

Office of the City Clerk

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? In 2013, the City Council enacted Local Law 129 to amend subchapter 2 of chapter 2 of title 3 of the Administrative Code of the City of New York, governing lobbying. The Office of the City Clerk proposes to amend chapter 1 of title 51 of the Rules of the City of New York to conform the existing rules to the amendments enacted by Local Law 129 of 2013.

When and where is the Hearing? The Office of the City Clerk will hold a public hearing on the proposed rule. The public hearing will take place at 11:00 a.m. on May 19, 2015 at the Office of Administrative Trial and Hearings, Hearing Room A, 100 Church Street, 6th Floor, New York, New York 10007.

How do I comment on the proposed rules? Anyone can comment on the proposed rule by the following methods:

- **Website.** Submit comments to the Office of the City Clerk through the NYC Rules website at <http://rules.cityofnewyork.us>;
- **Email.** Submit comments by email directly to the Office of the City Clerk to lobbyist_helpdesk@cityclerk.nyc.gov.
- **Mail.** Submit comments to The Lobbying Bureau, Office of the City Clerk, 141 Worth Street, New York, New York 10013.
- **Fax.** Submit comments to (212) 669-4224, Attn: The Lobbying Bureau.
- **By Speaking at the Hearing.** To comment at the public hearing, registration in advance is required by: (1) calling (212) 669-8171; (2) emailing lobbyist_helpdesk@cityclerk.nyc.gov; or (3) signing up at the hearing prior to its commencement. Oral comments are limited to three minutes.

Is there a deadline to submit written comments? Written comments must be submitted no later than 5 p.m. on May 18, 2015.

Do you need assistance to participate in the Hearing? If you require a reasonable accommodation to participate in the hearing, including, but not limited to, a sign language interpreter, you must notify the Office of the City Clerk by mail to the address above or by telephone at (212) 669-8171 no later than May 12, 2015.

Can I review the comments made on the proposed rules? Comments submitted online may be reviewed by visiting <http://rules.cityofnewyork.us>. After the hearing, copies of all submitted written comments and a summary of all oral comments will be available to view between 9:00

a.m. and 5:00 p.m. at the Office of the City Clerk, 141 Worth Street, New York, NY 10013 after May 26, 2015.

What authorizes the Office of the City Clerk to make this rule? Sections 48 and 1043 of the City Charter and section 212 of title 3 of the Administrative Code of the City of New York authorize the Office of the City Clerk to make this proposed rule.

Where can I find the Office of the City Clerk’s rules? The Office of the City Clerk’s rules are contained in title 51 of the Rules of the City of New York.

What rules govern the rulemaking process? The Office of the City Clerk must meet the requirements of Section 1043 of the City Charter when promulgating or amending rules. This notice is made according to the requirements of Section 1043 of the City Charter.

Statement of Basis and Purpose of Proposed Rule

New York City’s Lobbying Law (§ 3-211 *et seq.* of the Administrative Code of the City of New York) regulates the conduct of lobbyists and their clients. In 2013, the New York City Council enacted Local Law 129 of 2013, which furthered the Lobbying Law’s goal of transparency by expanding the definition of lobbying, increasing reporting obligations on the City Clerk, amending reporting requirements to decrease the burden on not-for-profit organizations, and expanding late filing penalties to increase compliance. Local Law 129 also created an amnesty program that will further increase compliance by allowing lobbyists and clients who have never filed lobbying reports to enter the system without penalty.

The proposed rule amends chapter 1 of title 51 of the Rules of the City of New York by replacing the current version in its entirety to conform the existing rules to the amendments enacted by Local Law 129 of 2013. Specifically, the proposed rule:

- Sets criteria for requesting advisory opinions;
- Sets forth the procedure for enrolling in e-Lobbyist;
- Defines the roles of principal officer, designee and compliance officer;
- Provides requirements for retainers and authorization letters;
- Includes a process to deactivate statements of registration;
- Indicates when filing extensions may be obtained;
- Sets forth the procedures for obtaining a waiver of late filing penalties;
- Establishes Lobbying Bureau enforcement procedures; and
- Creates an amnesty program which sets forth eligibility criteria for lobbyists and clients who have not previously complied with the Lobbying Law.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Proposed Rule

Section 1. Chapter 1 of Title 51 of the Rules of the City of New York is amended to read as follows:

[§ 1-01 Advisory Opinions on Questions Relating to Lobbying.

(a) The City Clerk will issue advisory opinions on questions relating to lobbying on a case-by-case basis in response to written requests from persons subject to the jurisdiction of the City Clerk, or who reasonably believe they may be subject to such jurisdiction.

(b) Such written requests shall set forth in a clear and concise manner the question raised and shall set forth a statement of the actual facts prompting such inquiry.

(c) The City Clerk will not issue an advisory opinion based upon a hypothetical set of facts.

Inquiries may be directed to:

Lobbyist Registrations

Office of the City Clerk
Municipal Building
Room 265
New York, New York 10007

§ 1-02 Fees for Lobbyist Registration.

Each statement of registration required to be filed pursuant to Administrative Code § 3-213, shall be accompanied by a fee of \$150 for the first client registered and a fee of \$50 for each additional client registered.

§ 1-03 Enforcement of the Lobbying Law. (a) *Violation of the Lobbying Law.* (1) *General.* Any lobbyist or client who violates any provision of the Lobbying Law or these Rules, shall be subject to the penalties available under §3-223 of the Lobbying Law and subdivision b of this section.

(2) *Examples of violations.* Lobbyists and, where applicable, clients are subject to penalty for violations of the Lobbying Law that include, but are not limited to, the following:

(i) Failure of a lobbyist to register, or failure of a lobbyist to register a client;

(ii) failure to submit any required disclosure report (Registration, Periodic Report, Lobbyist Annual Report, Client Annual Report, Fundraising Report, Political Consulting Report);

(iii) late filing of any registration or report;

(iv) failure to complete any section or portion of a report;

(v) failure to supply correct information in any report;

(vi) failure to pay any required fee;

(vii) failure to pay a penalty in a stated period of time may result in payment of an additional penalty if the initial penalty so provides.

(3) *Extensions.* A lobbyist or client requesting an extension in the filing of lobbyist or client reports should request such an extension prior to the filing deadline.

(i) Extensions are a courtesy and will be granted only for good cause and within the discretion of the City Clerk;

(ii) a request for an extension shall be in writing;

(iii) an extension should be requested no later than two business days before the date of deadline;

(4) *Incomplete and incorrect reports.* Where a lobbyist or client submits any report or registration that is incorrect or incomplete, the City Clerk may take the following action: The lobbyist or client shall be notified by certified mail of any incorrect or incomplete report, which may be returned to the lobbyist or client at the discretion of the City Clerk.

The lobbyist or client shall have 14 business days from the date of mailing of the notification to cure said defective report. Failure to cure within 14 business days shall result in the lobbyist or client being deemed in default as to the submission of said report.

