

Illinois Lobbyist Ethics Training

Lobbyist Registration Act

Secretary of State Inspector General

State Officials and Employees Ethics Act

Illinois Procurement Code



These training materials provide only a summary of lobbyist requirements, responsibilities and opportunities established by law. For more information, consult your legal counsel, the enabling laws, the corresponding rules or the Secretary of State's office.

Jesse White
Secretary of State

Lobbyist Registration Act

Definitions of Terms

- **Expenditure** — A payment, distribution, loan, advance, deposit, or gift of money or anything of value. Includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure for the ultimate purpose of influencing executive, legislative or administrative action. Expenditure does not include compensation as defined next.
- **Compensation** — Any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying.
- **Lobby and lobbying** — Any communication with an official of the executive or legislative branch of state government for the ultimate purpose of influencing any executive, legislative or administrative action.
- **Influencing** — Any communication, action, reportable expenditure or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action, or to promote goodwill with officials.
- **Lobbyist** — Any natural person who undertakes to lobby state government.
- **Lobbying entity** — Any entity that hires, retains, employs, or compensates a natural person to lobby state government.
- **Official** — Includes the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and State Comptroller; their chiefs of staff and cabinet members, including directors, assistant directors and chief legal counsel or general counsel; members of the General Assembly; and members of any board, commission, authority or task force of the state authorized or created by state law or by executive order of the Governor.

Persons Required to Register as Lobbyists

- Any individual who, for compensation or otherwise, undertakes to lobby, or any individual or entity who employs or compensates another for the purposes of lobbying, must register as a lobbyist with the Secretary of State's office, unless exempted.
- A person must register as a lobbyist with the Secretary of State's office before any lobbying services are performed and within two business days after being hired or retained.
- Annual registration occurs on or before January 31 of each year.

Exemptions from Registration

- Persons or entities who do not make reportable expenditures; appear without compensation only as witnesses before committees of the General Assembly to explain or argue for or against any legislation; or seek without compensation the approval or veto of any legislation by the Governor.
- Units of local government or school districts.
- Elected or appointed officials or employees of a unit of local government or school district who, in the scope that office, lobby exclusively for that unit or district.
- Persons or entities who own, publish or are employed by a bona fide news medium that in the ordinary course of business disseminates news, editorial or other comment, or paid advertisements that directly urge the passage or defeat of legislation. This exemption does not apply to: persons or entities who receive additional compensation from another source; newspapers and periodicals owned by or published by trade associations; and not-for-profit corporations engaged primarily in endeavors other than the dissemination of news.
- Persons or entities who perform professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of legislation when those services are not directly or indirectly connected with government action.
- State government employees who appear before legislative committees to explain how legislation will affect those respective state agencies.
- General Assembly members, agencies and employees who engage in lobbying activities.

- Persons or entities who possess technical skill and knowledge of executive, legislative or administrative actions that is helpful to officials when considering those actions, and whose activities are limited to making occasional appearances for or communicating on behalf of a registrant, and who do not otherwise make reportable lobbyist expenditures besides expense reimbursement for those occasional appearances.
- Full-time employees of bona fide churches or religious organizations who represent an organization solely to protect the rights of its members to practice the religious doctrines of the church or religious organization.
- Persons who receive no compensation other than reimbursement for expenses of up to \$500 per year while engaged in lobbying state government, unless those persons make reportable lobbyist expenditures.
- Attorneys or law firms representing a client in (i) an administrative or judicial proceeding, or any witness providing testimony in any of these proceedings, if no ex parte communications are allowed and if they do not make reportable lobbyist expenditures, or (ii) an administrative/executive action involving procurement if they do not make reportable lobbyist expenditures.
- Vendors who offer or solicit an official for the purchase of any goods or services when the solicitation is limited to either an oral inquiry, written advertisement and informative literature; or the goods and services are subject to competitive bidding under the Illinois Procurement Code; or the goods and services are for sale at a cost of up to \$5,000; and the persons or entities do not make reportable lobbyist expenditures.

