



**Ethics and Compliance
Training for EXPERIENCED
Lobbyists and Employers**

**Alaska Public Offices Commission
2014**

Course Focus

This course is for **experienced** lobbyists/ employers and does not review basic definitions and requirements in any depth.

It covers:

- ✓ Discussion and scenarios on definitions, reporting, and prohibitions
- ✓ Frequently asked questions



You are responsible for knowing:

- Alaska's Lobbying Law: AS 24.45
- Lobbying Regulations: 2 AAC 50.550 –
2 AAC 50.590
- Important definitions in AS 24.45.171 and
2 AAC 50.590

<http://doa.alaska.gov/apoc/apoclaws.html>

Useful Resources

- APOC Quarterly Newsletters

<http://doa.alaska.gov/apoc/newsletters/index.html>

- Sign up for APOC ListServ to receive notice of meetings, deadlines, and other Commission business

<http://list.state.ak.us/soalists/APOCnotifications/jl.htm>

- Alaska's Lobbying Manual

<http://doa.alaska.gov/apoc/pdf/manual-lobbying.pdf>

- Lobbying Advisory Opinions

<http://aws.state.ak.us/ApocInterim/ViewCommissionAdvisoryOpinions.aspx>

Ethics: Your Responsibilities



- Take the APOC ethics and compliance training EVERY year to be in compliance.
- Follow the model ethics code supported by the American League of Lobbyists (ALL).
<http://www.alldc.org/ethicscode.cfm>
- If you are unsure about whether something is permissible, seek APOC's guidance **BEFORE** you act.
- Do not violate prohibitions listed in AS 24.45.121.
<http://www.legis.state.ak.us/basis/statutes.asp#24.45.121>

PROHIBITED ACTS in AS 24.45.121

Lobbyists may NOT:



- Lobby prior to registering
- Place a public official under personal obligation to the lobbyist or employer
- Intentionally misrepresent facts to a public official regarding administrative or legislative action
- Influence the introduction of legislation in order to later be hired to lobby on the same issue



Also prohibited:

- Communicating with a public official in another's name without their consent
- Accepting a payment contingent on specific outcome of administrative or legislative action
- Serving on a state board or commission if an employer stands to gain from decisions of that board or commission

Prohibitions on Political Activities for Lobbyists, **NOT** Employers

❖ Applies to Legislative, Governor or Lieutenant Governor Campaigns:

- Serve as campaign manager or director
- Serve as treasurer or deputy treasurer on a fund-raising committee
- Host a fund-raising event
- Collect or deliver contributions
- Engage in any fund-raising activities



AS 24.45.121(a)(8)

Lobbyist Types and When to Register

- If you present yourself to others as a lobbyist, register **BEFORE** doing **ANY** lobbying
- If lobbying is only one component of your job and you **do not represent yourself as a lobbyist**, register once you lobby more than 10 hours in any 30 day period
- If you do not receive any compensation but do receive reimbursement for expenses and are not employed by the entity, register as a **representational lobbyist**
http://doa.alaska.gov/apoc/rep_fly_in.html

Lobbying Law Exemptions:

- Persons not paid or reimbursed AND who limit their activity solely to public sessions of the legislature or other public hearings or proceedings
- Elected or appointed state or municipal public officers, state/municipal employees acting in their official capacity
- Persons appearing before the legislature or a committee in response to an invitation**

** AS 24.45.161(4)(c) specifies guidelines for issuing invitations that must be met to qualify for this exemption

Am I a lobbyist?

You decide



Crabby Joe operates a commercial fishing vessel as his primary source of income. During the legislative session he contracts with two clients as their lobbyist. He never lobbies more than 10 hours in a 30 day period.

Who is a lobbyist? (Answer)

Crabby Joe IS a lobbyist and must register **BEFORE** doing ANY lobbying. Even though he only lobbies part of the year for two clients, he *represents* himself as a lobbyist to these clients and is in the *business* of lobbying for profit.

AS 24.45.171(11)(B)

Am I a lobbyist?

