

PUBLIC HEARING: Training-Related Comments Pros and Cons

The Commission's March 29 public hearing generated several comments pertaining to the training provided to lobbyists. Below is a distillation of these comments together with staff's comments in response.

1. **COMMENT: Provide authority to associations and other organizations registered to lobby to manage the process of training, certifying, and registering its members throughout their tenure on the association's governing board.**

STAFF RESPONSES:

Allow organizations to manage the process of training and certifying board members: Staff is preliminarily supportive of this suggestion *with respect to certification of required training completion by CAOs.*

- **Pros:** Staff has discussed with ITS the possibility of allowing the CAO (responsible party) of a lobbying organization the authority to certify training information on behalf of their individual and in-house lobbyists, including board members who lobby. This would eliminate the need for many individual lobbyists (potentially thousands) to access the lobbying application.
- **Cons:** However, this approach raises concerns regarding responsibility for compliance. At this point, there is no statutory penalty for non-compliance, but should that change (and staff is supportive of amending the statute to add a penalty), it would depend on whether the penalty will be imposed upon the organization or the individual.
 - **ITS Insights:** The ITS team that developed and maintains the COELIG Lobbying Application, Financial Disclosure System, and Case Management System, is comprised of a handful of ITS specialists. In addition to the online applications mentioned, the same group of individuals have also been tasked with the development of the COELIG Statewide Training and Tracking System – to be used to identify, notify, and track the training compliance of over 315,000 employees statewide. As such, the existing ITS team does not have the resources with regards to employees to develop, test, and launch additional enhancements at this time. Currently, nearly 80% of lobbying filers required to complete ethics training have already completed and certified their completion status in the Lobbying Application. The current burden on lobbying staff and ITS is minimal. To minimize strain on COELIG lobbying and Helpdesk staff, the enhancement must be launched prior to the 2025-2026 biennial. Due to the complexity of the online application, these enhancements can only be completed by seasoned ITS professionals who understand the filing process.
- **Action Plan:** Due to competing priorities (terminations, OPEN NY datasets, statewide training, implementing confirmation lobbying reporting) we will revisit this suggestion late 2023 or early 2024.
 - With regards to establishing penalties for failing to complete ethics training, it is our recommendation that we establish a late fee schedule for overdue training similar to the late filing fee schedule we have established for those filers who fail to submit their lobbying forms in a timely manner. The current late filing fee schedule has been provided below as an example, with the understanding that the range of fees will differ for overdue trainings and will have to be set in accordance with

parameters of a statutory amendment authorizing such late fees, if and when it is enacted.

DAYS LATE	FIRST-TIME FILER	ALL OTHER FILERS
1 - 7 days	Grace Period/No Late Fee	Grace Period/No Late Fee
8 - 14 days	\$75 flat late fee	\$150 flat late fee
15 - 30 days	\$150 flat late fee	\$300 flat late fee
31 - 90 days	\$300 flat late fee	\$500 flat late fee
91 - 180 days	\$500 flat late fee	\$1,000 flat late fee
181 days and more	\$1,000 flat late fee	\$2,000 flat late fee

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The separate issue of permitting third parties to administer the training, however, raises a host of issues that would have to be addressed, including the possible need for legislation authorizing the Commission to delegate its duty to “administer” the ethics training program for lobbyists. **Staff is preliminarily not supportive of this suggestion.**

- **Registration of members:** Consideration of this suggestion will require developing additional information.
 - Regarding training “registration,” it is noted that, at present, no registration process is required to view the ‘*Ethical Standards for Lobbyists and Clients*’ online course. Currently, the ethics training requirement is triggered by the submission of a 2023 or later Statement of Registration. Once the Registration has been submitted, the lobbying application automatically sends a system-generated notification to individuals identified as serving in a “Training Required Role.” Organizations may “schedule” individuals to take the required online training as long as the individuals take the training within the required due date to maintain compliance.
 - **Group Trainings:** Staff has advised lobbying organizations that they may view online training in a group setting, provided each filer certifies individually to completion of the training in the online Lobbying application. We may want to send an eblast regarding flexibility in providing training in group settings prior to the start of the second half of the biennial in 2024.
 - **Action Plan:** Review existing website language and notify lobbyist and client organizations of training best practices, including group training information. Coordinated communications should be revised and distributed early Fall 2023 to coincide with the start of the second half of the 2023-2024 biennial.

2. **COMMENT:** Make lobbying ethics training recertification every four years, coinciding with same cycle as the two-year registration process (which starts with an odd year).

STAFF RESPONSE: Staff **disagrees with the suggestion** that training recertification should occur every four years and instead recommends every two years. NOTE: the Lobbying Act at Section 1-d(h) would have to be amended to (1) change the three-year training requirement to two years; and (2) add clients to the training requirement provision, which currently refers only to lobbyists.

- **Pros:** The training recertification would coincide with the biennial registration process.
- **Cons:** Waiting 4 years to receive training seems problematic on a policy level. Although professional lobbyists may remain current in appreciating ethical strictures and responsibilities independently of the cycle of trainings, clients change from biennial to biennial and may have significantly less day-to-day involvement in lobbying activity. Given that the course is online, a training requirement every two years should not be too taxing on the regulated community or staff.
- **Action Plan:** Since the Lobbying Act currently requires lobbyists to take the online ethics training every 3 years, legislation would be needed. COELIG could consider drafting a legislative proposal addressing this issue as part of its legislative agenda. Such a statutory change would be needed by 2026, the next earliest deadline for filers who completed the training this year.

3. **COMMENT:** Offer live training with Q&A sessions, in addition to the mandated online training.

