



Lawyers Alliance
for New York

Connecting lawyers, nonprofits, and communities

MEMORANDUM

TO: Clients and Friends

FROM: Lawyers Alliance for New York

RE: Reporting Political Activities of Your Nonprofit's Employees and their Family Members

DATE: August 2, 2007

The New York City Lobbying Act (the "Act") may require your nonprofit organization to report the political activities of its staff members (and their domestic partners) and unemancipated children – even if those activities are personal and unrelated to their work.

The Act requires registered lobbyists, including nonprofits, to report to the New York City Clerk the political fundraising and paid political consulting activities of all employees and officers that lobby on behalf of the organization, employees employed in a division of the organization that engages in lobbying activities (even if such individuals do not engage in lobbying), and the spouses, domestic partners and any unemancipated children of the foregoing.¹ This is so even though, consistent with federal tax law, such individuals must conduct such activities in their personal capacities and without any involvement of the nonprofit organization.

"Fundraising activities" are described as²:

Solicitation or collection of contributions for a candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council, or for the political committee of any such candidate by a *lobbyist*, or the solicitation

¹ NYC Admin. Code Title 3, §§3-211(h) and 3-216.1(a). Please also refer to Lawyers Alliance for New York Client Alerts, "NYC Lobbying Law Amendments – Local Law 15, 16 and 17", dated June 22, 2006, and "Privacy Concerns Preval: The City Scales Back Requirement to Disclose Names of Unemancipated Children on Lobbyist Registration Statements dated May 18, 2007, for more information about the New York City Lobbying Act. These memoranda are available at www.lawyersalliance.org.

² NYC Admin. Code Title 3, §3-211(h). See New York City Lobbying Bureau Advisory Opinion 2007-2, clarifying that the law does not require the nonprofit to report the fundraising and political consulting activities of employees that are not employed in the division of the organization engaged in lobbying and that do not lobby for the organization.

or collection of contributions for any public servant who is a candidate for nomination for election, or election, to any elective office ... by a *lobbyist*. (Emphasis added).

Examples of reportable fundraising activity include hosting a house party for a candidate, sending e-mails to encourage others to donate to a candidate's campaign and coordinating a fundraising drive for a candidate, even if the fundraiser is not compensated for any of such fundraising.

“Political consulting activities” are further described as³:

The activities of a lobbyist who for compensation by or on behalf of the candidate or elected official, as applicable, (i) participates in the campaign of any candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council by providing political advice, or (ii) participates in the campaign of any public servant who is a candidate for nomination for election, or election, to any elective office by providing political advice, or (iii) provides political advice to the mayor, public advocate, comptroller, borough president or member of the city council.

The Act does not require reporting of personal contributions or donations to a candidate's campaign. The reporting obligation is limited to political fundraising and/or consulting activities.

Reporting Obligations

Nonprofit organizations registered as lobbyists must file fundraising and/or political consulting reports at the same time that they file lobbyist periodic reports if their employee lobbyists or others, as described above, engage in political fundraising and/or political consulting at any time in the calendar year or during the six months preceding such calendar year.⁴ In addition, the first such report filed in any calendar year shall include information on fundraising and/or political consulting that occurred in the six-month preceding the calendar year in which the report is due.⁵ Registered lobbyists that submit inaccurate, incomplete or late reports would likely be subject to the penalties applicable to other reports due under the Act.⁶

The fundraising or political consulting periodic reports must include: (a) the name, address and telephone number of the lobbyist and the individuals employed by the lobbyist engaged in such fundraising and/or political consulting activities; (b) the name, address and telephone number of the candidate, public servant, or elected official to whom or on whose behalf the lobbyist provided fundraising and/or political consulting services; (c) the compensation paid or owed to

³ NYC Admin. Code Title 3, §3-211(i).

⁴ NYC Admin. Code Title 3, §3-216.1(a).

⁵ *Id.*

⁶ NYC Admin. Code Title 3, §3-223.

the lobbyist for such fundraising and/or political consulting activities; (d) a list of all persons or entities with whom the lobbyist contracted for the purpose of providing fundraising and/or political consulting services; (e) in the case of fundraising activities, the total dollar amount raised for each candidate for which such activities were performed.⁷

As of June 13, 2007, registered lobbyists must file annual reports that reflect the political fundraising and/or political consulting activities of its employee lobbyists and others as described above.⁸ These annual reports are due on the fifteenth day of January next following the year for which the activity took place, and should include in the cumulative, all activities reported in the prior reports for the year. The first of such annual reports is due in January 2008.

This alert is meant to provide general information only, not legal advice. The Lawyers Alliance website contains further information and details. The text of the New York City Lobbying Act can be found at: <http://nycmarriagebureau.com/LobbyingBureau/index.htm> Please contact Staff Attorney Viva Obioha at Lawyers Alliance for New York at (212) 219-1800 for further information

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys work together, delivering expert corporate, tax, real estate, employment and other legal services to community organizations. By connecting lawyers, nonprofits and communities, we help nonprofits to develop affordable housing, stimulate economic development, and operate vital programs for children and young people, the elderly, recent immigrants, and other low-income New Yorkers.

⁷ NYC Admin. Code Title 3, §3-216(b)(1)-(4).

⁸ NYC Admin. Code Title 3, §3-217(b).