



November 8, 2018

Legal Alert: How Do NY State Lobbying Disclosure Rules Apply to Social Media?

Under New York State law, an organization or individual that spends or receives at least \$5,000 in a calendar to lobby must register and report as a lobbyist and/or client. The NYS Lobbying Act defines “lobbying” as an attempt to influence actions by state, county and municipal legislators and agency officials in New York State, in connection with:

- legislation,
- agency rules, regulations, actions having the force of law, procurement, and ratemaking,
- an executive order of the Governor or a mayor, and
- tribal-state agreements.ⁱ

Social media & direct lobbying

A social media post asking a public official to take specific action regarding legislation, agency rules or the other actions listed above will constitute direct lobbying if it is directed at a public official’s account. This could happen, for instance, if the public official’s @username is included in a Twitter post, or if an organization posts on the public official’s Facebook page. However, a social media post that merely names a public official is not necessarily direct lobbying. Likewise, your social media posts do not automatically count as lobbying merely because a public official “follows” or “subscribes to” your social media account.ⁱⁱ

LOBBYING

@SenSmith Pass the Ethics in
Government Act now!

Social media & grassroots lobbying

Social media, like other forms of communication, will constitute grassroots lobbying if it asks the *readers* to lobby a public official to take a specific action regarding a piece of legislation, agency regulation, etc. This “ask” is known as a “call to action.”ⁱⁱⁱ

LOBBYING

Call Senator Smith and tell him: pass the Ethics
in Government Act now!

A social media post that is not directed to a public official’s account and does not contain a call to action is not lobbying.

Social media posts on employees' personal accounts

An employee's posts on her own social media account will count as lobbying by her employer if she is making the post in the course of her employment. If the posts are part of a coordinated, mass social media campaign by the employer, each employee who participates in the course of her employment does not have to be listed as an individual lobbyist, but the employer must still report the time spent coordinating the campaign and making individual posts.^{iv}

Costs of social media lobbying campaigns

Here are some expenses you may need to count towards the cost of a social media lobbying campaign: social media consultant, sponsored posts, staff time planning and posting, search engine optimization, and advertising.

- ***Practical tip: Keep track of your organization's social media campaigns aimed at persuading particular government actors to take particular actions, but you don't have to track and record each post.***

Most social media posts involve minimal expenditures. If a post constitutes lobbying, a lobbyist must report the public official who is targeted and the bill, regulation or other action that is the subject of the lobbying, and use a "reasonable methodology" to calculate expenses related to the post.^v However, there is no requirement to track the minutes spent on each individual post.

For more information about the obligations of nonprofit organizations that lobby, see Lawyers Alliance's [FAQ's About Nonprofits and Lobbying](#).

This alert is meant to provide general information only, not legal advice. Lawyers Alliance staff are available to help qualified nonprofits with their business, transaction and compliance legal needs. Please contact Senior Policy Counsel Laura Abel, (212) 219-1800 x283, label@lawyersalliance.org, or visit www.lawyersalliance.org for further information.

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to develop and provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.

ⁱ N.Y. Leg. Law § 1-c(c).

ⁱⁱ 19 NYCRR 943.6(c).

ⁱⁱⁱ 19 NYCRR 943.7(f).

^{iv} 19 NYCRR § 943.6(c)(3).

^v 19 NYCRR § 943.6(c)(4).