STAFF RESPONSE: Staff supports this suggestion with respect to use of the Lobbying Application and the PSQ.

(1)Lobbying Application ‘Help on Demand’ and Live Remote Training Opportunities

- **Pros:** Under JCOPE, the lobbying unit had previously provided help on-demand training videos to the lobbying community that covered the enrollment process, establishing organization and user profiles, in addition to submitting each applicable filing. These on-demand instructional videos were available from the Commission website and our YouTube channel and were popular within the regulated community. Filing specialists and helpdesk staff would often direct users to the HOD video series. Due to significant changes within the lobbying application as a result of enhancements to the application, the instructional videos need to be redone and rebranded.
- **Cons: None**
- **Action Plan:**
 - Staff is developing a schedule to provide a series of live remote trainings on use of the lobbying application prior to the start of each filing period. Certain members of the Lobbying Unit staff have demonstrated both proficiency in the lobbying application and excellent customer service skills.
 - Roll-out of the training program will begin late summer/early fall to help new filers and authorized preparers navigate the LA enrollment process, Organization and User Profile set-up, and preparing and submitting the Statement of Registration.

(2)Develop an on-demand Public Search Query ‘PSQ’ screencasts:

- **Pros:** Commission stakeholders that include members of the press, good government groups and concerned citizens utilize the Public Search Query to search the Commission's lobbying data. Following a demonstration of the PSQ to members of the press, and a stakeholder meeting with a good government group, both parties requested a screen cast video tutorial be provided.
- **Cons: None.**
- **Action Plan:** Record and post an on-demand instructional screencast on how to maximize the effectiveness of the PSQ with regards to searching lobbying data. The instructional screencast will be available from the Commission website and YouTube page. Anticipated launch is Fall/Winter 2023 to coincide with the second year of the biennial. Lobbyist Registrations cover a two-year reporting period, in which the beginning of each biennial period generally results in an uptick of new registrations where members of the public are generally curious as to which organizations are engaging in lobbying activity.

4. **COMMENT ON STATEWIDE ETHICS TRAINING: Grant Ethics Officers greater flexibility in editing the model training to suit the needs of their specific agency.**

STAFF RESPONSE: Staff supports this suggestion.

- **Pros:** In fact, as discussed at the Education Committee meeting, the Education Unit regularly advises Ethics Officers that they may add slides to the Comprehensive Ethics Training Course to include agency specific policies and/or scenarios. In addition, Ethics Officers have also requested that for certain groups, such as seasonal employees and employees in specific titles, that the Ethics Officer be given the opportunity to reduce material that is not relevant to certain employees.
- **Cons:** None. Allowing agencies to add agency-specific information is an appropriate suggestion.
- **Action Plan:** Develop guidelines and/or regulations for Ethics Officers requesting to remove information for certain groups of employees. Discuss at Education Committee Meeting approval process for agencies that have requested the ability to truncate the existing training. Training staff has met with Ethics Officers and discussed the core content of the training must include the following subject areas: Conflicts of Interest, Gifts, Outside Activities, Political Activities and Post-Employment Restrictions. Ethics Officers have asked to bypass the following subject areas: Financial Disclosure, Honoraria, and the Lifetime Bar (Post-Employment).

5. **COMMENT ON STATEWIDE ETHICS TRAINING: Design streamlined training, preferably under one hour, specifically for general employees [non-FDS filers].**

STAFF RESPONSE:

- **Pros: Staff supports this suggestion.** As discussed at the Committee meeting, the Education Unit already provides multiple versions of the CETC, including one designed specifically for non-FDS filers. Ethics Officers and their training designees should generally be able to present the non-FDS filer training in an hour or less. In addition, however, Ethics

Officers have requested even more condensed presentations for certain groups of employees (for example, seasonal employees).

- **Cons: None.**

6. COMMENT ON STATEWIDE ETHICS TRAINING: Amend the law to allow for online training in addition to live training for general employees.

STAFF RESPONSE: Staff will follow the Commission's direction on this suggestion which would require a legislative proposal. In the alternative, Executive Law Section 94, already allows, where appropriate, for state officers and employees to file for a waiver of the live training requirement for good cause shown.

- **Pros:** Allowing agencies the option of providing online training may be a way to ensure that all employees receive training in a timely manner. As described at length in the Education Unit Committee presentation, providing **live** training to a workforce of over 315,000 every two years includes a number of challenges that include, but are not limited to, providing training to: seasonal and temporary employees, employees with limited technology access, employees without email addresses, employees with non-traditional working hours or whose agencies are on 24 hr. schedules, and employees whose training availability is governed by labor agreements.
- **Cons:** Live training is preferable to online training as it allows participants the opportunity to be more interactive and to ask questions and receive answers and explanations in real time.
- **Action Plan:**

STATEWIDE ETHICS TRAINING: Commissioners should participate personally in ethics training by making on-site visits to underscore the importance of ethical compliance to effective State government.

STAFF RESPONSE: Staff will follow the Commission's direction on this suggestion.

- **Pros:** Having Commissioners occasionally attend training sessions makes the Commission more accessible to the public.
- **Cons:** Staff questions the utility and degree of commissioner participation in routine ethics training sessions. For example, would it be appropriate for commissioners to make themselves available for questions at the conclusion of a training when they have ultimate adjudicatory in enforcement matters? Moreover, the importance of ethical compliance to effective State government should be evident from properly constructed and delivered trainings even without direct participation of commissioners in staff duties. Conceivably, brief pre-recorded vignettes or welcome messages could be incorporated into live trainings.