

Am I Lobbying?

Understanding the Activities NY Nonprofits Should Track for Lobbying Reporting Purposes

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Lawyers Alliance
for New York
Connecting lawyers, nonprofits, and communities



What Lawyers Alliance Does


- Negotiate or review a contract 
- Update bylaws & conflict of interest policy 
- Protect intellectual property  
- Rent an office or buy a building 
- Draft waivers and releases 

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Four Different Regulators

Regulator	Says you are lobbying if you are trying to affect...	Requires
IRS	legislation at any level of government (incl. ballot initiative)	Public Charity must stay within lobbying limit & report lobbying on IRS 990
Federal Lobbying Disclosure Act	federal administrative or legislative action	Register & report if exceed threshold: \$13k/20% of an employee's time in a quarter
NYS JCOPE	NYS, or action by county or municipality pop. 5k+, regarding legislation, executive order, agency rule or regulation, procurement	Register & report if you hit \$5k expenditure threshold
NYC Clerk	NYC legislation, executive order, rule, regulation, procurement, zoning, land use	Register & report if you hit \$5k expenditure threshold



IRS – Reporting Lobbying Expenditures

IRS 990

Form 990 (2014)

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Part IV Checklist of Required Schedules

1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? If "Yes," complete Schedule A	Yes	No
2	Is the organization required to complete Schedule B, Schedule of Contributors (see instructions)?	Yes	No
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I	Yes	No
4	Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II	Yes	No

IRS 990-EZ

Form 990-EZ (2015)

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Did the organization engage, directly or indirectly, in political campaign activities on behalf of or in opposition to candidates for public office? If "Yes," complete Schedule C, Part I

Yes

No

Part VI Section 501(c)(3) organizations only

All section 501(c)(3) organizations must answer questions 47–49b and 52, and complete the tables for lines 50 and 51.

Check if the organization used Schedule O to respond to any question in this Part VI

Yes

No

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Did the organization engage in lobbying activities or have a section 501(h) election in effect during the tax year? If "Yes," complete Schedule C, Part II

Yes

No

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Activities to Track Because They May Be Lobbying

Attempting to influence:

- legislation (& introduction of legislation) – budget legislation, member items count!
- agency rules, regulations, and procurement
- administrative agency action (“having the force and effect of law”)

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Gov. 101: Who Does What?

State Assembly

State Senate

Governor

Dept. of Health

Law (State budget, member item)

Executive Order


Regulation, Rule

Grant, RFP, Contract

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NYC

- zoning, land use, disposition of City's real property
- determination of Board or Commission
- hearings: It's lobbying if you're trying to influence...
 - Agency's decision to hold, or timing of, rate making proceeding
 - Agenda of Board or Commission
 - Calendaring or scope of City Council oversight hearing

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Direct & Grassroots Lobbying

Direct Lobbying

Refer to specific legislation *and* take a position on it

Grassroots Lobbying

Encourage others to act by:

- referring to specific legislation,
- taking a stand on that legislation, *and*
- including a "call to action" that explicitly or implicitly asks the recipient to contact legislators

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Things That Are Not Lobbying

- Communicating with legislator about something other than legislation
- Discussing legislation, agency rule etc. without an "ask"
- Responding to unsolicited written request from a legislative body
- Participating on the record in the public proceedings of a government agency
- Participating in formal government agency notice & comment process

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Don't Get Stuck in the Details

If in doubt, report!

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Self-Assessment: What's My Goal?

A) How important is advocacy to your organization?
1 2 3 4 5
Not very It's why we exist

B) Do you care about how much lobbying you report?
1 2 3 4 5
We'd do anything to avoid registering Will register but only report bare minimum OK with reporting alot of lobbying

C) How much tolerance do you have for hair-splitting?
1 2 3 4 5
No one here has time to read rules Our staff lawyers can do it

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Seeking Government Funding

Activity	Is It lobbying?
Formal application: Submitting a grant application or responding to an RFP through a formal process	No
Budget item: Trying to influence inclusion of funding in the State or City budget	Yes
Member item: Contacting legislator about a member item is lobbying	Yes
Grants: Seeking to influence an agency's award of a grant or contract	Sometimes

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Rallies

- Are you speaking?
- Who are you speaking to?
- Is there a call to action?


Sign Our
Petition!

Sen. Rojas:
Pass S.3125

Shawn May
Brad Jones



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Social Media

Lobbying

- direct message to official
- post on official's page
- tagging a public official
- asking readers to lobby

@SenSmith Pass the
Ethics in Government
Act now!

Not lobbying

- referring to but not tagging
official (even if official is
a follower)

Sen. Smith should
vote yes on the
Ethics in Government
Act now!

Member or employee's personal social media posts as part of job duties may be attributed to the organization

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Is this lobbying?


New York Immigration Coalition @thenycic · Sep 17

Farmworkers say no more excuses: we need protections now! Tell state leaders to #ProtectNYHeroes and pass the NY HERO Act: [bit.ly/PassNYHERO](#)




A message to politicians:

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Tell State Leaders: Pass COVID Safety Standards to Protect Workers!