(5) *Notification and opportunity to cure.* Pursuant to the Administrative Code, § § 3-223 (c), (d) and (e), where a lobbyist or client fails to comply with any section of the Lobbying Law, the City Clerk shall, by certified mail, notify them of the nature of their noncompliance and notify them that compliance must be made within 14 business days of mailing of such notice.

(6) *Recipient of notification.* The Principal Officer or other person duly designated by a lobbyist on the registration form shall be deemed an appropriate recipient of any mailed notice of communication from the City Clerk pursuant to the Lobbying Law. A lobbyist's registration form shall also identify the Principal Officer of the client or other person duly designated by a client to receive any mailed notice of communication from the City Clerk pursuant to the Lobbying Law and such Principal Officer or person shall be deemed an appropriate recipient of any such notice.

(b) *Penalties.* (1) Penalties available under the Lobbying Law. A person or organization who violates the Lobbying Law is subject to the penalties available under subdivisions (a), (b), (c), and (d) of § 3-223 of the Administrative Code.

(i) Pursuant to Administrative Code § 3-223(a), except as provided in § 3-223(b), any person or organization who knowingly or willfully violates any provision of the Lobbying Law shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed thirty thousand dollars, to be assessed by the City Clerk, or an order to cease all lobbying activities subject to the jurisdiction of the City Clerk for a period of time as determined by said Clerk not to exceed sixty

days, or both such civil penalty and order;

(ii) Pursuant to Administrative Code § 3-223(b), any person or organization who violates a cease and desist order of the City Clerk issued under subdivision (a) of this section or enters into a contingency agreement or accepts or pays any contingency fees as proscribed in Administrative Code § 3-218, shall be guilty of a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed thirty thousand dollars, to be assessed by the City Clerk;

(iii) Pursuant to Administrative Code § 3-223(c), following a failure to make and file any statement or report required by the Lobbying Law, the City Clerk shall notify the person or organization of such fact by certified mail that such filing must be made within fourteen business days of the date of mailing of such notice. The failure to file any statement or report within such time shall constitute a class A misdemeanor. In addition to such criminal penalties, said person or organization shall be subject to a civil penalty, in an amount not to exceed twenty thousand dollars, to be assessed by the City Clerk;

(iv) In addition to any other penalties prescribed in the Lobbying Law and these Rules, any lobbyist or client who fails to file in a timely manner any statement or report required by the Lobbying Law or these Rules, shall be subject to late filing penalties as follows:

(A) Any person or organization who has never previously filed a statement of registration or any other filing required pursuant to the Lobbying Law and these Rules and is filing for the first time shall be charged a late filing fee of \$10 per day for each day the required filing is late. If more than one filing is due the total late filing fee shall be equal to the sum of \$10 per day multiplied by the number of such late filings.

(B) Any other person or organization shall be charged a late filing fee of \$25 per day for each day the required filing is late. If more than one filing is due the total late filing fee shall be equal to the sum of \$25 per day multiplied by the number of such late filings.

(C) Such late filing shall be treated as an incorrect or incomplete report pursuant to § 1-03(a)(4) of these Rules.

(D) For the purposes of the imposition of a late filing fee, all filings must be received by the due date for such filing. If such due date falls on a Saturday, Sunday or city holiday, the filing must be received by the next city business day.

(v) Pursuant to Administrative Code § 3-223(d), any person or organization who violates any provision of the Lobbying Law not punishable by subdivisions (a), (b), or (c) of § 3-223 shall be subject to a civil penalty, in an amount not to exceed twenty thousand dollars, to be assessed by the City Clerk.

(2) *Guidelines for penalties.* Penalties may reflect the frequency and extent of a lobbyist's or client's record of violations. Mitigating or aggravating factors may be considered. Penalties shall be assessed by the City Clerk after a hearing on a case-by-case basis.

(c) *The Hearing*. (1) Pursuant to the Administrative Code § 3-223(f), only after a hearing shall the City Clerk assess the amount of a civil penalty or duration of an order to cease and desist.

(2) Designation of OATH. Pursuant to Charter § 1048(a), the City Clerk designates the Office of Administrative Trials and Hearings (OATH) to conduct on its behalf all hearings involving violations of the Lobbying Law.

(3) *The hearing officer*. The hearing shall be conducted by an Administrative Law Judge (ALJ) employed by OATH for that purpose. The ALJ shall have all the powers conferred by law to administer oaths, issue subpoenas, require the attendance of witnesses and production of records, rule upon requests for adjournment, rule upon evidentiary matters and to otherwise regulate the hearing, observe the requirements of due process and effectuate the purposes and provisions of applicable law.

(4) The ALJ shall preside over the hearing, make all procedural rulings, and make a statement on the record describing the nature of the proceedings, the issues, and the manner in which the hearing will be conducted.

(5) All testimony shall be given under oath or affirmation administered by the ALJ.

(6) The person or organization charged shall be entitled to be represented, to have witnesses give testimony and to otherwise present relevant and material evidence on behalf of such person or organization, to cross examine witnesses and to examine any document or other item offered into evidence.

(7) A typed or recorded copy of the record of the hearing shall be prepared by OATH; a copy shall be provided upon request for a reasonable cost.

(8) At the discretion of the ALJ, the hearing may be adjourned for good cause upon the request of either party or upon the ALJ's own motion and with notice to the parties.

(9) The hearing shall be conducted in conformity with procedural requirements of applicable law and the rules of procedure adopted by OATH which are not inconsistent with these Rules.

(10) After the conclusion of the hearing, the presiding ALJ shall prepare a report and recommendation.

(11) The report of an ALJ shall summarize the evidence presented and contain an analysis of the legal and factual issues, with recommended findings of fact and recommended disposition.

(12) The report shall be sent to the City Clerk for a final determination of the facts and a final disposition.

(13) A copy of the report shall also be delivered or mailed to the person or organization charged.

(d) *Decision after the hearing.* (1) The hearing decision shall be made and issued by the City Clerk and shall be based exclusively on the record and transcript of the hearing. In reaching a decision, the City Clerk may review the memoranda of law of the parties, if any. The City Clerk shall not be bound by the ALJ's recommendation, in whole or in part, as may be appropriate. The decision shall be in writing and shall state reasons for the determinations and, when appropriate, direct specific action.

(2) A copy of such decision shall be mailed by the City Clerk to the person or organization charged and the attorney or representative of such person or organization, if any.

(3) In the event that a decision is adverse to the person or organization charged, in whole or in part, the person or organization has the right to judicial review in accordance with the provisions of Article 78 of the Civil Practice Law and Rules.

§ 1-04 Lobbyist Registration Unit-Requests to View Documents.

