

# CHICAGO'S NEW LOBBYING LAWS AS OF JULY 2024: A PRIMER

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# The Board of Ethics

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). The Board is responsible for administering, interpreting and enforcing this law.

Amendments were made to the Ordinance with effective dates of September 28 and December 17, 2019, January 1, April 14, and June 17, 2020, and October 1, 2022. Important amendments were also made to the City’s lobbying laws in December 2023, which take effect on July 1, 2024. We will go over many of these changes in this primer.

# The Board's Responsibilities

The Board:

- develops **ethics training** and education programs;
- provides **confidential, binding advisory opinions** to City employees, officials, vendors, lobbyists, or others who are directly involved in the situation about which they ask;
- maintains and makes **publicly available financial disclosure statements, alderpersons' recusals required by law, travel disclosures, and lobbyists' filings**;
- **adjudicates completed investigations** of alleged violations of the Ordinance. The Board reviews completed ethics investigations conducted by the City's Office of Inspector General (OIG) with respect to current or former City employees and officials, persons who lobby City government, contractors, or others who may have violated the Ordinance. If the Board determines there were one or more violations of the Ordinance, it can recommend appropriate employment sanctions up to termination or removal from office, or settle cases for fines, or the person investigated can take the matter to a confidential merits hearing before an administrative law judge. If that happens, the Board will review the record of the hearing to make a final determination whether there were any violations of the Ordinance. The subject could then appeal the Board's finding to the Cook County Circuit Court. By law, the Board makes public all its final determinations of violations and fine assessments;
- **commences its own enforcement actions**, by finding probable cause to conclude that a person has violated the Ordinance, where no factual investigation by the OIG is necessary, based on its review of publicly available records.

**Only the Board can determine whether someone violated the City's Governmental Ethics Ordinance.**

# Board Advisory Opinions

The Board may issue binding advisory opinions *only* to current or former City employees or officials, contractors, or other persons falling under the Board's jurisdiction, including lobbyists (or attorneys representing them). "Binding" means that persons receiving an opinion can rely on the opinion in the event of an investigation, provided, of course, that they presented the Board with all relevant facts, and followed the Board's advice.

The Board may *not* issue advisory opinions to members of the public or the media, *unless* they are *directly* involved in the situation they ask about.

In a typical year, the Board issues ~4,000 advisory opinions. ~700 each year are requested by lobbyists or their attorneys, or persons asking whether they must register as lobbyists. About 10 opinions each year are "formal," meaning that they address or interpret new questions of law or are of general import. They are in writing, signed by the Chair or Executive Director. The rest are "informal," issued via email, telephone, or in person.

All are confidential, though the Board makes formal opinions public, with names and identifying information removed.

# Regulation of lobbying

Regulation of lobbying in Chicago means, essentially, public disclosure. As of July 1, 2024, City law requires individuals who, in any calendar quarter, engage in more than 20 hours of lobbying (as defined in City law, and as explained in the slides that follow) **or** who are compensated and/or spend more than \$1,250 for lobbying (as defined) to register annually and disclose information about their lobbying activity each calendar quarter. The Board of Ethics maintains and makes public disclosures filed by lobbyists.

This means personnel who engage in lobbying must keep careful time records of their lobbying activities.

All lobbyists' filings are made available to the public on the Board's website (and the City's data portal), to promote transparency.

# Calculating lobbying compensation

For most lobbyists in the private sector, this is relatively simple. But, individuals who lobby on behalf of non-profits (typically their employer) will need to keep time records of their lobbying activity, akin to timesheets, and then, after each calendar quarter, figure out how much they were paid for lobbying by multiplying the # of hours they spent in lobbying x their effective hourly compensation. Often, the number of hours will be dispositive, but not always.

## Example:

Jane's salary is \$80,000 per year, or \$20,000 per quarter. She works 40 hours per week, or 2,080 hours per year (assuming 52 weeks per year), or \$38.46 per hour. So, if her time records *per se* show more than 20 hours of lobbying, she must register. Or, if her compensation for lobbying effectively exceeded \$1,250 for the quarter, she must register (which would be ~32.5 hours of lobbying).

