



121 State Street  
Albany, New York 12207-1693  
Tel: 518-436-0751  
Fax: 518-436-4751

Michael Fallon  
mfallon@hinmanstraub.com

November 21, 2016

Martin Levine, Director of Lobbying  
Joint Commission on Public Ethics  
540 Broadway  
Albany NY 12207

RE: Staff Proposal for Comprehensive Lobbying Regulations

Dear Mr. Levine:

I write to share some thoughts and to express some concerns regarding JCOPE's Staff Proposal for Comprehensive Lobbying Regulations on behalf of Hinman Straub and our lobbying clients.

Hinman Straub, PC is a full-service law firm based in Albany which has decades of experience in state government relations. Lobbying compliance is one of the many services that we provide to our clients. Our government relations partner, Hinman Straub Advisors, provides lobbying and related services to numerous clients. Our communications, media relations and public affairs partner, Corning Place Communications, provides strategic and crisis communications services, and develops and carries out advocacy campaigns.

To the extent that JCOPE's Staff Proposal for Comprehensive Lobbying Regulations is intended to provide greater clarity with respect to the reporting of lobbying activities and the streamlining of reporting requirements, we are supportive because greater clarity in regulatory requirements promotes compliance.

However, we have some concerns regarding particular aspects of the Staff Proposal that we feel would make lobbying compliance more difficult and administratively burdensome than it currently is. These are detailed below.

### *Including Volunteers in the Definition of a 'Designated Lobbyist'*

Proposed § 942.3(f) would define the term “designated lobbyist” to include volunteers. Including volunteers within the definition of a lobbyist would require such volunteers to be listed on a Lobbyist Statement of Registration.

Our clients include a number associations, educational institutions and human service providers. It is common for organizations of this nature to hold “lobby days” in Albany in which association members, students, family members participate in meetings with state legislators and staff. Typically, groups holding lobby day events will rely on these volunteers to help tell the organization’s story. Having to designate these volunteers on a statement of registration would pose a significant administrative burden, and would not provide any additional useful information to the public as to who is engaging in lobbying activity.

### *New Rules Requiring Coalition Registration and Reporting*

Proposed § 942.9(h)(iii) would define coalitions broadly as “a group of otherwise-unaffiliated entities or members [that] agree to engage in common activities,” and would provide that “[a] coalition *shall* file a Lobbying report with the Commission identifying itself as a Lobbyist and/or Client...” (emphasis added).

This language appears to (a) provide that *any* group of otherwise-unaffiliated entities that engage in *any* common activities constitutes a coalition; and (b) require *all* coalitions to register with JCOPE as a lobbyist and/or client.

While mandating JCOPE registration and reporting may be appropriate for some groups of unaffiliated entities that engage in common activities, it is very common for unaffiliated entities engage in a small number of common activities but incur little or no lobbying expenses. For example, unaffiliated groups may sign on to a joint letter or memorandum, or join together to participate in a small number of lobbying meetings. In these cases, the JCOPE would consider such activities to be those of a “coalition,” which would require JCOPE registration and reporting.

We believe that in cases such as those described in the preceding paragraph, where a group of unaffiliated entities engages in common activities but does not make significant lobbying expenditures, mandating JCOPE registration and reporting is inappropriate, overly burdensome, and will discourage unaffiliated entities from informally collaborating.

We have no objection to JCOPE establishing a “bright line standard” with respect to when coalitions are required to register and report their activities. However, this should be required only where coalitions have some sort of formally structure and are engaging in a substantial amount of lobbying activities.

*Lobbyist Statement of Registration – Services in Addition to Lobbying*

Proposed §942.10(k)(i)(D) provides that a lobbyist statement of registration must include “any services to be provided in addition to lobbying.”

In addition to the lobbying services that Hinman Straub Advisors provides to many of our clients, it is common for Hinman Straub P.C. and/or Corning Place Communications to provide non-lobbying services to our clients, including legal services. We object to any JCOPE requirement that would mandate the reporting of the non-lobbying services provided to our clients to JCOPE.

*Reporting of the Names of All Individuals with Whom a Lobbyist or Client Has Engaged in Direct Communications*

Proposed § 942.11(e)(vii), which specifies the contents of Lobbyist Bi-Monthly Reports, would require the reporting of the names of the persons directly lobbied: “In the case of direct lobbying, the names of all individuals with whom the lobbyist engaged in direct communications.”

Similarly, proposed § 942.12(f)(ix)(1) which specifies the contents of Client Semi-Annual Reports, would require the reporting of “the names of all individuals with whom the client or the Client’s Lobbyist engaged in direct communications.”

Rather than “streamline reporting requirements,” this new reporting requirement would constitute a significant expansion of the decades-long practices of JCOPE and its predecessor agencies in terms of what lobbyists and clients have been required to report regarding the target(s) of their lobbying activities. For example, in some instances, specific issues may require outreach and advocacy to dozens of legislators – if not more -- on an array of issues. As such, this proposal would make lobbying compliance more difficult and administratively burdensome.

Thank you for the opportunity to share our concerns with the Staff Proposal for Comprehensive Lobbying Regulations.

Regards,



Michael Fallon