All reports and registrations filed pursuant to the Lobbying Law for calendar year 2006 and before shall be kept for five years in the Office of the City Clerk and shall be open to public inspection. All reports and registrations filed pursuant to the Lobbying Law for calendar year 2007 and thereafter shall be kept in electronic form in the Office of the City Clerk, shall be available for public inspection and shall be posted on the internet as soon as practicable. Such inspection is subject to the following regulations:

(a) Requests to view reports or registrations will be accepted by the Office of the City Clerk, 1 Centre Street--Room 265, New York, New York, or any subsequent address, during regular business hours. Requests that cannot be fulfilled on the day of request may be held over until the following business day;

(b) All properly submitted, valid requests will be honored in as timely a manner as the scope of the request and the availability of staff and equipment will allow;

(c) Members of the public may purchase copies of reports and registrations upon the payment of a sum equal to 25 cents per page.

§1-05 Lobbyist Reporting Periods.

Pursuant to Administrative Code § 3-216 (a)(1), commencing on January 1, 2008 the six bi-monthly reporting periods are:

January 1 through the last day of February -- due by March 15th;

March 1 through April 30 -- due by May 15th;

May 1 through June 30 -- due by July 15th;

July 1 through August 31 -- due by September 15th;

September 1 through October 31 -- due by November 15th;

November 1 through December 31 -- due by January 15th.

§ 1-06 Complaints, Commencement of Formal Proceedings and Pleadings.

(a) *Notice.* If the City Clerk makes an initial determination, based on a complaint, investigation,

or other information available to the City Clerk, that there is probable cause to believe that a lobbyist or client has violated a provision of the Lobbying Law or these Rules, the City Clerk shall notify the lobbyist or client of its determination in a written notice. The notice shall contain a statement of the facts upon which the City Clerk relied for its determination of probable cause and a statement of the provisions of the Lobbying Law or these Rules allegedly violated. The notice shall afford the lobbyist or client an opportunity, either orally or in writing, to respond to, explain, rebut, or provide information concerning the allegations in such notice within fifteen days of service of the notice. The notice shall also inform the lobbyist or client of his or her right to be represented by counsel or any other person.

(b) Lobbyist's and client's duty to cooperate; City Clerk's duty to report to Department of Investigation.

(1) Where the City Clerk conducts an investigation, the lobbyist or client shall cooperate with the representatives of the City Clerk. In any case where the City Clerk refers a complaint and/or other information available to the City Clerk to the Department of Investigation, the lobbyist or client shall cooperate with representatives of the Department of Investigation.

(2) If the City Clerk determines, on the basis of a complaint, investigation, or other information available to the City Clerk, that a willful violation of the Lobbying Law has been or may have been committed, then the City Clerk shall expeditiously report such determination, and any information relating thereto, to the Department of Investigation.

(3) Where the City Clerk receives a report that a criminal violation of law, including but not limited to a violation of Chapter 68 of the New York City Charter, and excluding a violation of the Lobbying Law, has been or may have been committed, the City Clerk shall report any information relating thereto to the Department of Investigation within five days of receipt thereof.

(4) Where the City Clerk suspects, on the basis of a complaint, investigation, or other information available to the City Clerk, that a criminal violation of law, including but not limited to a violation of Chapter 68 of the New York City Charter, and excluding a violation of the Lobbying Law, has been or may have been committed, the City Clerk shall expeditiously report such suspected violation, and any information relating thereto, to the Department of Investigation.

(c) Request for a Stay. In response to the City Clerk's notice, the lobbyist or client may apply to the City Clerk for a stay of the proceedings, for good cause shown. The City Clerk may grant or deny such request in its sole discretion.

(d) Admission of Facts. If, in response to the City Clerk's notice, the lobbyist or client admits to the facts contained therein or to a violation of the provisions of the Lobbying Law or these Rules and elects to forgo a hearing, the City Clerk may, notwithstanding § 1-03(c)(1) of these Rules, issue an order finding a violation and imposing the penalties it deems appropriate under the Lobbying Law or these Rules.

(e) *No Probable Cause Finding.* If, after receipt of the lobbyist's or client's response, the City Clerk determines that there is no probable cause to believe that a violation has occurred, the City Clerk shall dismiss the matter and inform the lobbyist or client and the complainant, if any, in writing of its decision.

(f) *Determination of Probable Cause.* If, after consideration of the lobbyist's or client's response, the City Clerk determines that there remains probable cause to believe that a violation of the provisions of the Lobbying Law or these Rules has occurred, and the lobbyist or client has not elected to forgo the hearing, the City Clerk shall direct a hearing to be held in accordance with the procedures set forth in § 1-03(c) of these Rules.

(g) *Petition.* The City Clerk shall institute formal proceedings by serving a petition on the lobbyist or client. A copy of the petition shall also be sent to OATH at the time the lobbyist or client is served with the petition. The petition shall set forth the facts which, if proved, would constitute a violation of Lobbying Law or these Rules, as well as the applicable provisions thereof which are alleged to have been violated. The petition shall also advise the lobbyist or client of the lobbyist's or client's rights to file an answer, to a hearing, to be represented at such hearing by counsel or any other person, and to cross-examine witnesses and present evidence.

(h) *Answer.* (1) *General Rule.* The lobbyist or client shall answer the petition by serving an answer on the City Clerk within eight days after service of the petition, unless a different time is fixed by the City Clerk. A copy of the answer shall also be sent to OATH at the time the City Clerk is served with the answer. The lobbyist or client shall serve the answer personally or by certified or registered mail, return receipt requested. Upon written request of the lobbyist or client stating the specific reason for such request, submitted no later than five days prior to the due date for such answer, the City Clerk may for good cause grant an extension of time for the lobbyist or client to submit the same.

(2) *Form and Contents of Answer.* The answer shall be in writing and shall contain specific responses, by admission, denial, or otherwise, to each allegation of the petition and shall assert all affirmative defenses, if any. The lobbyist or client may include in the answer matters in mitigation. The answer shall be signed and shall contain the full name, address, and telephone number of the lobbyist or client. If the lobbyist or client is represented, the representative's name, address, and telephone number shall also appear on the answer, which shall be signed by either the lobbyist or client or by his or her representative.

(3) *Effect of Failure to Answer.* If the lobbyist or client fails to serve an answer, all allegations of the petition shall be deemed admitted and OATH shall proceed to hold a hearing in which prosecuting counsel shall submit for the record an offer of proof establishing the factual basis on which the Administrative Law Judge conducting the hearing may issue an order. If the lobbyist or client fails to respond specifically to any allegation or charge in the petition, such allegation or charge shall be deemed admitted.

(i) *Amendment of Pleadings.* Pleadings shall be amended as promptly as possible upon conditions just to all parties. If a pleading is to be amended less than twenty-five days before the

commencement of the hearing, the amendment may be made only on consent of the parties or by leave of the Administrative Law Judge conducting the hearing.

§ 1-07 Certification.

The certification of statements and reports required by Administrative Code § 3-222 must be performed by a Principal Officer.

§ 1-08 Definitions.

"Lobbying Law" shall mean subchapter 2 of chapter 2 of title 3 of the Administrative Code of the City of New York.

"Rules" shall mean chapter 1 of title 51 of the Rules of the City of New York.

"Principal Officer" shall mean the chief administrative officer (the person who has the legal capacity to enter into a contract on behalf of the organization) of the lobbyist or client if either is an organization or the lobbyist or client if either is a person.