# Lobbyist Registration and Disclosure

Using the City's electronic lobbyist filing or "ELF" system, lobbyists must register, re-register or terminate by every January 20<sup>th</sup>, or within five (5) days of first engaging in lobbying activity, and then disclose specified information about their lobbying activities every January, April, July and October 20<sup>th</sup>; and

The ELF system is here:

<https://webapps1.chicago.gov/elf/login.html>

# Registration and Reporting

- Lobbyists must then register annually (by January 20<sup>th</sup>) and file activity reports quarterly
- The Board waives registration fees for those who lobby exclusively for 501(c)(3) and (c)(4) nonprofits
- Quarterly reporting includes:
  - which City departments or agencies they lobbied;
  - what lobbying expenditures they made on behalf of that client;
  - the amount of compensation they received from that client for lobbying; and
  - a brief description of the City matter(s) lobbied upon, including identifying information such as bill numbers, and the outcome sought by their client.

**Lobbyists who had no activity in the previous calendar quarter must still file quarterly reports and indicate they had no activity during the period (or terminate their registration if they wish).**

Lobbyists must amend their registrations within 14 City business days in the event of any material change to information already disclosed in that calendar year. This includes changes of address or phone number, or the addition of a lobbying client.



# Clients and Employers

In their registration statements, lobbyists must also disclose, with respect to each client and each business entity on behalf of which they intend to lobby in the calendar year, the name, address and nature of the business of each lobbying client.

Many lobbyists (including most lawyer-lobbyists) are themselves employees of firms or companies. In these cases, the lobbyists' *clients* and *employers* are *different from each other, unless the lobbyists lobby for their employer, in which case, the employer is also a lobbying client.*

Both must be disclosed on the registration statement.

## What constitutes “lobbying?”

Any individual who, *on behalf of another* (like a client or employer), contacts or communicates directly with a City official or employee to influence any City “administrative” or “legislative” action.\*\*

The law covers procurement matters as well as legislative and executive branch matters. As of July 1, 2024:

**\*\*NOTE:** preparation for meetings with City employees or officials does *not* constitute lobbying or count toward the activity or compensation/expenditures thresholds, although the meeting itself *does*, as do any direct communications with City personnel.

## What constitutes “lobbying?”

### **Examples of administrative actions\*:**

- Rule, rate, or fee
- Zoning matter, creation of a TIF, or city acquisition
- Concession or franchise agreement
- Procurement
- Solicitation or award of a grant or contract
- Enactment or interpretation of any State or federal legislation, rule, or regulation

### **Examples of legislative actions\*:**

- ordinances,
- resolutions,
- orders,
- appointments, and
- claims.

**\*These terms are defined in §§2-156-010(a), (n) and (o).**

# What does not constitute lobbying?

- merely submitting an application for, or solely corresponding about, the status a City permit or license, or merely requesting a meeting with City personnel;
- solely responding to a City request for proposals or qualifications (RFPs or RFQs);
- attorneys representing clients in formal adversarial hearings, arbitrations or mediations;
- seeking City services available to all residents of the City, such as discussing or seeking water, garbage, or sewer services or bills, tree trimming, pothole-filling, graffiti removal services, or temporary street closures in connection with block parties;
- testifying or commenting publicly before any City agency;
- advising on, or participating in, drafting legislation or associated rules at the City's request;  
or
- attending meetings only to provide technical information, address technical questions, or provide clerical or administrative assistance (like audio-visual, translation, or sign language interpretation), or to observe for educational purposes (like trainees), or who play no role in the strategy, planning, messaging, or other substantive aspects of the overall lobbying effort.

## What does not constitute lobbying: exceptions for individuals representing non-profits

- **Only those individuals lobbying on behalf of nonprofits that have both operating budgets and net assets or fund balances above \$5 million must register as lobbyists for that nonprofit if they meet the hourly/compensation/expenditure thresholds.**

### **Other exemptions:**

- Participating on task force, commission, or advisory committee working on an issue of interest to the City
- funding a City position or program at the request of or in coordination with a City agency;
- undertaking non-partisan analysis study or research, providing technical advice or assistance, or discussing broad social, economic or similar problems and related solutions;
- Lobbying regarding temporary youth employment program or transitional employment program; or
- making a “self-defense” or a “grassroots lobbying” communication.

