



Georgia Government  
Transparency &  
Campaign Finance  
Commission



# Georgia's Lobbying Registration & Reporting Requirements for Nonprofits

**December 18, 2019**

## Mission of Pro Bono Partnership of Atlanta:

*To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.*

## Pro Bono Partnership of Atlanta Eligibility & Other Information

- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
  - ✓ Be a 501(c)(3) nonprofit.
  - ✓ Be located in or serve the greater Atlanta area.
  - ✓ Serve low-income or disadvantaged individuals.
  - ✓ Be unable to afford legal services.
- *Visit us on the web at [www.pbpatl.org](http://www.pbpatl.org)*
- We host free monthly webinars on legal topics for nonprofits
  - ✓ To view upcoming webinars or workshops, visit the [Workshops Page](#) on our website
  - ✓ Join our mailing list by emailing [rla@pbpatl.org](mailto:rla@pbpatl.org)

## Legal Information:

✓ This webinar presents general guidelines for Georgia nonprofit organizations and should not be construed as legal advice. Always consult an attorney to address your particular situation.

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## Definitions

- Lobbyist – Let’s just say, “It’s complicated...”
- Public Officer – Any elected official and any employee with “discretionary authority” over the selection of a vendor to supply any goods or services to any state agency. O.C.G.A. § 21-5-70(6).

## Definitions Cont.

- State Agency – Any branch of government (including agencies) of this state and its political subdivisions (counties and cities). O.C.G.A. § 21-5-70(7).
- Vendor – Any person who sells to or contracts with any state agency for the provision of any goods or services. O.C.G.A. § 21-5-70(8).

## Definitions Cont.

- Lobbying – The activity of a lobbyist while acting in that capacity. O.C.G.A. § 21-5-70(4).
- Lobbying Activity –
  - ✓ “Expenditure” – The purchase, payment, distribution, loan, advance, deposit, or conveyance of money or anything of value made for the purpose of including the actions of a public officer or public employee.
  - ✓ “Lobbying Expenditure” – The same as above but with more exceptions...we will get to that!

## Who is a Lobbyist?

- *A Lobbyist is –*
  - Any natural person who receives or expects to receive more than \$250.00 per calendar year in compensation or reimbursement for expenses for undertaking to promote or oppose legislation. O.C.G.A. § 21-5-70(5)(A).
  - Any natural person who makes a lobbying expenditure of more than \$1,000.00 in a calendar year. O.C.G.A. § 21-5-70(5)(B).

## Who is a Lobbyist? Cont.

- *A Lobbyist* is also –
  - Any natural person who is compensated specifically to promote or oppose the passage of any ordinance or resolution issued by a county or municipal government. O.C.G.A. § 21-5-70(5)(D).
  - Any natural person who makes a lobbying expenditure of more than \$1,000.00 in a calendar year, to promote or oppose the passage of any ordinance or resolution. O.C.G.A. § 21-5-70(5)(E).

## Who is a Lobbyist? Cont.

- *A Lobbyist is also –*
  - Any natural person who as an employee of local government who promotes or opposes the passage or any ordinance or resolution by county or municipal governments. O.C.G.A. § 21-5-70(5)(F).
  - Any natural person who is hired to specifically to influence a public officer or state agency in the selection of a vendor to supply goods or services to a state agency. O.C.G.A. § 21-5-70(5)(G).

## Who is a Lobbyist? Cont.

- *A Lobbyist is also –*
  - Any natural person who is compensated specifically to promote or oppose the passage or a rule or regulation promulgated by any state agency.  
O.C.G.A. § 21-5-70(5)(H).
  - Any natural person who is compensated specifically (or paid more than \$1,000.00) to promote or oppose any matter before the State Transportation Board.  
O.C.G.A. § 21-5-70(5)(I), (5)(J).

## Who Can Register as a Lobbyist?

- Any *sui juris* natural person (so no corporate entities) who have not been convicted of a felony involving moral turpitude within the past 10 years.
- Who should not register as a lobbyist? –
  - Your interns, assistants, office managers, attorneys, volunteers who are not actively representing the client to public officers (think sign holders).