"Unemancipated child" shall mean any son, daughter, stepson, or stepdaughter who is under age eighteen at the time of reporting, unmarried, and living in the household of the reporting individual.]

§ 1-01 Definitions.

When used in this chapter:

"Administrative Enrollment" means an enrollment in e-Lobbyist of a lobbyist or client effectuated by the City Clerk.

"ALJ" means Administrative Law Judge.

"Authorization Letter" means the letter submitted pursuant to sections 3-213(c)(3) and (4) of the Lobbying Law if a lobbyist is an employee of a client.

"City Clerk's Address" means the City Clerk's street address, its email address and fax number. Its street address is 141 Worth Street, Attn: Lobbying Bureau, New York, NY 10013. Its email address is lobbyist_helpdesk@cityclerk.nyc.gov. Its fax number is (212) 669-4224.

"Co-lobbyist" means a lobbyist retained and compensated by another lobbyist to lobby on behalf of the latter's client.

"Designee" means a person identified by the Principal Officer in e-Lobbyist as an authorized representative.

"DOI" means the Department of Investigation.

“e-Lobbyist” means the City Clerk’s electronic filing system where lobbyists and clients submit and certify Reports as required by the Lobbying Law.

“Lobbying Law” means subchapter 2 of chapter 2 of title 3 of the Administrative Code of the City of New York.

“Lobbying Bureau” means the lobbying bureau of the Office of the City Clerk, City of New York, which is charged with enforcing the Lobbying Law.

“OATH” means the Office of Administrative Trials and Hearings.

“Principal Officer” means an employee who has the legal capacity to enter into a contract on behalf of a lobbyist or client.

“Retainer” means the written agreement, or the written statement of the substance of any oral agreement, between a lobbyist and client or a lobbyist and Co-lobbyist.

“Reports” mean all required filings pursuant to the Lobbying Law, including statements of registration, periodic reports, lobbyist annual reports, client annual reports, termination notices, fundraising and political consulting reports, and any amendments thereof, unless otherwise stated.

“Respondent” means the lobbyist or client in any action brought before OATH by the City Clerk pursuant to the Lobbying Law or the Rules.

“Rules” mean chapter 1 of title 51 of the Rules of the City of New York.

§ 1-02 Advisory Opinions.

(a) The City Clerk may issue advisory opinions on questions relating to the Lobbying Law on a case-by-case basis in response to written requests from persons subject to the jurisdiction of the City Clerk or persons who reasonably believe they may be subject to the jurisdiction of the City Clerk.

(b) Written requests must be delivered to the City Clerk’s Address by first-class mail, hand-delivery, email or fax. These requests must clearly set forth the question raised and a statement of facts prompting the inquiry.

(c) The City Clerk may issue advisory opinions on questions relating to the Lobbying Law on its own initiative or in response to informal inquiries if, in the sole discretion of the City Clerk, an advisory opinion will facilitate compliance with the Lobbying Law or the Rules.

§ 1-03 e-Lobbyist Enrollment.

(a) Generally. Every lobbyist and client required to file Reports under the Lobbying Law must enroll in e-Lobbyist on forms prescribed by the City Clerk before filing any Reports. Enrollment in e-Lobbyist is only required once.

(1) Client Enrollment. If a client retains a lobbyist for the upcoming year on or before December 31st of the current year, the client must enroll no later than January 10th. If a client retains a lobbyist on or after January 1st, the client must enroll no later than ten (10) days after retaining such lobbyist.

(2) Lobbyist Enrollment. If a lobbyist is retained by a client for the upcoming year on or before December 31st of the current year, the lobbyist must enroll no later than January 10th. If a lobbyist is retained by a client on or after January 1st, the lobbyist must enroll no later than ten (10) days after being retained.

(b) Proof of a Corporate Filing. As part of its enrollment, a lobbyist or client must submit proof of a corporate filing. The name listed on the lobbyist's or client's enrollment must be identical to the name on the corporate filing.

(1) Forms. Proof of a corporate filing includes a copy of:

(i) a print out of the online database entry of the department of state, or a similar agency, showing the name of the legal entity;

(ii) filing receipt from the department of state, or a similar agency;

(iii) articles of incorporation;

(iv) certificate of incorporation;

(v) articles of organization;

(vi) certificate of limited partnership;

(vii) certificate of registration;

(viii) certificate of assumed name; or

(ix) certificate of type of not-for-profit corporation.

(2) Affidavit in Lieu of A Corporate Filing. If the lobbyist or client is not incorporated, it must submit an affidavit in lieu of a corporate filing. The name listed on the lobbyist's or client's enrollment must match the name on the affidavit.

(3) If the name on the proof of a corporate filing or affidavit in lieu thereof and the name on the lobbyist's or client's enrollment are not identical, the City Clerk will reject the enrollment.

(4) If a lobbyist or client includes both corporate and "doing business as" names in the enrollment, the City Clerk will reject the enrollment.

(c) *Enrollment Extension.* If a lobbyist's client or a client's lobbyist fails to punctually enroll, a lobbyist or client must request an extension to file any Report pursuant to section 1-10(a)(1) of the Rules. If the lobbyist or client fails to timely request an extension, the Report may be deemed late if it is filed after its filing deadline.

(d) *Administrative Enrollment.*

(1) *Generally.* The Lobbying Bureau may create an Administrative Enrollment on behalf of a lobbyist or client to permit:

(i) a lobbyist (hereinafter "affected lobbyist") to file Reports listing a client who failed to enroll (hereinafter "unenrolled client") when such affected lobbyist may be subject to late filing and/or other penalties; and

(ii) a client (hereinafter "affected client") to file Reports listing a lobbyist who failed to enroll (hereinafter "unenrolled lobbyist") when such affected client may be subject to late filing and/or other penalties.

(2) *Eligibility.*

(i) *Client Administrative Enrollment.* The Lobbying Bureau may create an Administrative Enrollment on behalf of an unenrolled client if:

(A) the affected lobbyist informed the unenrolled client of the need to enroll by sending a certified letter, return-receipt requested, to the last known address of the unenrolled client urging compliance with the Lobbying Law; and

(B) the unenrolled client refuses to enroll; is unresponsive; or is not required to enroll because the unenrolled client does not anticipate exceeding the reporting threshold for retaining, employing or designating a lobbyist to engage in lobbying in the calendar year; and

(C) the affected lobbyist may be subject to penalties if the unenrolled client does not enroll.

(ii) *Lobbyist Administrative Enrollment.* The Lobbying Bureau may create an Administrative Enrollment on behalf of an unenrolled lobbyist if:

(A) the affected client informed the unenrolled lobbyist of the need to enroll by sending a certified letter, return-receipt requested, to the last known address of the unenrolled lobbyist urging compliance with the Lobbying Law; and

(B) the unenrolled lobbyist refuses to enroll; is unresponsive; or is not required to enroll because the unenrolled lobbyist does not anticipate exceeding the reporting threshold for being retained, employed or designated by a client to engage in lobbying in the calendar year; and

(C) the affected client may be subject to penalties if the unenrolled lobbyist does not enroll.

