



## NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS

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### 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 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 conduct that, in and of itself, would not constitute grassroots lobbying?**

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

- Billboard or sign owners
- Copy editing
- 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.