You decide



- SOAP Enterprises employs Bubbles Joyfully as the director of government relations and marketing. Bubbles spent 12.5 total hours doing the following:
 - sending e-mails (1 hour)
 - making phone calls (1.5 hours)
 - attending four 30-minute meetings with legislators, legislative staff, and public officials each day from January 27th to January 31st. Bubbles brought the director of the New Products division, the director of Quality Control, and the director of Product Information with her to the meetings. During the meetings Bubbles introduced the other directors and they communicated directly with the public officials the majority of the time.

Who is a lobbyist? (Answer)

Bubbles Joyfully is NOT a lobbyist. She was engaged in direct communication with legislators, legislative staff, and public officials for less than 10 hours in a 30-day period. During the meetings she only engaged in direct communication with the public officials for a brief period of time. Because the total time of direct communication is less than 10 hours, she is NOT required to register.

AS 24.45.171(11)(A)

Reporting Deadlines:

AS 24.45.081



- **Lobbyists:**
 - File monthly when Alaska Legislature is in Session - Reports are DUE the last day of the month following the reporting month. Lobbyists report quarterly IF the legislature is not in session.
- **Employers:**
 - File quarterly reports year round regardless of whether the legislature is in session - Reports are DUE the last day of the month following the end of the quarter.
- ❖ **Please Note:** You do not have to wait until the end of the month to file your report. It is better to complete the report earlier in the month and then if issues arise you have time to solve them before the report is due.

Insight Registration REMINDERS

- Three step process: Lobbyist starts the form, employer reviews and signs, lobbyist does final certification and Insight submission
- Registration amendments require BOTH the lobbyist and employer to sign
- Separate registrations are required for each employer
- Each registration has a \$250 fee

Lobbyist Report Requirements:

- **Compensation** for lobbying (fee, salary, other: stocks, car, etc.)



- **Any payment/reimbursement received for a lobbyist related expense:** “in consideration for or directly or indirectly in support of or in connection with influencing legislative or administrative action”
AS 24.45.051(1)

CHANGES to report: Address, e-mail, phone, terminations (date is important), etc.

Which non-reimbursed lobbyist expenses must be reported ?

Food/beverages:

If related to lobbying, must include on your report. Do not include food consumed in your home for personal use.



Living accommodation:

Report hotel or rental if for lobbying purposes or business.

Travel:

Report airfare and/or travel related to lobbying work, not personal travel.





Additional disclosure required on lobbyist reports

- Gifts or series of gifts worth > \$100 to any public official
- Exchanges of money, goods, services > \$100 with public officials or members of their immediate family or such exchanges with business entities known by the lobbyist to be owned or controlled by a public official

Lobbyist Gift PROHIBITIONS



- Registered lobbyists may NOT give a gift to a legislator or legislative employee and MAY NOT “offer, solicit, initiate, facilitate, or provide to or on behalf of a person covered by AS 24.60 a gift, other than food or beverage for immediate consumption or a compassionate gift ...” AS 24.45.121(a)(9)
- Lobbyists may not: “make or offer a gift or a campaign contribution whose acceptance by the person to whom it is offered would violate AS 24.60 or AS 39.52”.

The only allowable exceptions to this are:

Allowable Gifts



Food or beverage for immediate consumption (at a restaurant or the lobbyist's home are allowable)

Tickets to a pre-approved charity event or contributions to a charity event on behalf of a legislator per AS 24.60.080 (**\$250.00 yearly limit**)



Compassionate gift: DEFINED





Compassionate Gift

(AS 24.60.075)

- “... a solicited or unsolicited gift intended to aid or comfort a recipient or a member of the recipient’s immediate family in contending with a catastrophe, a tragedy, or a health-related emergency.”
- **NOTE: Compassionate gifts require **pre-approval** by the Legislative Council. Consult Legislative Ethics if you have a question.
- If the value is > \$100, this is reportable on the gift section of the lobbyist or employer of lobbyist report form

Improper Gift-Giving: Executive Branch

A gift from a lobbyist to a public officer or a member of the officer's immediate family is presumed to be improper,



UNLESS the lobbyist is an immediate family member of the person receiving the gift.