Prohibition of Sexual Harassment

- All lobbyists must refrain from sexual harassment of any person.
“Sexual harassment” means any unwelcome sexual advances, requests for sexual favors or any conduct of a sexual nature when:
 - Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 - Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, a hostile or an offensive working environment.
- In the definition of sexual harassment, the term ‘working environment’:
 - Is not limited to a physical location, office setting or workstation where a person (required to register as a lobbyist) or an alleged victim is generally assigned to perform his or her duties.
 - Does not require an ‘employment’ relationship between the alleged harasser and victim.

Prohibition on Serving on Certain Boards and Commissions

- A person required to be registered under the Lobbyist Registration Act, his or her spouse, and his or her immediate family members living with that person may not serve on a board, commission, authority, task force or other body authorized by state law or by executive order of the Governor.
- This restriction does not apply to a registered lobbyist, his or her spouse, or any immediate family members living with the registered lobbyist who is serving in an elective public office or on a state advisory body that does not make binding recommendations or take any other substantive action.

Required Ethics Training

- Lobbyists must complete ethics training provided by the Secretary of State’s office each calendar year. The training will encompass appropriate information about the law’s requirements, responsibilities and opportunities.
- The annual ethics training requirement must be completed no later than 30 days after each year’s registration/re-registration.

Required Anti-Sexual Harassment Training

- Lobbyists must complete anti-sexual harassment training provided by the Secretary of State's office each calendar year.
- The training must be completed no later than 30 days after each yearly registration/re-registration.

Required Written Policy

- No later than January 1 of each year, each registrant shall have a written anti-sexual harassment policy. The policy shall include, at a minimum:
 - A prohibition on sexual harassment.
 - The details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Secretary of State Inspector General, the Department of Human Rights and the authorized agent of the registrant.
 - A prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employee Ethics Act, the Whistleblower Act and the Illinois Human Rights Act.
 - The consequences of a violation of the prohibition on sexual harassment and retaliation as well as the consequences for knowingly making a false report.

Lobbyist Registration and Disclosure

- Each person required to register as a lobbyist must complete registration within two days of being hired and before any service is performed. The lobbyist also must include information for each represented person or entity.
- Additionally, a registrant whose 'client' is another registered lobbyist also must disclose the name and address of that client registrant's clients on whose behalf the registrant anticipates performing the lobbying activities.
- The registrant has a continuing duty to report any substantial change or addition to the information contained in the registration by filing an amended registration.
- The registration also must confirm and acknowledge the following provisions:
 - The registrant has a written anti-sexual harassment policy, and that the policy shall be made available to any individual within two business days upon written request (including electronic requests).
 - Any person may contact the authorized agent of the registrant to report allegations of sexual harassment.
 - Recognition that the Secretary of State Inspector General has jurisdiction to review any allegations of sexual harassment against the registrant for submission to the Illinois Executive Ethics Commission.

Lobbying Expenditure Reports

- Each lobbying entity must designate an authorized agent who must report expenditures related to lobbying. The report must itemize each individual expenditure or transaction, including all expenses (not returned or reimbursed before the reporting deadline) made for or on behalf of state officials and their immediate family members. Salaries, fees and other compensation paid to the registrant for the purposes of lobbying do not need to be reported, nor do contributions required to be reported under the Election Code. Additionally, a registrant whose 'client' is another registered lobbying entity also must disclose that client registrant's clients who are the ultimate beneficiaries of the expenditures. Lobbyists must complete and file an affirmation, verified under oath, attesting to the accuracy of the report, as required by administrative rules.
- Failure to file a report within the time designated or reporting incomplete information will constitute a violation of this Act. Registrants must keep all receipts and records used in preparing reports under this Act for a period of two years.

- Lobbyist and lobbying entity reports must be filed semi-monthly beginning in 2011 as directed in the online expenditure reporting system.

Each report must include, among other items, the following information:

- Itemized and total expenditures or transactions;
- Name of official;
- Name of client;
- Name of lobbyist;
- Date of expenditure;
- Description of expenditure;
- Subject matter, if any, of lobbying activity; and
- Seller, purveyor or other provider to whom the expenditure was made (including address or location of expenditure).

Expenditures attributable to the lobbying of officials also must be categorized as follows:

- Travel and lodging on behalf of others;
- Meals, beverages and other entertainment;
- Gifts not made on the basis of friendship;
- Gifts made on the basis of friendship;
- Honoraria; and
- Any other thing or service of value.