# What does not constitute lobbying?

A common question we receive is whether individuals must register with us if they “lobby” the City’s “sister agencies” like the Chicago Public Schools/Board of Education, CTA, CHA, Chicago Park District, Metropolitan Pier and Exposition Authority, Chicago City Colleges, Metropolitan Water Reclamation District (MWRD) or Public Building Commission. The answer is no: these agencies are not part of City government as a matter of state law.

Note: individuals who lobby these governmental units **may** be required to register as lobbyists with the Illinois Secretary of State’s Office. We recommend consultation with qualified counsel.



# Who is prohibited from lobbying:

- ▶ *Former* Mayoral staff and *former* City department heads can't lobby *any* City department or agency for two (2) years after they leave their City service.
- ▶ *Former* members of City Boards and Commissions and *former* Shakman-exempt Executive Branch employees can't lobby their former City boards or departments for two (2) years after they leave their City service.
- ▶ *Former* City Council members from can't lobby *any* City department or agency for one (1) year.

Note: the Ordinance does not prohibit any of these individuals from working for or being employed by firms or entities that do lobby, however. The Board recognizes and requires “ethics screening arrangements” where appropriate. (§2-156-105)

- ▶ Cross lobbying ban: Since April 2020, elected officials from the State of Illinois, Cook County or any other unit of local government in the state are prohibited from lobbying any City agency, department, board, commission, employee, or official on behalf of private clients, whether for compensation or *gratis*. However, this does not preclude them from representing their constituents before City government, nor does it prohibit attorneys from providing legal representation to their clients. (§2-156-309)

# Information about fee arrangements required

Because City law prohibits lobbyists from receiving contingent fees for lobbying, lobbyists must, in their registrations, provide copies of their written employment or retention agreements for each client, or, if the agreements are oral, written statements of “the substance thereof.”

The Board has determined that “the substance thereof” includes a description of the method of compensation — for example, whether the lobbyist is paid by their client pursuant to a monthly retainer, or at an hourly rate, or an “amount certain” that is a flat fee for a particular project.

(§2-156-230(c))



## Information about lobbying expenditures

In their registrations, lobbyists must also disclose whether they are authorized to incur lobbying expenditures on behalf of their clients or employers, and whether these expenditures will be reimbursed.

In their quarterly reports, lobbyists must also disclose, for each lobbying client, expenditures they made for office expenses, advertising and publications, personal sustenance, lodging, and travel totaling \$50 or more, and compensation paid to others (except stipends paid to others by non-profits to engage in lobbying), and other expenses of \$250 or more — and for these expenses, lobbyists must include the date, amount, purpose, and beneficiary of the expenditure, and the administrative or legislation action connected with it.

(§§2-156-230(b); -250)

# Re-registration every January 20

By January 20<sup>th</sup> each year, all lobbyists must re-register for that calendar year, or must terminate their registration. Failure to do either constitutes a violation of the Ordinance.

**Remember: your registration is not complete until you have paid your annual registration fees. We have seen lobbyists get tripped up over this.**

**Once you submit your registration information on our ELF system, Board staff reviews it. You will then receive an email informing you that “your submission is approved” and you are in “Pending Payment” status. BUT YOU ARE NOT YET FILED. This email also informs you that THEN you will have 48 hours to pay your fees. However, this is a general reminder only. Even if you then pay within 48 hours, but the payment is made after January 20, you have paid late and are late, and are in violation. Remember to check your spam filter for this email.**

**We are required to make public the names of late-registering lobbyists and their fines, if we find them in violation of the Ordinance. Don't be late!**

# Termination or Amendment?

Termination as a lobbyist means that the lobbyist is terminating all activities for all clients. This is not the same as simply no longer lobbying for one of several clients (*that* requires only an *amendment* to the registration statement).

