

Political Law Update

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorney or call your regular Skadden contact.

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New York State Broadens Online Ethics Training Requirement To Cover Lobbyist Clients

Below is a summary of New York state's expanded online ethics training requirement for the 2023-2024 lobbyist registration period.

Please note that the New York State Commission on Ethics and Lobbying in Government is now accepting 2023-2024 registrations. As a reminder, lobbyists' registrations are due by January 1, 2023, for those who are retained, employed or designated on or before December 15, 2022, and who anticipate having to register in the coming year. Otherwise, registration is due by the earlier of 15 days after the lobbyist has agreed to or been authorized to lobby, or 10 days after meeting the registration threshold.

Additionally, the commission announced that it will not accept new or amended lobbying agreements entered into for the 2023-2024 period (or a lobbying agreement form submitted in lieu of such an agreement) if the agreement/form references the Joint Commission on Public Ethics (JCOPE), which was the name of the previous state ethics commission. Thus, to the extent such an agreement references JCOPE, it would need to be amended before being submitted as part of a lobbyist registration.

Mandatory Ethics Training for Lobbyists and Clients

The commission announced that all lobbyists and clients listed on a 2023-2024 registration must complete a new online "Ethics for Lobbyists and Clients" course. This includes:

- principal lobbyists (generally in-house lobbyist employers and lobbying firms);
- individual lobbyists (lobbyists listed on a principal lobbyist's registration statement, such as a company's registered in-house employees);
- contractual clients (clients that retain the services of a lobbyist for the benefit of themselves or another); and
- beneficial clients (clients on whose behalf and at whose request or behest lobbying activity is conducted).

For principal lobbyist and client organizations, the chief administrative officer (CAO) listed for the organization in the lobbyist's registration is responsible for completing the training. Please note that unlike the CAO definition used for corporate governance structures, the CAO in this case refers to any chief employee who is designated as being responsible for the lobby filings.

Political Law Update

While previously only lobbyists were required to complete the ethics training, the state's Executive Law was amended earlier this year to require the commission to offer the training to clients, and the commission announced that it will amend its regulations to require the training for clients as well as lobbyists going forward. Although under the commission regulations lobbyists must complete the ethics training once every three years, the commission is requiring all lobbyists to complete the training next year, regardless of when they last completed the training.

The training is required to cover ethics rules and guidance found in the Lobbying Act, the Public Officers Law, commission regulations and advisory opinions, and the state's Election Law. The training is expected to launch on January 18, 2023, and lobbyists and clients listed in a registration submitted by January 18, 2023 must complete the training by March 18, 2023.

Otherwise, they must complete the training within 60 days of when the registration in which they are listed is submitted. Upon completing the training, lobbyists and clients must certify and attest their training completion status and log in to the Lobbying Application, the commission's online lobbying portal, to record their compliance status.

The commission will email notifications to lobbyists and clients on how to comply with the training requirement. Thus, lobbyist organizations should verify the names and email addresses of their CAO and individual lobbyists listed in their organization profile, as well as the names and email addresses of clients in any client profiles they created. Additionally, clients that have not recently used the Lobbying Application should confirm they can access the portal (this likely will require actively verifying the profile that their outside lobbyist or third-party vendor created for them).

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