A registrant who terminates employment or duties that required him or her to register under this Act must file written notice of the termination to the Secretary of State's office within 30 days of the termination. The registrant also must file a final, verified expenditure report covering the period of time from the filing of his or her last report to the date of termination, as well as an affirmation of the accuracy of the employer's expenditure reports with regard to the lobbyist's expenditures on behalf of officials.

Notice and Response to Report by Official

- A lobbyist who makes an expenditure on behalf of an official must inform the official in writing, contemporaneous with the receipt of the expenditure, that the expense is reportable and the official will be included in the lobbyist's expenditure report. Such expenditure is not required to be reported if the expenditure has been returned or reimbursed by the official prior to the applicable reporting deadline.
- Within 30 days after a filing deadline the authorized agent of the lobbying entity shall notify each official on whose behalf an expenditure has been reported. Notification shall include the name of the registrant, the date and total amount of the expenditure, a description of the expenditure, and the subject matter of the lobbying activity.
- Any official disclosed in a lobbyist's expenditure report may contest an expenditure if the official did not receive the notification of the expenditure or the official has returned or reimbursed the expenditure. To contest, the official must submit a letter to the registrant and the Secretary of State's office. The Secretary of State's office will make the letter available to the public in the same manner as the report.

Contingent Fees Prohibited

- No person may retain a lobbyist or agree to lobby with respect to any legislative, executive or administrative action for compensation contingent in whole or in part upon the outcome of the action.

Compensation from a State Agency

- It is a violation for a person registered or required to be registered under this Act to accept or agree to accept compensation from a state agency for the purpose of lobbying legislative action.
- This provision does not apply to a full-time employee of a state agency or an individual retained by a state agency not listed in Section 5-15 of the Civil Administrative Code of Illinois.

Secretary of State Inspector General

Enforcement

- The Secretary of State Inspector General (IG) has the authority to initiate investigations of violations of the Lobbyist Registration Act upon receipt of credible evidence of a violation.
- Upon conclusion of an investigation, if the IG reasonably believes a violation exists, the alleged violator will be provided notice and the opportunity to correct or rebut the circumstances. Corrections will be made available to the public.
- If the alleged violator disputes the allegation or does not respond within 30 days, the IG must submit the full record of the investigation to the appropriate state's attorney or the Attorney General's office for prosecution.
- The IG is not required to provide notification to a violator of an ongoing investigation or of the referral of evidence to a law enforcement agency.

Investigation

The IG has jurisdiction to investigate any individual or entity concerning allegations of wrongdoing related to the Lobbyist Registration Act. When investigating those complaints and allegations, the IG is authorized to:

- Have access to all records, reports, audits, reviews, documents, papers, recommendations or other materials available that relate to lobbyist programs and operations.
- Request any information or assistance that may be necessary for carrying out these duties and responsibilities from any local, state or federal governmental agency.
- Subpoena witnesses and documentary evidence. A person who is subpoenaed for testimony or documents and refuses to testify or produce the documents is subject to punishment as determined by the circuit court, unless the items are covered by the attorney-client privilege or any other privilege or right recognized by law.

Review of Allegations of Sexual Harassment

- The Secretary of State Inspector General has authority to review allegations:
 - That an individual required to be registered has engaged in one or more acts of sexual harassment.
 - That such individual has engaged in retaliation against the complainant or victim of the reported sexual harassment.
- The Secretary of State Inspector General then will submit the summarized reviews to the state of Illinois Executive Ethics Commission.

Penalties

- A person convicted in circuit court of violating the provisions of the Lobbyist Registration Act is guilty of a business offense and subject to fines of up to \$10,000 for each violation.
- Every day a filing is late will constitute a separate violation.
- In determining the appropriate fine for each violation, the court will consider:
 - The scope of the entire lobbying project;
 - The nature of the activities conducted; and
 - Whether or not the violation was intentional or unreasonable.
- Any person convicted of a violation is prohibited from lobbying for three years from the date of the conviction.

State Officials and Employees Ethics Act

Contributions on State Property

- Campaign contributions may not be intentionally made, offered, solicited or accepted by public officials, state employees, candidates or lobbyists in any building owned or leased by the state of Illinois. This prohibition does not apply to any portion of a building owned or leased by the state and used as a residence.
- An inadvertent solicitation, acceptance, offer or making of a contribution is not a violation so long as reasonable and timely action is taken to return the contribution to its source.