Reporting Food and Beverages > \$15 for Legislators/Legislative Staff



- If a lobbyist pays for food/beverages for a group of legislators/ legislative staff, the lobbyist must report the value of the purchase for EACH INDIVIDUAL and name the person. If one member of the group consumes <\$15, report these costs on the lobbyist's Schedule A.
- You may not “split” the bill when paying for meals over \$15. Reporting by individual cost is required by AS 24.45.051(6)(b).

May employers of lobbyists give gifts to legislators or legislative staff ?

The gift prohibitions in AS 24.45.121 do not apply to employers



BUT



Employers may NOT have their lobbyists give gifts to legislators or legislative employees since lobbyists may not: “offer, solicit, initiate, facilitate, or provide ...” a gift under AS 24.45.121

Employers must report gifts to public officials over \$100 in value on their employer report form.

Employer Reports:

What is disclosable?

- ✓ **Fees, salaries, reimbursements** for expenses paid to lobbyists: **Schedule A** - One for each registered lobbyist
- ✓ **All expenditures in support of lobbying**, whether paid to employees (“in-house”) or vendors/ contractors (“outsourced”): **Schedule B**
- ✓ **Gifts** to public officials exceeding \$100 in value

Level of Detail Required for Schedule B Expenses



- Report any “payments made to influence legislative or administrative action” during the reporting period [AS 24.45.171(13)] AND report all employee compensation “for or in connection with **DIRECT COMMUNICATION** with a public official” during the reporting period [AS 24.45.171(13)(D)]. {Exception for Municipal Officials}
- Payments made to employees performing services that **SUPPORT** the company’s legislative or administrative lobbying goals ARE reportable regardless of whether the employee “communicated directly” with a public official **IF** they exceed 10 hours in a month.
Regulation: 2 AAC 50.575(b)(2)(A)

Payments to employees not associated with the agency’s lobbying efforts, not supporting a registered lobbyist or not supporting a project linked to the agency’s lobbying agenda are NOT reportable (i.e. payroll, technology, janitorial, admin staff not assisting lobbyist or lobbying agenda).

Schedule B: How To's

- **In-House Costs:** Report employee name, company address, gross wages or pro-rated portion applicable to **support** of lobbying activities if over 10 hours in a month. Report the total of all compensation and payments made for **lobbying** activities. **A single amount per employee per report period is sufficient. You only need to list the employee's name one time and report the total amount for the quarter.**
- **Outsourced costs:** Report date and amount of **each** payment to vendors and contractors.
- **Examples of other reportable employer costs:**
 - Travel
 - Entertaining
 - Outreach, Advertising

** See the lobbying manual for more discussion of Schedule B expenses
<http://doa.alaska.gov/apoc/pdf/manual-lobbying.pdf>

How would YOU report this ?



An employer of lobbyists pays Lobbyist John \$5,000 and Lobbyist Jane \$8,000 for the first quarter, mailing the payments in the second quarter. The employer takes 3 legislators to dinner at The Hangar to discuss tourism issues in February. During session, the employer hires an attorney to research tourism related legislation in other states and assigns the agency communications director to produce a report for use by Lobbyists John and Jane.

ANSWER: Employer Report

Part 1: An employer of lobbyist pays Lobbyist John \$5,000 and Lobbyist Jane \$8,000 for the first quarter, mailing the payment in the second quarter.

- **Report payments to both Lobbyist John and Jane on the corresponding Schedule A in 1st quarter since this is when it was earned.**

ANSWER: Employer Report (More)

Part 2: The employer takes 3 legislators to dinner at The Hangar to discuss tourism issues in February.

- Report the total amount of the restaurant bill at The Hangar on Schedule B under the Outsourced section since this is a payment to “influence legislative or administrative action.”

The requirement to file a separate schedule A-1 for meals to legislators > \$15 does NOT apply to employers.

ANSWER: Employer Report (More)

Part 3: During session, the employer hires an attorney to research tourism related legislation in other states.