(3) *Process.* The affected lobbyist or client must submit an affidavit by first-class mail, email, fax or hand-delivery to the City Clerk’s Address attesting to the reasons why an Administrative Enrollment is being sought. The affidavit must be accompanied by a copy of the correspondence set forth in sections 1-03(d)(2)(i)(A) or (ii)(A) of the Rules, proof that the correspondence was sent certified mail, return-receipt requested and such other proof as deemed necessary by the City Clerk.

§ 1-04 Principal Officer.

(a) *Generally.* A lobbyist or client must designate a Principal Officer in e-Lobbyist. A lobbyist or client may not designate more than one Principal Officer at any given time.

(1) If the Principal Officer engages in a lobbying activity listed in section 3-211(c) of the Lobbying Law, the Principal Officer must be designated in e-Lobbyist as a “Certifying Principal Officer-Employee who lobbies”.

(2) If the Principal Officer does not engage in a lobbying activity listed in section 3-211(c) of the Lobbying Law, the Principal Officer must be designated in e-Lobbyist as a “Certifying Principal Officer-Employee”.

(b) *Responsibilities.* The Principal Officer must:

(1) complete the enrollment form and agree to the terms of use agreement in e-Lobbyist;

(2) be listed on each statement of registration;

(3) certify all Reports as required in section 3-222 of the Lobbying Law;

(4) be the addressee of all official communications emanating from the Lobbying Bureau; and

(5) be the signatory on any documentation relating to:

(i) a change in Principal Officer, whenever possible;

(ii) an application for a waiver or reduction of late filing penalties;

(iii) the deactivation of an inadvertent statement of registration or other Reports pursuant to section 1-09 of the Rules;

(iv) a Retainer;

(v) a payment plan; or

(vi) an application for amnesty.

(c) The Principal Officer must not:

(1) violate the terms of use agreement in e-Lobbyist; or

(2) disclose his or her e-Lobbyist password under any circumstances.

(d) *Change in the Principal Officer.* (1) Immediately upon a change in Principal Officer, the lobbyist or client must designate a new Principal Officer in e-Lobbyist.

(2) *Notification to Lobbying Bureau.* The lobbyist or client must submit notice of the change in Principal Officer by email to the City Clerk's Address no later than five (5) business days after the change in Principal Officer.

(3) *Content.* The notice of change must include the new Principal Officer's name, email address, telephone number and business/organizational title.

§ 1-05 Designee.

(a) *Generally.* A Principal Officer may designate up to two persons to be Designees in e-Lobbyist. The Principal Officer must list each Designee's name and email address in the appropriate section of e-Lobbyist. If the Designee is authorized to enter information in Reports, such authority must be noted in e-Lobbyist. Each designee will receive his or her own password for e-Lobbyist.

(b) A Designee may:

(1) enter information in Reports;

(2) receive copies of automatically generated emails sent to the Principal Officer from e-Lobbyist;

(3) communicate with the Lobbying Bureau regarding specific Reports filed by the Designee's employer;

(4) submit an extension request pursuant to section 1-10(a)(1) of the Rules; or

(5) submit any item listed in section 1-04(b)(5) of the Rules.

(c) A Designee must not:

(1) certify Reports; or

(2) have access to the Principal Officer's e-Lobbyist password.

§ 1-06 Compliance Officer.

(a) Generally. Any of the following persons may be a compliance officer:

(1) an individual employed by a lobbyist or client whose job duties include compliance with the Lobbying Law;

(2) a third-party entity retained by a lobbyist or client to engage in compliance with the Lobbying Law; or

(3) an attorney retained by a lobbyist or client.

(b) A compliance officer may:

(1) assist the Principal Officer or the Designee in completing Reports;

(2) communicate with the Lobbying Bureau regarding specific Reports filed by the lobbyist or client represented by the compliance officer;

(3) submit an extension request pursuant to section 1-10(a)(1) of the Rules;

(4) submit any item listed in section 1-04(b)(5) of the Rules; or

(5) submit payment of any late filing or civil penalty incurred by the lobbyist or client represented by the compliance officer.

(c) A compliance officer need not be designated in e-Lobbyist.

(d) A compliance officer must not:

(1) certify Reports; or

(2) have access to the Principal Officer's or Designee's e-Lobbyist password.

§ 1-07 Co-Lobbyist Filing Procedure.

(a) Generally. Whenever a Co-lobbyist engages in reportable lobbying activity, the lobbyist (hereinafter referred to as "Primary Lobbyist"), the Co-lobbyist and client involved in such activity must follow the reporting requirements described in this section.

(b) Reporting Requirements.

(1) The Primary Lobbyist. The Primary Lobbyist must file:

(i) A statement of registration listing both its client and Co-lobbyist together with:

(A) the Retainer between the client and the Primary Lobbyist;

(B) the Retainer between the Primary Lobbyist and the Co-lobbyist; and

(C) a letter signed by the client designating the Co-lobbyist to lobby on its behalf; and

(ii) All applicable Reports detailing the compensation paid by the client to the Primary Lobbyist. Compensation paid by the Primary Lobbyist to the Co-lobbyist must be reported as an expense of the Primary Lobbyist.

(iii) The start date listed on the Primary Lobbyist's statement of registration must be the start date listed in the retainer agreement between the client and the Primary Lobbyist.

(2) *The Co-Lobbyist.* The Co-lobbyist must file:

(i) A statement of registration listing the client and the Primary Lobbyist together with:

(A) the Retainer between the Primary Lobbyist and the Co-lobbyist; and

(B) a letter signed by the client designating the Co-lobbyist to lobby on its behalf.

(ii) All applicable Reports detailing the compensation paid to the Co-Lobbyist by the Primary Lobbyist and any expenses incurred.

(iii) The start date listed on the Co-lobbyist's statement of registration must be the date the client signed the letter designating the Co-lobbyist to lobby on its behalf, unless otherwise noted in such designation letter.

(3) *The Client.* The client must file the client annual report listing:

(i) the Primary Lobbyist;

(ii) the Co-lobbyist;

(iii) compensation paid to the Primary Lobbyist; and

(iv) any reimbursed expenses paid to the Primary Lobbyist and/or Co-lobbyist.

§ 1-08 Requirements for Retainers and Authorization Letters.

(a) *Retainers.*

(1) All Retainers must contain:

(i) the compensation payable to the lobbyist;

(ii) the duration of the term of representation, including the specific date the retainer takes effect (hereinafter “start date”) and the specific date the retainer ends (hereinafter “end date”);

(iii) the client’s name, which must be identical to the client’s name listed in the enrollment; and

(iv) the terms of any third-party payments for the lobbyist’s services, if applicable.

(2) The Principal Officer of each party to the Retainer must sign the Retainer.