New York State has yet to set safety standards to prevent millions of workers from contracting COVID-19 on the job. While New Yorkers are reminded to wear masks and practice social distancing, our state continues to ignore workers on the frontline of this crisis—those who are putting their health at risk to serve in our communities. This includes workers who are deemed essential, including health care workers, grocery store clerks and sanitation workers. Many still don't have access to adequate personal protective equipment (PPE), putting themselves, their families and the general public at risk. New York must take action now to prevent a second wave of COVID infections and protect vulnerable communities. As businesses reopen, more workers will be at risk for exposure.

Send a letter to your legislators now! Tell them to help protect workers from COVID-19 by establishing enforceable health and safety standards.

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ENTER YOUR RETURN ADDRESS

We've got your address, Loral! NewLawyer@CitizenAction.org


HAVE YOU BEEN IMPACTED BY A LACK OF WORKER SAFETY STANDARDS DURING THE PANDEMIC? IF YOU CHECK "YES," CONCERN FROM OUR ORGANIZING TEAM WILL REACH OUT WITH YOU.

☐ Yes
☐ No

START WRITING

You may receive email updates from Citizen Action of New York. ASKED before for a longer time. New York State, join Council 10, and New York State for New Association. Be a member of this new campaign.

Get Subscription Preferences




Timekeeping

One option: record specific dates & minutes/hours

Date	Topic or Bill #	Description of Activity (include whether grassroots or direct)	Target (individual and/or government body)	Time Spent	Additional Expenses (printing, mailing, travel)	Level of Government		
						Federal	NYS	NYC
9/2/20	Int. 1172	Draft email asking supporters to call Council Members (grassroots)	NYC Council	1 hour	none			X
9/8/20	State Budget	Calls to state legislators (direct)	State Sens. Quinny & Fernandez	2 hours	none		X	

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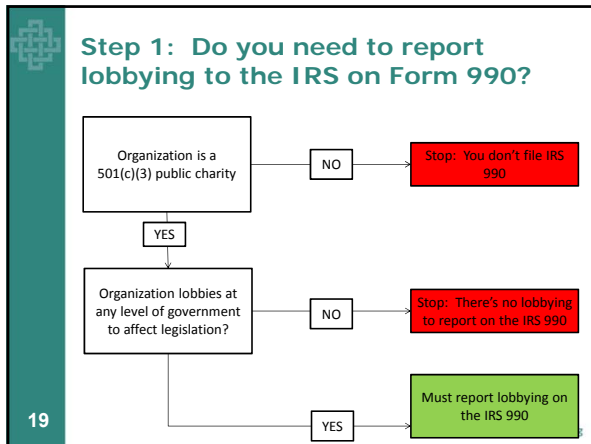


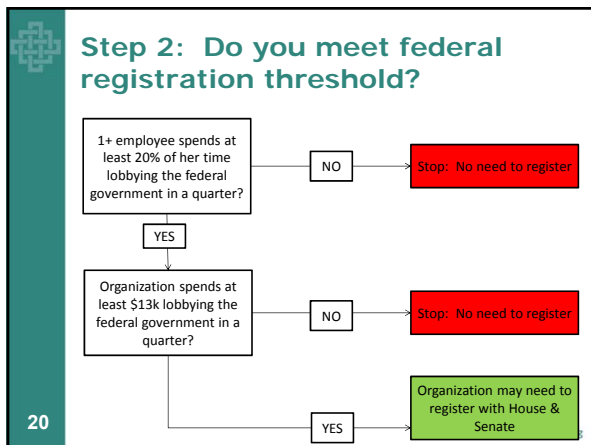
Timekeeping

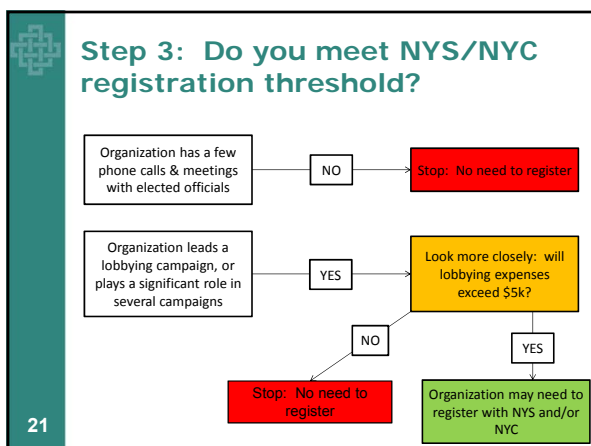
Another option: record % of time spent

Date	Topic or Bill #	Description of Activity (include whether grassroots or direct)	Target (individual and/or government body)	% of Time Spent This Week	Additional Expenses (printing, mailing, travel)	Level of Government		
						Federal	NYS	NYC
9/2/20	Int. 1172	Draft email asking supporters to call Council Members (grassroots)	NYC Council	5%	none			X
9/8/20	State Budget	Calls to state legislators (direct)	State Sens. Quinny & Fernandez	10%	none		X	

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Resources

- FAQs on Nonprofits & Lobbying
https://lawyersalliance.org/userFiles/uploads/community-impact/pdfs/Nonprofits_and_Lobbying_FAQ_Nov_2018_FIN_AL.pdf
- On-demand webinar "Careful Lobbying Compliance: Keeping Track of the Required Reports and Restrictions on Lobbyists' Activities" (\$25 fee) – can register at
<https://lawyersalliance.org/recorded-webinars>
- Advocacy Compliance Resources
<https://lawyersalliance.org/advocacy>

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