Prohibited Source

A “prohibited source” is any person or entity who:

- Is seeking official action by the state employee or governmental entity.
- Does business or seeks to do business with the state employee or governmental entity.
- Conducts activities regulated by the state employee or governmental entity.
- Has interests that may be substantially affected by the performance, or non-performance, of the state employee or governmental entity.
- Is registered, or required to be registered, as a lobbyist.

Gift Ban

- No officer, member or state employee may intentionally solicit or accept any gift from any prohibited source or in violation of any federal or state statute, rule or regulation, unless listed as an exception.
- This ban applies to and includes the spouse and immediate family members living with the officer, member or state employee.
- No prohibited source, including lobbyists, may intentionally offer or make a gift that violates this Section.
- It is not a violation of this Act if the gift is promptly returned to its source or if the gift or an amount equal to its market value is given to an appropriate charity.

Gift Ban Exemptions

Each of these exceptions is mutually exclusive and independent of one another. The gift ban does not apply to the following items:

- Opportunities, benefits and services that are available on the same conditions as for the public.
- Anything for which the officer, member or state employee pays the market value.
- Any contribution that is lawfully made under the Election Code or the Ethics Act or activities associated with a fundraising event in support of a political organization or candidate.
- Educational materials and missions as further defined by rule.
- Travel expenses for a meeting to discuss state business as further defined by rule.
- A gift from a close relative.
- Anything provided by an individual on the basis of a personal friendship unless the member, officer or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer or employee and not because of the personal friendship.
- Food or refreshments not exceeding \$75 per person in value on a single day, provided that the food or refreshments are consumed on the premises from which they were purchased, prepared or catered.
- Food, refreshments, lodging, transportation and other benefits resulting from the outside business or employment activities (or outside activities not connected to the duties of the officer, member or employee as an officeholder or employee), if the benefits have not been offered or enhanced because of the official position or employment of the recipient, and are customarily provided to others in similar circumstances.
- Intragovernmental and intergovernmental gifts.
- Bequests, inheritances and other transfers at death.
- Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Ex Parte Communications

- “Ex parte communication” is any written or oral communication by any interested party that imparts or requests material information or makes a material argument regarding potential government action.
- Ex parte communication does not include statements by a person publicly made in a public forum; statements regarding matters of procedure and practice; and statements made by a governmental employee to other employees of the same office.
- Any ex parte communication received by a state governmental entity, officer or employee from an interested party or the party’s representative/attorney must immediately be put in writing and made a part of the applicable record. Any ex parte communication also must immediately be reported to the applicable government ethics officer by the recipient of the communication and any other governmental employee who responds to the communication. The ethics officer must then promptly report the ex parte communication to the Executive Ethics Commission, including the substance of the communication and the identity of all parties.

One-Year Revolving-Door Prohibition on Future Employment

For a period of one year after termination of state employment, no former officers or employees (including their spouse or partner to a marriage or a civil union) and no other immediate family members living with those officers or employees shall knowingly accept employment or compensation (to include for lobbying) from a non-state person or entity if that former officer or employee, during the year preceding termination of state employment, participated ‘personally and substantially’ in (i) awarding state contracts/change-orders valued at \$25,000 or more or (ii) making a regulatory/licensing decision, with regard to that non-state person, entity, parent-company, or subsidiary.

Also, for a period of one year after termination of state employment, former officers and employees whose positions have been designated by law as inextricably connected to procurement and regulatory matters, without regard to their personal and substantial participation in any particular procurement/regulatory decisions, shall not knowingly accept employment or compensation (to include for lobbying) from a non-state person, entity, parent-company or subsidiary, that, during the preceding year (i) was a party to state contracts or change-orders with a cumulative value of \$25,000 or more or (ii) was the subject of a SOS regulatory or licensing decision.

(See also the two-year revolving-door prohibition under the Illinois Procurement Code.)

Prohibited from Serving on Ethics Commissions

An individual is not eligible to serve as a Commissioner on the Executive Ethics Commission or on the Legislative Ethics Commission if that individual, among other criteria, within the preceding 12 months engaged in activities that require registration under the Lobbyist Registration Act.