(3) Whenever an amendment is made to a Retainer, the lobbyist or Co-lobbyist must file an amended statement of registration and submit the amended Retainer and the original Retainer.

(4) Failure to include any term of the Retainer required by section 1-08 of the Rules shall result in the statement of registration being deemed incomplete and may result in late filing penalties.

(b) Authorization Letters. (1) All Authorization Letters must contain:

(i) the names of the employees the client anticipates will lobby on its behalf;

(ii) the duration of such employees’ obligation to lobby; and

(iii) the signature of the Principal Officer.

(2) Whenever a client anticipates additional employees will engage in lobbying on its behalf, an amended statement of registration listing the additional employees must be filed along with a supplemental Authorization Letter and the original Authorization Letter.

(c) Start Date. (1) If there is no specific start date listed in the Retainer or Authorization Letter, the later of any date (i) stamped onto the Retainer or Authorization Letter or (ii) listed alongside the document’s signatures shall be deemed the start date.

(2) The start date listed on the statement of registration must match the start date of the Retainer or Authorization Letter.

(3) The timeliness of the statement of registration shall be determined by such start date.

(d) End Date. (1) A Retainer or Authorization Letter shall be deemed invalid if: (A) there is no specific end date set forth in the Retainer or Authorization Letter or (B) the end date has already occurred.

(2) Notwithstanding paragraph (1) of subdivision (d) of this section, a Retainer or Authorization Letter shall be valid if the lobbyist submits a supplemental letter, signed by the Principal Officers of the parties to the Retainer or Authorization Letter, stating that such Retainer or Authorization Letter is in full force and effect.

(3) The end date on the statement of registration must match either the end date of the (A) Retainer or Authorization Letter or (B) supplemental letter submitted pursuant to section 1-08(d)(2) of the Rules, if applicable.

(e) Clarification Requirement. If there is a discrepancy between the start and/or end dates in the Retainer or Authorization Letter and the statement of registration, the City Clerk may require that the lobbyist:

(1) file an amended statement of registration;

(2) submit a letter explaining the discrepancy; and

(3) submit copies of all effective Retainers or Authorization Letters.

Any such requirement must be completed within the time period prescribed by the City Clerk.

§ 1-09 Deactivation of Reports by the City Clerk.

(a) Generally. The City Clerk may, at the request of a lobbyist or client, deactivate inadvertently filed statements of registration, fundraising and political consulting reports, or client annual reports.

(b) Inadvertently Filed Statements of Registration.

(1) Eligibility. Statements of registration shall be deemed inadvertently filed when subsequent to filing the statement of registration the City Clerk determines that:

(i) there is no expectation that the reporting threshold will be exceeded;

(ii) the lobbying activity which was the basis for filing the statement of registration does not constitute lobbying activity under section 3-211(c) et seq. of the Lobbying Law;

(iii) the statement of registration was mistakenly filed as a result of a duplicate enrollment of the lobbyist or client; or

(iv) circumstances exist where the deactivation is deemed necessary.

(2) Non-Eligibility. The termination of a Retainer or Authorization Letter by either or both parties shall render the pertinent statement of registration ineligible for deactivation.

(3) Process to Deactivate an Inadvertent Statement of Registration.

(i) The lobbyist must contact the Lobbying Bureau to discuss the inadvertent statement of registration. The City Clerk shall make an initial determination as to whether or not the statement of registration is eligible for deactivation. If the statement of registration is deemed eligible, the City Clerk shall notify the lobbyist of the determination.

(ii) No later than ten (10) business days after such notification, the lobbyist must submit an affidavit, on forms prescribed by the City Clerk, by first-class mail, email, fax or hand-delivery to the City Clerk's Address. The affidavit must include all facts and circumstances that led the lobbyist to conclude that the statement of registration was inadvertently filed and the reasons it should be deactivated.

(iii) If the statement of registration is deemed inadvertent, the City Clerk shall deactivate the statement of registration.

(4) *Effect of Deactivation of Statements of Registration.* When the City Clerk deactivates a statement of registration:

(i) the statement of registration cannot be viewed and/or accessed in e-Lobbyist;

(ii) all periodic reports associated with the statement of registration will be deactivated and therefore cannot be viewed or accessed in e-Lobbyist;

(iii) no additional Reports shall be required;

(iv) no further automatically generated emails from e-Lobbyist regarding such statement of registration shall be sent to the lobbyist;

(v) original Retainers or Authorization Letters submitted with such statement of registration shall be returned to the lobbyist;

(vi) such deactivated statement of registration shall not be subject to selection for a random audit; and

(vii) the deactivated statement of registration shall not be reactivated for any reason.

(5) *Removal of Data.* If a statement of registration is deactivated after the data in the Reports is submitted to other New York City agencies that collect and use lobbying data, the lobbyist may contact such agencies to request removal of such information from the agency's database.

(c) *Other Reports Eligible for Deactivation.* (1) A lobbyist or client may request the deactivation of (i) a fundraising and political consulting report or (ii) a client annual report.

(2) *Deactivation of a Client Annual Report: Eligibility.* A client annual report shall be deemed inadvertently filed when the City Clerk determines that:

(i) there is no expectation that the client will exceed the reporting threshold;

(ii) the lobbying activity which was the basis for filing the client annual report does not constitute lobbying activity under section 3-211(c) *et seq.* of the Lobbying Law;

(iii) the client annual report was mistakenly filed as a result of a duplicate enrollment of the lobbyist or client; or

(iv) circumstances exist where the deactivation is deemed necessary by the City Clerk.

(3) *Deactivation of a Fundraising and Political Consulting Report: Eligibility.* A fundraising and political consulting report shall be deemed inadvertently filed when the City Clerk determines that:

(i) there is no expectation that the lobbyist or client will exceed the reporting threshold;

(ii) the fundraising and/or political consulting activity which was the basis for filing the fundraising and political consulting report does not constitute fundraising and/or political consulting activity under sections 3-211(h) and (i) of the Lobbying Law; or

(iii) the fundraising and political consulting report was mistakenly filed as a result of a duplicate enrollment of the lobbyist; or

(iv) circumstances exist where the deactivation is deemed necessary by the City Clerk.

(4) *Process to Deactivate an Inadvertent Client Annual Report or Fundraising and Political Consulting Report.*

(i) The lobbyist or client must contact the Lobbying Bureau to discuss the inadvertent Report. The City Clerk shall make an initial determination as to whether or not such Report is eligible for deactivation. If the Report is deemed eligible, the City Clerk shall notify the lobbyist or client of the determination.

(ii) No later than ten (10) business days after such notification, the lobbyist or client must submit an affidavit, on forms prescribed by the City Clerk by first-class mail, email, fax or hand-delivery, to the City Clerk's Address. The affidavit must include all facts and circumstances that led the lobbyist or client to conclude that the filing of the Report was inadvertent and the reasons the Report should be deactivated.

(iii) If the Report is deemed inadvertent, the City Clerk shall deactivate the Report.

(5) *Party who May Request Deactivation.* Only the Principal Officer of the entity that filed a Report may request deactivation of that Report.