When terminating, lobbyists must perform two steps in the ELF system before the termination becomes effective. First, file a final activity report: in the pull-down menu, highlight “termination.” Second, log back in and go to “registration”; then go to “employer”; then perform the step where it states “terminate employer.” An approval email should arrive from ELF, which will state at the top “registration,” but, at the bottom, it will state “terminated.”

# Online Tutorials Available

The screenshot shows a web browser window with the URL [chicago.gov/city/en/depts/ethics/supp\\_info/elfinstructions.html](http://chicago.gov/city/en/depts/ethics/supp_info/elfinstructions.html). The page features a blue header with the word "Ethics" and the subtitle "Electronic Lobbyist Filing System banner". Below the header, a breadcrumb trail reads "Home / Departments / Ethics / Supporting Info / Electronic Lobbyist Filing Instructions". The main heading is "Electronic Lobbyist Filing Instructions" followed by the sub-heading "How to use the Electronic Lobbyist Filing (ELF)system". A note states "The site is located at <https://webapps1.chicago.gov/elf/index.html>". A bulleted list provides links to various instructions: "Instructions for Registering or adding clients are here (Power Point)", "Instructions for submitting the Quarterly Activity Reports are here.(Power Point)", "Instructions for amending your registration by Deleting a Client are here. (Power Point)", "Instructions for Terminating your Lobbyist Registration (no more lobbying for ANY clients) are here. (Power Point)", and "Special registration Instructions for lobbyists representing Non-Profits who may be entitled to a fee waiver. (Power Point)". A blue square button with a white upward-pointing arrow is located at the bottom center of the page.

City of Chicago : Electronic Lobbyist Filing Instructions

chicago.gov/city/en/depts/ethics/supp\_info/elfinstructions.html

I WANT TO ▾ PROGRAMS AND INITIATIVES ▾ GOVERNMENT ▾ ABOUT ▾ TRANSLATE ▾

## Ethics

Electronic Lobbyist Filing System banner

Home / Departments / Ethics / Supporting Info / Electronic Lobbyist Filing Instructions

### Electronic Lobbyist Filing Instructions

#### How to use the Electronic Lobbyist Filing (ELF)system

The site is located at <https://webapps1.chicago.gov/elf/index.html>

- Instructions for Registering or adding clients are here (Power Point).
- Instructions for submitting the Quarterly Activity Reports are here.(Power Point)
- Instructions for amending your registration by Deleting a Client are here. (Power Point)
- Instructions for Terminating your Lobbyist Registration (no more lobbying for ANY clients) are here. (Power Point)
- Special registration Instructions for lobbyists representing Non-Profits who may be entitled to a fee waiver. (Power Point)

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# Penalties—fines for failure to register or file activity reports

Failure to register, terminate, or file reports as required will subject lobbyists (and possibly their clients) to findings that they violated the law, and to fines. The Board can — and has — fined lobbyists and their clients for such violations.

Individuals who engage in unregistered lobbying activity are subject to a fine of \$1,000 per day until they register properly, and to suspension of their lobbying privileges. **Anyone has five (5) business days after first engaging in lobbying to register with the Board of Ethics.**

Beginning July 1, 2024, individuals who fail to re-register or properly terminate or amend their registrations, or fail to file activity reports as required, will be subject to daily \$250 fines until they comply—but these fines will be capped at \$20,000 per violation.

**The Board must by law make public the names of lobbyists found to have violated these laws, and their fines.**

(§§ 2-156-245; -465(b) (3), (4))

# Penalties—client fines

Persons or entities who retain or employ lobbyists who have failed to register as required are also subject to fines of between \$500 and \$20,000 per violation.

The Board has pursued fines against persons who hired persons who lobbied but failed to register as required.

(§§2-156-465(b)(7), -305)

## Penalties—cancellation of City actions or contracts

The City can void any contract with a person who has retained or employed a non-registered lobbyist for the purpose of negotiating, soliciting or otherwise seeking that contract.

