, would not constitute grassroots lobbying?

Yes. The following conduct or roles would not alone be lobbying:

- Billboard or sign owners
- Copy editors
- Advertisement writers
- Storyboard artists
- Film crews
- Photographers
- Video editors
- Website managers, hosts or internet service providers
- Media outlets or broadcasters
- Media buyers or placement agents
- Secretaries, clerical and ministerial staff.