(6) *Effect of Deactivation of a Client Annual Report or Fundraising and Political Consulting Report.* When the City Clerk deactivates a client annual report or fundraising and political consulting report:

(i) the report cannot be viewed and/or accessed;

(ii) no further automatically generated emails from e-Lobbyist regarding such report shall be sent;

(iii) such deactivated report shall not be part of a random audit; and

(iv) the deactivated report shall not be reactivated for any reason.

(d) *Reports Deactivated in Error.* (1) If it is later determined that deactivation was made in error, any deactivated report shall:

(i) be re-filed by the lobbyist or client;

(ii) be subject to penalties under the Lobbying Law, if applicable.

(2) The lateness of any re-filed Report shall be based on the due date of the original Report and the date on which the deactivated Report was re-filed.

§1-10 Extension of a Filing Deadline.

(a) *Lobbyist or Client Extension Request.*

(1) A lobbyist or client may request the extension of the filing deadline of any Report. Requests for extensions must be received by the City Clerk no later than two (2) business days prior to the filing deadline of the applicable Report. A request for an extension must be in writing and delivered by first-class mail, hand-delivery, email or fax to the Lobbying Bureau at the City Clerk's Address.

(2) If a request for an extension is not received within the timeline provided in paragraph (1) of subdivision (b) of this section, the extension may be granted by the City Clerk only under the following circumstances:

(i) the death of the Principal Officer or his or her immediate family member;

(ii) the illness of the Principal Officer; or

(iii) force majeure.

(3) Documentary evidence supporting the event must be submitted.

(b) *Technical Extension.* If on the date of the filing deadline a lobbyist or client is unable to file a Report due to a technical failure of e-Lobbyist, the City Clerk may issue an extension only when:

(1) The lobbyist or client contacts the Lobbying Bureau before the filing deadline by telephone or in person to discuss and attempt to resolve the technical issue that is preventing the punctual filing of a Report.

(2) If after the consultation, the lobbyist or client remains unable to file the Report, the lobbyist or client submits, by email or fax, proof of the technical failure no later than the close of business on the date of the filing deadline.

(3) Proof of a technical failure must include:

(i) A screenshot from e-Lobbyist containing the error message received when the filing was attempted;

(ii) Evidence of electronic communications between the lobbyist or client and the Lobbying Bureau determining that a technical failure occurred and remains unresolved as of the filing deadline; or

(iii) Other evidence of a technical failure that the City Clerk deems appropriate.

(4) Lobbyists or clients who are unable to file a Report due to a technical failure of e-Lobbyist, after the Lobbying Bureau's office hours on the filing deadline, may be granted a technical extension if they submit a screenshot from e-Lobbyist containing the error message and the screenshot shows the time of the attempted filing.

(5) Under no circumstances shall the following be considered a technical failure:

(i) Failure of the lobbyist and/or the client to punctually change its Principal Officer;

(ii) The Principal Officer's inability to retrieve, change or reset its password; or

(iii) Any technical failure that is reported after the filing deadline.

(6) The City Clerk may verify the technical failure with the Department of Information Technology and Telecommunications ("DoITT"). If DoITT concludes that a technical failure has not occurred, the City Clerk shall not provide a technical extension to the filer who submitted the request.

(c) Automatic Extensions.

(1) If the filing deadline of a Report falls on a Saturday, Sunday or any New York City holiday, the filing deadline shall be extended to the following business day.

(2) If a statement of registration cannot be filed due to the client's failure to enroll in e-Lobbyist pursuant to section 1-03 *et seq.* of the Rules, and an extension, as set forth in section 1-10(a)(1) of the Rules, has not been requested, the filing deadline of the statement of registration shall be extended to two (2) business days after the date the client enrolls or an administrative enrollment has been completed on the client's behalf.

(3) If a client annual report cannot be filed due to the lobbyist's failure to enroll in e-Lobbyist pursuant to section 1-03 *et seq.* of the Rules, and an extension, as set forth in section 1-03(c) of

the Rules, has not been requested, the filing deadline of the client annual report shall be extended to two (2) business days after the date the lobbyist enrolls.

§ 1-11 Enforcement of the Lobbying Law.

(a) Generally. Any lobbyist or client who violates any provision of the Lobbying Law or Rules shall be subject to the penalties set forth in section 3-223 et seq. of the Lobbying Law.

(b) Types of Violations. Lobbyists and clients may be subject to a penalty for the following:

(1) failure to enroll in e-Lobbyist pursuant to section 3-213(a)(3) of the Lobbying Law;

(2) failure to file any Report pursuant to sections 3-213, 3-216, 3-216.1 and 3-217 of the Lobbying Law;

(3) knowingly and willfully disclosing incorrect, fraudulent or misleading information or documents to the City Clerk pursuant to sections 3-219 and 3-223(a) of the Lobbying Law;

(4) failure to pay the registration fee pursuant to section 3-213(e) of the Lobbying Law;

(5) failure to fully cooperate with any inquiry made by the City Clerk pursuant to sections 3-212(a) of the Lobbying Law;

(6) failure of a Principal Officer to certify any Report pursuant to sections 3-212(a) and 3-222 of the Lobbying Law;

(7) failure to punctually:

(i) enroll in e-Lobbyist pursuant to section 3-213(a)(3) of the Lobbying Law;

(ii) file any Report, including failing to complete any portion thereof or supplying incorrect information, pursuant to sections 3-213(a)(2); 3-215; 3-216(a)(2); 3-216.1(a) and 3-217(b) of the Lobbying Law;

(iii) update the entity profile pursuant to section 3-213(d)(1) of the Lobbying Law;

(iv) file a Retainer or Authorization Letter pursuant to sections 3-213(c)(3) and (4) of the Lobbying Law;

(v) respond to a lawful subpoena issued by the City Clerk pursuant to section 3-212(a) of the Lobbying Law; or

(vi) pay any penalty pursuant to section 3-223(d) of the Lobbying Law;

(8) the intentional disclosure by a Principal Officer of his or her e-Lobbyist password pursuant to section 3-212(a) of the Lobbying Law;

(9) failure to comply with the terms of use agreement of e-Lobbyist pursuant to section 3-212(a) of the Lobbying Law; or

(10) any other act or omission that constitutes a violation of the Lobbying Law.

(c) Enforcement Procedures.

(1) Late Filings.

(i) Generally. Any lobbyist or client who fails to punctually file a Report shall be subject to late filing penalties. Pursuant to section 3-223(c)(2) of the Lobbying Law, a lobbyist or client who has never previously filed a Report shall be charged a late filing penalty of ten dollars (\$10) per day for each Report that is late, and all other lobbyists or clients shall be charged twenty-five dollars (\$25) per day for each Report that is late. Late filing penalties accrue from the day after the filing deadline through, and including, the day the Report is filed, weekends, and holidays.