Any permit, license, ruling determination or other official City action applied for, sought, obtained or undertaken in violation of the lobbyist provisions shall be invalid and without any force or effect whatsoever.

(§ 2-156-510)

## Lobbying Restrictions During City Council Meetings and on the Council Floor

City Council Rule 8, which is not promulgated or administered by the Board of Ethics, provides that:

“No person shall at any meeting of the Council solicit any Alderman to vote for or against any person or proposition. Nothing in this Rule 8 is intended to limit debate by Aldermen on any pending matter, or to prohibit discussion between Aldermen, or between Aldermen and any City employee, concerning a pending matter.”

As of October 1, 2022, no person who is not a current City Council member, City elected official, City employee, or a City Council contractor acting on behalf of a Council member, shall, whether in person, by electronic means, or in writing, lobby or solicit any Council member on the floor of the Council or in a City Council committee room, except through public comment. See §2-156-301.



# Limits on political contributions

- Registered Lobbyists may contribute up to \$1,500 in a calendar to any or all elected City officials, or to candidates for elected City office, **EXCEPT** the incumbent Mayor.
- Registered lobbyists are prohibited from donating to the Mayor in any amount, per Mayoral [executive order](#) 2011-2.

Note 1: The Board determined in April 2024 that it has no jurisdiction to enforce Mayoral Executive Order 2011-2, issued on May 16, 2011 by then-Mayor Rahm Emanuel. However, the Order is still in force, thus the Board ***strongly recommends that lobbyists not make contributions to Mayor Johnson or his candidate committee***. The Board has proposed amendments to the Governmental Ethics Ordinance that would prohibit lobbyists (or entities they own) from contributing not only to an incumbent Mayor but also to any candidates for Mayor or their candidate committees.

Note 2: Lobbyists' employers or clients are *not* subject to this limitation or ban merely by retaining lobbyists. They are subject to the \$1,500 limit *if* they were “doing” or “seeking business with the City” (as defined in the Ordinance) or its named sister agencies in the four (4) years preceding the contribution, and subject to the Executive Order ban on Mayoral contributions if they are “City contractors” as defined in the Executive Order. For more information, please contact us.

Note 3: These restrictions survive even in City races where any caps on contributions imposed by state law (the Illinois Election Code) are lifted because one or more candidates self-funded their candidacies with \$100,000 or more, such as the 2023 and 2015 Mayor's races.

# Anonymous or pseudonymous contributions prohibited

Candidates and their committees may not solicit or accept any *anonymous* gifts or contributions, or any contributions made in any name other than that of the true donor (that is, *pseudonymous* contributions).

No person (including any lobbyist) may offer or make any anonymous political contribution, or a contribution made or to be made other than in the name of the true donor.

Note that a lobbyist who makes a political contribution and is then reimbursed for that contribution by their employer or client, without ensuring that the contribution's true source is properly recorded and disclosed by the political committee to the Illinois State Board of Elections, is thereby making a pseudonymous political contribution in the name of another, in violation of the law.

(§2-156-435)

## \$250 limit on cash contributions

No person (including a lobbyist) may make any “cash” contribution to any candidate for elected City office in an amount in excess of \$250. The Board has determined that personal checks are not considered cash for this purpose — but currency, cashier’s checks, and money orders *are* “cash.” (§2-156-455)

## Quarterly reporting of political contributions

In each quarterly activity report filed with the Board of Ethics lobbyists must disclose an itemized list of **every political contribution** they have made in the previous three (3) months to any candidate for elected City office, elected official of City government, or any City official or employee seeking election to any other office.

***Please do not report political contributions as expenditures or gifts. Expenditures and gifts are reported separately on your quarterly report.***

(§2-156-250(e))

# Campaign financing violations

Violations of the Ordinance's \$1,500 contribution limitation are punishable by fines against **BOTH** the excess contributor **AND** the person or committee who accepts the excess contribution. The fines are between \$1,000 and up to \$5,000 or three times the amount of the excess contribution, whichever is greater.

Under the Illinois Election Code, political committees must report all contributions received to the State Board of Elections, which makes this information public. The Board and the IG monitor and enforce these contribution limitations.