# What is Lobbying?

- Remember that unhelpful definition?
  - ✓ Just remember that the Commission finds “Lobbying” to be:
    - Promoting or Opposing Legislation or Regulatory Rules
    - Engaging in Lobbying Expenditures and limited “Expenditures”
- Also, the Commission has generally held that there must be an overt act to oppose or promote legislation or regulatory rules.

## A Word of Caution!!!

- The requirement for an overt act to oppose or promote legislation is not limited to :
  - A direct appeal for or against legislation / regulatory rule
- The overt act can also constitute a discussion or presentation about the merits (or detractors) behind the legislation / regulatory rule.

## Overt Act in Practice

- Lobbyist Jane takes Representative Mike to lunch (i.e. she pays) to celebrate Mike's re-election after a hard fought primary and general election. Jane and Mike have known each other since law school. At the lunch, Jane and Mike talk about everything except legislation. Did Jane "lobby" Mike?
- No. Public officers are allowed to have friends – even lobbyist friends.

## Overt Act In Practice Cont.

- Lobbyist Jane takes Representative Mike to lunch (i.e. she pays) to celebrate Mike's re-election after a hard fought primary and general election. Jane and Mike have known each other since law school. At the lunch, Jane mentions that she is working on HB 1 and that her client is really hoping to get it passed and not catfished or christmastree'd. Did Jane Lobby Mike?
- Maybe - We will want to know more

## Overt Act In Practice Cont.

- Lobbyist Jane takes Representative Mike to lunch (i.e. she pays) to celebrate Mike's re-election after a hard fought primary and general election. Jane and Mike have known each other since law school. At the lunch, Jane explains the public policy rationale for Mike to defeat HB 1 (her client doesn't care about HB1). Did Jane Lobby Mike?
- No – Jane is entitled to have and share her opinion about HB 1 with her friend Mike.

## Overt Act in Practice Cont.

- Lobbyist Jane takes Representative Mike to lunch (i.e. she pays) to celebrate Mike's re-election after a hard fought primary and general election. Jane and Mike have known each other since law school. At the lunch, Jane mentions that she is working on HB 1 and that her client is really hoping to get it passed and not catfished or christmastree'd and she explains public policy. Did Jane Lobby Mike?
- Yes, she did.

## What Lobbying Activities are Allowed?

- You can do the following irrespective of the amount it costs –
  - ✓ Dinners or events at which all members of the General Assembly / Government Authority are invited
    - This includes caucus & committees
    - **However each group is limited to one event and must be recognized by the House and Senate Ethics Committees**
  - ✓ Provide promotional items to public officers that are readily provided to members of the general public.

## What Lobbying Activities are Allowed? Cont.

- You can also do the following irrespective of the amount it costs –
  - ✓ Reimbursement or payment of actual and reasonable expenses provided to a public officer and his or her necessary public employee staff members (including spouse) for such persons' transportation, lodging, travel, and registration for attending educational, informational, charitable, civic meetings or conferences that are held within the United States and directly relate to their official duties.

## What Lobbying Activities are Allowed? Cont.

- You can also do the following irrespective of the amount it costs –
  - ✓ Awards and plaques
  - ✓ Discounts that are provided to every other customer
  - ✓ Food and beverages produced in Georgia (so all the craft beer and peanuts they want)
  - ✓ Campaign contributions (which are always welcomed)

## What Lobbying Activities are Prohibited?

- The following activities are prohibited with NO Exceptions –
  - ✓ The transfer of money (except campaign contributions) or the purchase of items to influence a vote (e.g., bribery).
  - ✓ Tickets for Athletic Events, Concerts and Golf Tournaments.

## What Lobbying Activities are *Kind of Prohibited?*

- The following activities are prohibited if they cost more than \$75.00 per event per day –
  - ✓ Transportation
  - ✓ Travel
  - ✓ Lodging
  - ✓ Registration
  - ✓ Food
  - ✓ Beverages

## But What If?

- What if I take 4 legislators to lunch?
  - ✓ Your limit for lunch (including tax) is \$300.00 for that lunch.
  - ✓ But what if one Rep reimburses me, does his limit transfer?
    - No, the limit for the lunch is now \$225.00
- What if the sales tax causes my lunch at the Commerce Club to exceed \$75.00?
  - ✓ Don't exceed \$75.00. There is no carve out for taxes.