Executive Ethics Commission

- The state of Illinois Executive Ethics Commission has authority:
 - Over allegations that an individual required to be registered has committed an act of sexual harassment or retaliation, as stated in any summaries of reviews of such allegations by the Secretary of State Inspector General.
 - To conduct administrative hearings and to rule on matters brought before the Commission upon the receipt of summaries of reviews by the OIG regarding allegations of sexual harassment or retaliation.
 - To make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this authority.

Penalties

- If convicted of violating the anti-sexual harassment provisions of the Lobbyist Registration Act:
 - The person is guilty of a business offense.
 - Subject to a fine of up to \$5,000 per incident.
 - Prohibited from lobbying for three years.
 - Subject to additional penalties by the Secretary of State Inspector General and the Executive Ethics Commission.

Illinois Procurement Code

Financial Disclosure of Conflicts of Interest

- Bids or offers, including subcontracts, encompassing an annual value of more than \$50,000, must be accompanied by a financial-interest disclosure of the contractor, bidder, or proposer and subcontractor. The financial disclosure of each successful bidder or offeror and its subcontractors becomes a material term of the contract and part of the publicly available contract/procurement file. Each disclosure must be signed under penalty of perjury by an authorized officer or employee on behalf of the bidder or offeror, and must be filed with the Procurement Policy Board.
- The disclosure must include the name and address of each lobbyist and any other agent of the bidder or offeror who is not otherwise identified and who communicates with any state officer or employee concerning the bid or offer. The disclosure is a continuing obligation during the contract term and must be promptly supplemented with any update.
- Generally, disclosures include information regarding ownership of the bidder or offeror, including the names, addresses, and dollar or proportionate share of ownership of each qualified person; their instrument of ownership or beneficial relationship; and notice of any potential conflict of interest resulting from the current ownership or from the following beneficial relationships:
 - Employment, current or in the previous three years, as or by any registered lobbyist of state government.
 - Relationship to anyone who is or was a registered lobbyist in the previous two years, including spouse, father, mother, son or daughter.

Lobbying Fee Restrictions

- Any bidder or offeror on a state contract that hires a person required to register under the Lobbyist Registration Act to assist in obtaining a contract must:
 - Disclose all costs, fees, compensation, reimbursements and other remunerations to be paid to the lobbyist;
 - Not bill the state of Illinois to pay for any of these lobbyist disbursements; and
 - Sign a verification certifying that none of these lobbyist disbursements were billed to the state.
- This information, along with all supporting documents, must be filed with the agency awarding the contract and the Secretary of State's office. The applicable chief procurement officer must post this information, along with the contract award notice, in the online Procurement Bulletin.
- No person may retain a person or entity to attempt to influence the outcome of a procurement decision for compensation contingent upon that procurement decision. Any person who violates this provision is guilty of a business offense and subject to fines of up to \$10,000.

Procurement Communication Reporting

- Any communication received by a state employee that imparts or requests material information or makes a material argument regarding an active procurement matter will be reported to the Procurement Policy Board.
- The monthly report must include the following:
 - Communication's date and time;
 - Identities of the communicants, including the person represented;
 - Identity of the state employee(s) involved;
 - Identity of the person(s) making a response;
 - Summary of the communication by each person;
 - Duration of the communication;
 - Location of each person involved and all applicable telephone numbers; and
 - Other pertinent information.

- When an oral communication made by a person required to register under the Lobbyist Registration Act is received by a state employee, the individuals who participate in that communication (including the lobbyist) must submit a written report to the state employee documenting the communication.
- The Procurement Policy Board will make each report available on its website within seven days of receipt.

Two-Year Revolving-Door Prohibition on Future Employment

Chief procurement officers, state purchasing officers, procurement compliance monitors and executive officers confirmed by the Senate (as well as any of these individuals' designees whose principal duties directly related to state procurement) are prohibited for a period of two years after terminating that state employment from engaging in any procurement activity relating to the state agency most recently employing them (if they held that state-agency position for a period of at least six months). The prohibition includes but is not limited to lobbying the procurement process on their own behalf or on behalf of any entity.

(See also the one-year revolving-door prohibition under the State Officials and Employees Ethics Act.)