- **Report attorney costs for research on Schedule B, Outsourced Costs section.**

(If the payment is made in increments, **reflect the date and amount of EACH payment** along with the attorney's name and purpose of expenditure.)

ANSWER: Employer Report (More)

Part 4: Assigns the agency communications director to produce a report for use by Lobbyists John and Jane.

- **Report the name and pro-rated cost of the communications director's time spent producing the report on the Schedule B, In-House section if he spent more than 10 hours in a month producing the report.**

(Even if the activity was paid for in more than one pay period, employers are **not required to list the date of every payment to in-house employees.**)

Common Reporting Questions from Employers of Lobbyists #1



Our company pays our lobbyist an annual fee at the end of every calendar year. How do I report this?

Common Reporting Questions from Employers of Lobbyists #1

Answer: BOTH employers and lobbyists must report using an accrual and not a cash basis. {2 AAC 50.575}

Even though you may pay your lobbyist in a single check at the end of the calendar year, you should report EACH quarter according to the lobbyist's activity. If your lobbyist works on your behalf for the full calendar year, it is acceptable to evenly divide the annual payment into four quarterly increments. Another acceptable method is to pro-rate the amount based on more earned compensation during legislative session if this accurately reflects the lobbyist's work.

Common Reporting Questions from Employers of Lobbyists #2



We are a local government that employs a lobbyist and we often send employees to Juneau to meet with legislators.

Since municipal employees are exempt from the lobbying law, do we have to report their activity?

Common Reporting Questions from Employers of Lobbyists #2

Answer: Municipal employees are exempt from the lobbying law and are not required to register as lobbyists.
AS 24.45.161(a)(2)

BUT

The municipal government that employs a lobbyist must still report any staff members' time and expenses incurred on the Schedule B, In-House section because these costs are considered a *payment to influence legislative or administrative action*. AS 24.45.171(13)

However, you only report compensation for time in **SUPPORT** of lobbying activities if the employee exceeds 10 hours in a month per regulation 2 AAC 50.575.

Common Reporting Questions from Employers of Lobbyists #3



**Am I required to list the
time/expense of completing an
employer report on the
Schedule B?**

Common Reporting Questions from Employers of Lobbyists #3

Answer: NO, employers are not required to list the name, time and associated costs for the employee completing the APOC quarterly employer of lobbyist report.

Employers must report payments made to employees who directly support or assist the employer's lobbying activity but ***are not required to report general overhead expenses.***

See Advisory Opinion 08-06-LOB for more complete guidance

<http://doa.alaska.gov/apoc/Advisory/a00806.html>

Other Common Reporting Questions

- I have to leave town during the reporting deadline. May I submit my report in Insight before the deadline?
- **NO** - Insight will not allow you to submit a report prior to the 1st day of the month in which it is due. You may complete all requirements but you will need to “submit” the report during the month it is due. If your report is still in “pending” status it is late and you will incur a penalty.

Reminders for Lobbyists and Employers

- All reports must be filed electronically in Insight
- Make sure your report is **SUBMITTED** in Insight and not still in “pending” status - check your account to be sure.
- You must enter your password a 2nd time to electronically certify the report.
- Late reports incur a civil penalty of \$10 per day. Filers may appeal by filing an affidavit within 30 days.
- For Insight help, go to <http://doa.alaska.gov/apoc/>



APOC Audits

Staff performs random reviews of lobbyist and employer of lobbyist filings to ensure compliance.

- ✓ Thoroughly review all data PRIOR to submitting your report!
- ✓ Do not duplicate a monthly report in your quarterly filing (LOBBYISTS, take note!).
- ✓ Accurately represent your lobbying start date and sufficiently describe the lobbying interest on the registration statement.

Course Review Questions



**Thank you for taking the
Ethics and Compliance
training for lobbyists and
employers of lobbyists.**

**To fulfill your statutory requirement for training, please open the link
below to take the review questions.**

<http://doa.alaska.gov/apoc/training/review-lobbying-advanced.html>