## But What If?

- What if I invite all of the members of the ethics committee and only the independents come?
  - ✓ It's okay, the independents are going to get a really expensive event with no limits!
- What if the DeKalb County legislative caucus suggests an event?
  - ✓ Unless they have registered with and been approved by the House and Senate ethics committee, you are going to have to find a polite way to decline until they are.

## But What If?

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## Real Life Examples\*

*\*The facts have been changed to protect the not yet convicted.*

- Lobbyist John calls Campaign Finance Staff and wants to know if he can give a promotional gift to various state legislators. The promotional gift turns out to be a Montblanc pen, is that allowed?
  - ✓ No, the client being represented by Lobbyist John does not distribute Montblanc pens to members of the general public.

## Real Life Examples Cont.

- Lobbyist Sally throws a dinner for two legislators at the Oceanaire. The dinner costs over \$200.00 (just for the legislators) and that exceeds the \$150.00 limit. However, Sally calls her Campaign Finance Lawyer who arranges for the Oceanaire to charge \$150.00 immediately and the remaining portion of the bill the next morning, did Sally violate the law?
  - ✓ No, Sally only expended \$75.00 per person per event, per day.

## Real Life Examples Cont.

- Lobbyist Bob holds an event for a caucus of legislators, but the caucus is not recognized by the House and Senate Ethics committees. Bob learns about the law at a GPLA conference and self-discloses his inadvertent violation of law to the Commission. Was Bob punished?
  - ✓ No, Bob was not and the legislators involved reimbursed Bob as accepting unauthorized lobbyist expenditures is a violation for the legislator.

## What Levels of Government Can be Lobbied?

- State Level –
  - ✓ Governor, Lt. Governor & Executive Officers (AG, Comm. Ag, Insurance, Labor)
- State Agency –
  - ✓ DOAS, SAO, GDOT, GGTCFC, GVRA, PSC
- Local Level –
  - ✓ Cities and Counties
- State Transportation Board

## How To Register as a Lobbyist?

- If you have previously registered as a lobbyist, you can register online at -  
<http://www.ethics.state.ga.us/efiling/default.aspx>
- If you are a new lobbyist, you will need to apply in person at the Campaign Finance Commission (Monday through Friday, 8:30 a.m. to 4:00 p.m.)

## Lobbyist Schedule

- Each lobbying level has a different schedule so you will want to double check the specific schedule as posted by the Commission - <http://media.ethics.ga.gov/schedules/lobbyistSchedule2011.aspx>

## Who Should not Register as a Lobbyist?

- Any individual who is not compensated for the specific purpose of lobbying, does not incur more than \$250.00 per calendar year in reimbursable lobbying expenditure and is a member, director, trustee, officer, or committee member of a business, trade, labor, farm, professional, religious, educational, or charitable association, foundation or organization which employs or contracts with a registered lobbyist for the purpose of lobbying

## Who Should not Register as a Lobbyist? Cont.

- People invited to testify before a committee or government body
- Attorneys representing their client
- Support staff who are not engaged in lobbying
- People who are just communicating their personal views

## Common Pitfalls

- Remember that if you are lobbying a state agency or local government you have a different reporting schedule.
- Local level lobbyists must file their disclosures with the Commission and with the local government they are lobbying.
- Make sure the caucus is a real caucus (most are not properly registered).

## “Take Aways”

- When in doubt, keep your lobbying expense below \$75.00 per public officer, per day.
- Always review the lobbyist disclosure schedule at the beginning of the year and set your reminders early (fines and late fees are steep).
- Always call Commission staff when in doubt, we would rather help you on the front end than sue you after the fact.

## Questions?

- Please feel free ask any questions.
- Also, if you would like to speak about your “friend’s” issue, Commission staff is always happy to help, just give us a call.

## **For More Information:**

If you would like more information about the services of the Georgia Campaign Finance Commission, contact us at:

[www.ethics.ga.gov](http://www.ethics.ga.gov)  
[gaethics@ethics.ga.gov](mailto:gaethics@ethics.ga.gov)  
(404) 463-1980



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