

AM I A LOBBYIST? MUST I REGISTER WITH THE BOARD OF ETHICS? A PLAIN ENGLISH GUIDE



The Board of Ethics was established in February 1987, when the City Council first enacted the Governmental Ethics Ordinance (the “Ordinance,” which is chapter 2-156 of the Municipal Code of Chicago). You can read the Ordinance in its entirety here: https://www.chicago.gov/content/dam/city/depts/ethics/supp_info/GEO-2019-color%20through%20July%202024.pdf. The Board is responsible for administering, interpreting and enforcing this law, including its lobbyist registration and disclosure rules and regulations.

Important amendments were made to the City’s lobbying laws in December 2023. These changes take effect on July 1, 2024. This Guide explains many of these changes.

REGULATION OF LOBBYING IN CHICAGO—A BRIEF HISTORY

Ever since the Ordinance was first enacted in 1987, the City has regulated lobbyists through the Ordinance. From 1987 to 1990, any person who was compensated or spent more than \$5,000 in lobbying (as defined in the Ordinance) in any combination was required to register—regardless of whether they lobbied on behalf of for-profit or non-profit persons or organizations. In 1990, that threshold was lowered to \$1,000.

Then, in 2000, the City Council amended the Ordinance to exempt all person or individuals who lobbied on behalf of non-profit organizations from having to register, and did away with all compensation or expenditure threshold requirements, so that any person or individual who engaged in any lobbying for another (who was not a non-profit organization) was required to register, regardless of whether their lobbying involved compensation.

Then, in 2011, the Ordinance was amended again to provide that any individual who lobbied on behalf of any non-profit organization with for-profit members must register as a lobbyist, regardless of how much time they spent in or on lobbying or whether they were compensated for lobbying.

Then, in 2019, the Ordinance was amended yet again to require any individual compensated to lobby on behalf of a non-profit organization to register (those representing for-profit lobbying clients were required to register even if no compensation or expenditures were involved). There was strong opposition to this law from the non-profit community, but dozens of individuals representing non-profit organizations nonetheless registered with the Board.

Finally, during and after the Covid pandemic, talks between the City and representatives from the non-profit community resulted in amendments to the Ordinance enacted by the City Council in December 2023 with an effective date of July 1, 2024. In essence, the law now re-imposes thresholds: any individual who engages in more than 20 hours of lobbying, as defined, in a calendar quarter, or who is compensated or spends more than \$1,250 for lobbying, as defined, in any combination in a calendar quarter, must register as a lobbyist with the Board of Ethics. These thresholds apply to **all** individuals who lobby, regardless of whether the person or entity

for whom or which they lobby is a for- or non-profit organization or entity. However, there is an important exception in the Ordinance that takes effect on July 1, 2024, for individuals who lobby, as defined, on behalf of any non-profit organization that has either an operating budget or net assets or fund balances¹ of less than \$5 million—these individuals do not need to register, no matter how many hours of lobbying they engage in.



WHAT IS LOBBYING IN CHICAGO? WHAT IS A LOBBYIST UNDER CHICAGO LAW?

A lobbyist, or lobbying, is defined as any individual (Chicago’s lobbying laws do not require entities or lobbyists’ clients to register) who communicates in any manner with City of Chicago officials or employees on behalf of **another** person or entity to influence any City “administrative” or “legislative” action. *Thus, citizens, residents, or individuals who represent only themselves personally are not thereby lobbying.* But any individual who represents **another** person or entity, such as a business they own, or their employer, or their client, and who in doing so tries to influence any City “administrative” or “legislative” action could be lobbying.

“Administrative action” means any engagement with the ability to influence an outcome, other than through the legislative process, by any agency or City official or employee on:

- (1) a rule;
- (2) a rate or fee;
- (3) a bond inducement matter;
- (4) a zoning matter;
- (5) a concession or franchise agreement;
- (6) the creation of a tax increment financing district;
- (7) the expression of support for a favorable Cook County property tax classification;
- (8) the acquisition, lease, license, or disposition by the City of any interest in real, personal, or intellectual property;
- (9) the procurement of goods, services, or construction, including the preparation or modification of contract specifications, or the solicitation or award of a contract;
- (10) the solicitation or award of a grant, loan, or agreement involving the disbursement of public monies;
- (11) the expression of support for, or opposition to, the enactment of any local, State or federal legislation, rule, or regulation; or
- (12) the interpretation of any local, State, or federal law, rule, or regulation.

"Legislative action" means any engagement with the ability to influence an outcome by a member of the City Council or a City Council employee on any legislation. "Legislation" means any ordinance, resolution, amendment, nomination, report or any other matter pending in, or proposed for introduction into, or otherwise

¹ “Net assets or fund balances” means the total amount reported on United States Department of Treasury Internal Revenue Service Form 990 for the line “Net assets or fund balances.” “Operating budget” means the total amount reported on United States Department of Treasury Internal Revenue Service Form 990 for the line “Total expenses.”

eligible for consideration or enactment by in the City Council or a committee or other subdivision thereof, including but not limited to ordinances, resolutions, orders, appointments, and claims.