(§2-156-465(b)(5))

## Prohibited gifts: items worth more than \$50 or cash or gift cards

With certain exceptions, the Ordinance also prohibits any person (including a lobbyist) from giving to any City employee or official, and prohibits any City employee or official from accepting, *any cash or any gift card in any amount, or any single gift or combination of other gifts worth \$50 or more in a calendar year.*

Note: this prohibition applies even if the gift-giver has no City business or pending matters before the intended recipient.

(§2-156-142(a))

The Ordinance prohibits any person, including any lobbyist or lobbyist's client, from giving or offering anything of value to any City employee, official (or their family members) or City contractor if there is an explicit or implicit understanding that the recipient's votes, official actions, decisions or judgments would be influenced thereby.

(§2-156-142(e))

# Non-monetary gifts under \$50

The Ordinance presumes that a non-monetary gift of less than \$50 does not involve such a mutual understanding. This does *not* mean, however, that all gifts or other things of value offered are acceptable just because they are worth less than \$50.

(§2-156-142(e))

# “Reasonable hosting or travel” allowed

The Ordinance also allows lobbyists to offer, and City employees or officials to accept, “reasonable hosting, including travel and expenses,” or “any material or travel expenses for meetings related to a public or governmental educational purpose.” But all such expenses must be approved in advance by the Board of Ethics.

Note: City personnel may **not** accept honoraria, *i.e.*, money for participating in speaking engagements, lectures, or organized discussions in the course of their City service.

(§§2-156-142 (b), -(d) (10), (12))

Following Congressional guidelines, the Board has determined that the term “sponsor” of an event means a person or entity that plays a substantial role in organizing the event, by, for example, planning its menu or entertainment, or helping to assemble the guest list. Or, of course, it means the charity or non-profit organization on whose behalf an event is being held.

Thus, if a company or lobbyist buys a table or two at or underwrites some of the costs of such an event (being honored as a Platinum or Gold Sponsor, for example), those do not themselves make the lobbyist or company a “sponsor” for purposes of the Ethics Ordinance.



# Educational travel or public purpose expenses allowed

The Ordinance allows City employees and officials to accept materials or travel expenses for events or meetings that are related to a public or educational purpose.

However, they must receive advance approval from the Board, and report the expenses to the Board in writing within 10 days of the event or meeting.

(§2-156-142(d)(10))

# Reporting of gifts

**Lobbyists must disclose, on their quarterly activity reports, an itemized list of every gift given to any City official or employee, regardless of value.** The recipient's name will thus appear in a public filing. We discourage lobbyists from giving any gifts to City employees or officials.

(§2-156-250(d))

# Reporting gifts and expenditures

However, if a lobbyist hosts a reception attended by invited City employees or officials in their official capacity, the cost of that reception should be reported on the quarterly activity report **as a lobbying expenditure** and described by date and attendee(s), **not reported as a gift.**

The Board strongly encourages lobbyists to seek from our office advice *prior* to inviting City personnel to such receptions or events, to ensure that they are allowable under the Ordinance in the first place.

(§2-156-142(d)(10), (12); -250(c)(v))

# Reporting non-gift expenditures

Political contributions, reasonable hosting, or educational expenses offered in connection with a City employee's or official's official City responsibilities are **not gifts**.

But they must be reported by lobbyists as expenditures or political contributions — and by the City personnel as reasonable hosting or educational expenses (or, if political contributions, to the Illinois State Board of Elections by the recipient committee) — but not as gifts.

# Penalties

Any person who violates the Ordinance's gift restrictions and prohibitions is subject to a fine between \$500 and \$20,000 for each violation, as well as a fine equal to any ill-gotten gains by the violator. The Board makes all violations public.

(§2-156-465(b)(6))

# QUESTIONS?

We hope you find this primer informative. Board staff members are available to answer **any** questions you have about Chicago's lobbying or governmental ethics laws. We can help you register, amend or terminate your registration, or file your quarterly activity reports. We are here to help you. Your call is confidential. There is no such thing as a silly question.

**312-744-9660**