Exceptions

In addition to the exception (mentioned above) for individuals who lobby on behalf of non-profit organizations with less than \$5 million in net assets or fund balances or operating budgets, there are others:

--Solely submitting an application for, or corresponding solely about the status of, a City registration, certificate, permit, or license;

--Responding to a City request for proposals or qualifications (an RFP or RFQ);

--Seeking City services available to all City residents, such as modifications in water, sewer or garbage services or bills, parkway tree trimming, pothole-filling, or graffiti removal services, or seeking temporary street closures in connection with neighborhood block parties;

--A salesperson who communicates only with those City governmental personnel with responsibility for making purchasing decisions as to goods or services as part of their City jobs;

--Employees or officials of other governmental units or agencies who communicate with City personnel on behalf of those units or agencies;

--Individuals who attend meetings with City personnel solely to provide technical assistance, information, or clerical or administrative assistance, or merely to observe for educational purposes;

--Making communications with City personnel that constitute "self-defense communications," meaning contact or communication by, or on behalf of, a non-profit entity with a City official or employee regarding administrative action or legislative action that potentially harms, diminishes, or eliminates: (1) the existence of the entity; or (2) its powers and duties; or (3) its tax-exempt status or the tax deductibility of contributions made it;

--Making communications with City personnel that pertain to a "temporary youth employment program" or "transitional employment program"²;

--Advising on or participating in drafting legislation or associated rules at the request of the City;

--Testifying or commenting publicly before any City agency; or participating at the request of any City official or employee on a task force, commission, working group, advisory committee, or other similar body, provided that the individual does not advocate for additional work, responsibilities, contracts, grants or other treatment from the City on behalf of their employer or client; communicating regarding funding or co-funding City positions or programs at the request of or in coordination with the City;

² "Temporary youth employment program" means any summer or other temporary youth employment program through which persons aged 24 or younger are employed by, or engaged in employment coordinated by, a not-for-profit entity or governmental entity. "Transitional employment program" means any temporary employment program through which persons with unsuccessful employment histories or members of statistically hard-to-employ populations, such as formerly homeless persons, the long-term unemployed, and formerly incarcerated persons, are provided temporary paid employment and case-managed services under a program administered by a not-for-profit entity or governmental entity, with the goal of transitioning program participants into non-temporary employment.

--Making communications to City officials or employees on behalf of a non-profit entity that constitute nonpartisan analysis, study, and research, or technical advice or assistance, or that examine or discuss broad social, economic, and similar problems and related solutions;

--Making a grassroots lobbying communication, or participating in a grassroots lobbying event³, or persons whose lobbying is limited to participating at a grassroots lobbying event or are involved in organizing a grassroots lobbying event and whose contact with City employees or officials is solely in connection with organizing such grassroots lobbying event; or

--An attorney who represents clients in a formal adversarial hearing.



IT LOOKS LIKE I'VE EXCEEDED THE HOURLY OR COMPENSATION/EXPENDITURE THRESHOLD. HOW DO I REGISTER? WHEN MUST I REGISTER?

If you engage in “lobbying” as defined, you must register within five (5) City business days of either: (i) exceeding 20 hours of lobbying in a calendar quarter⁴; or (ii) earning compensation for such lobbying⁵ or making expenditures for such lobbying in excess \$1,250 in a calendar quarter, in any combination. Failure to do so can result in a finding that you violated the law, meaning fines of \$1,000 per day beginning on day six (6) after first engaging in lobbying until registration is complete, and a fine of up to \$20,000 for the person or entity on whose behalf your lobbying was undertaken, and cancellation of City contracts, grants, or other actions such as permits or licenses.

Registration is a relatively simple process: it is all done online through the Board’s ELF System: <https://webapps1.chicago.gov/elf/login.html>

The Ordinance requires lobbyists to pay a \$350 annual registration fee, and a \$75 annual fee for each client after their first. These fees are waived for lobbyists whose sole client is a non-profit organization. The Ordinance also

³ “Grassroots lobbying communication” means correspondence to members of the public that solicits or encourages communication to a City official, employee, or agency for the purpose of influencing an administrative or legislative action. “Grassroots lobbying event” means any organized activity sponsored by a not-for-profit entity that is intended to influence an administrative action or legislative action of a City employee, official, or agency by inviting participants to a location where City employees or officials are accessible.

⁴ The Board strongly advises all individuals who engage in lobbying to keep careful timesheets documenting all such lobbying, for a minimum of five (5) years from such lobbying, in the event of an audit or investigation.

⁵ How do you determine your compensation for lobbying? If you are an individual who lobbies pursuant to a written or oral agreement, your compensation is typically spelled out. However, many employees of non-profit organizations are not paid specifically for lobbying. Thus, if that applies to you, you must first determine your effective hourly compensation rate, by taking your total annual compensation and dividing it by the number of hours you work annually, and then multiply that effective hourly rate by the number of hours (and portions thereof) you have lobbied during a calendar quarter.

requires registered lobbyists to file quarterly activity reports each January, April, July, and October regarding their lobbying activity for each client in the preceding calendar quarter. These are also filed through our ELF system. The Board makes all lobbyists' filings public.

And, the Ordinance requires all lobbyists to complete annual online ethics training, which covers a variety of topics, including gifts, political contributions, and sexual harassment.

Note 1: Lobbyists who are registered as of any December 31 must, on or before January 20 of the next calendar year, either re-register or terminate their registration—failure to do one or the other is a violation of the Ordinance.

Note 2: If an individual is registered say, during one calendar quarter, but then in the following calendar quarter(s) does not meet the hourly activity or compensation/expenditure threshold, then they could terminate their registration altogether. However, the Board recommends that, instead, they simply continue their registration and report no activity in their quarterly activity report(s); if they do terminate their registration, but later exceed either threshold, they will need to re-register. The Board believes it is easier to continue one's registration for the remainder of the calendar year, and terminate the next calendar year if they wish.

Note 3: The Board has various video tutorials explaining how to use the ELF System, including registering, amending or terminating one's registration, and filing quarterly activity reports, here:

https://www.chicago.gov/city/en/depts/ethics/supp_info/elfinstructions.html

QUESTIONS?

The Board and its staff are happy to help you determine whether you have engaged in lobbying, answer other questions, help you file your registration, quarterly report, or termination, or amend your registration if appropriate. Please do not hesitate to contact us by phone or email.



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