(ii) Notice. Pursuant to section 3-223(c)(1) of the Lobbying Law, following the failure to file or the late filing of a Report, the City Clerk shall send a notice by first-class certified mail, return-receipt requested, advising the lobbyist or client of the following:

(A) if a Report has not been filed, that such Report must be filed and the applicable late filing penalty paid no later than fourteen (14) business days after the date of mailing of the notice; or

(B) if a Report has been filed late, that the applicable late filing penalty must be paid no later than fourteen (14) business days after the date of mailing of the notice.

(iii) Formal Action. If the lobbyist or client fails to file the late Report and/or satisfy the late filing penalty punctually, the City Clerk shall commence a formal proceeding in OATH, pursuant to section 1-12 of the Rules, where the City Clerk may seek civil penalties in an amount set forth in section 1-11(d) of the Rules in addition to any late filing penalties.

(2) Unreported Lobbying Activity.

(i) Initial Notice. The City Clerk shall send a notice by certified mail, return-receipt requested, to a lobbyist or client if the City Clerk makes an initial determination that there is probable cause that the lobbyist or client failed to report lobbying activity.

(ii) Answer to Initial Notice. The lobbyist or client may respond in writing to the initial notice and explain, rebut or provide other information concerning the allegations. The response must be in writing and delivered by first-class mail, hand-delivery, email or fax to the Lobbying Bureau at the City Clerk's Address no later than fourteen (14) business days after the date of mailing of the initial notice. The lobbyist or client may request an extension to answer in writing for good cause no later than two (2) business days prior to the deadline. A request for an extension must be in writing and delivered by first-class mail, hand-delivery, email or fax to the Lobbying Bureau at the City Clerk's Address.

(iii) No Probable Cause Finding. If, after receipt of the lobbyist's or client's answer, the City Clerk determines that there is no probable cause that a violation of the Lobbying Law and/or the Rules has occurred, the matter will be dismissed and the lobbyist or client shall be notified accordingly in writing.

(iv) Determination of Probable Cause. If, after consideration of the lobbyist's or client's answer, the City Clerk determines that there is probable cause that a violation of the provisions of the Lobbying Law and/or the Rules has occurred, the City Clerk shall issue a finding of probable cause and assess civil penalties in an amount set forth in section 1-11(d) of the Rules.

(v) Formal Action. Following the issuance of a probable cause determination, the City Clerk shall commence a proceeding in OATH in accordance with the procedures set forth in section 1-12 of these Rules, where the City Clerk shall seek civil penalties in an amount set forth in section 1-11(d) of the Rules in addition to any late filing penalties, if applicable.

(3) Other Violations. Any violation of the Lobbying Law or Rules not punishable under sections 3-223(a), (b) or (c) of the Lobbying Law shall be enforced pursuant to the following procedure.

(i) Initial Notice. Following a determination that a violation has taken place, the City Clerk shall email the lobbyist or client regarding the violation and possible remedies.

(ii) Formal Notice. If the lobbyist or client fails to cure the violation within seven (7) business days after the mailing of the initial notice, the City Clerk shall send a formal notice by certified mail, return-receipt requested, advising the lobbyist or client of the violation and possible remedies.

(iii) Formal Action. If the lobbyist or client fails to cure the violation within fourteen (14) business days after the date of mailing of the formal notice, the City Clerk shall commence a proceeding in OATH, pursuant to section 1-12 of the Rules. In such proceeding, the City Clerk shall seek civil penalties in an amount set forth in section 1-11(d) of the Rules in addition to any late filing penalties, if applicable.

(d) Civil Penalties.

(1) Pursuant to section 3-223(d) of the Lobbying Law, lobbyists and clients that fail to remedy a violation within fourteen (14) business days after the date of mailing of a notice to cure shall be subject to a civil penalty based upon the following schedule:

<u>Days a violation was not cured after the expiration of the cure period</u>	<u>Civil penalty per violation not cured within the cure period.</u>
<u>1-30</u>	<u>\$1,000</u>
<u>31-60</u>	<u>\$1,500</u>
<u>61-90</u>	<u>\$2,000</u>
<u>91-120</u>	<u>\$2,500</u>
<u>121-150</u>	<u>\$3,000</u>

<u>151-180</u>	<u>\$3,500</u>
<u>181-210</u>	<u>\$4,000</u>
<u>211-240</u>	<u>\$4,500</u>
<u>More than 240</u>	<u>\$5,000 - \$20,000</u>

(2) Notwithstanding paragraph (1) of subdivision (d) of this section, the City Clerk may consider aggravating and mitigating factors based on the frequency and extent of the lobbyist's or client's record of violations in increasing or decreasing any civil penalty.

(e) Settlement or Satisfaction of a Violation.

(1) Generally. Notwithstanding section 3-223(f) of the Lobbying Law, lobbyists and clients may waive their right to a hearing and settle or otherwise satisfy any violation of the Lobbying Law.

(2) Effect of Settlement or Satisfaction.

(i) If a violation is settled or satisfied before a formal proceeding begins, the lobbyist or client shall receive notice of such settlement or satisfaction and no formal proceeding shall be commenced.

(ii) If a violation is settled or satisfied after a formal proceeding begins in OATH, the City Clerk shall file a notice of withdrawal without prejudice with OATH and shall serve such notice upon the lobbyist or client.

(f) Waiver or Reduction of Late Filing Penalties. If a lobbyist or client is subject to a late filing penalty, a lobbyist or client may request a waiver or reduction of such late filing penalty pursuant to section 3-223(c)(2) of the Lobbying Law.

(1) A request for a waiver or reduction of a late filing penalty must be received by the City Clerk no later than fourteen (14) business days after the date of mailing of the notice issued by the City Clerk pursuant to section 1-11(c)(1)(ii) of the Rules. Such request must be sent in writing by first-class mail or hand-delivery to the City Clerk's Address on forms prescribed by the City Clerk.

(2) A request for a waiver or reduction must include:

(i) a cover letter setting forth the applicant's name, business address and name of the Principal Officer; and

(ii) an affidavit stating:

(A) The number of times the applicant has previously filed late filings, if any;

(B) The applicant's annual operating budget;

(C) Whether or not the applicant lobbies solely on its own behalf;

(D) The number of lobbying matters, number of hours spent on such matters and, for periodic reports, the amount of compensation and expenditures that were not reported during the relevant period;

(E) A narrative detailing the impediments to the punctual filing of the Report; and

(F) Any other facts that may be helpful to the City Clerk in making a determination.

(3) The only valid reasons for not filing a Report on time are:

(i) death of the Principal Officer or his or her immediate family member;

(ii) illness of the Principal Officer; or

(iii) force majeure.

(4) To the extent possible all statements made in the affidavit should be accompanied by supporting documents.

(5) The City Clerk may request additional evidence to support any statements made in the affidavit. If additional documentation is requested, the applicant must submit such documentation by first-class mail or hand-delivery to the City Clerk's Address no later than seven (7) business days after the date of mailing of the City Clerk's request.

(6) The City Clerk shall notify the applicant in writing of its determination regarding the request as soon as practicable. Any such determination made by the City Clerk is final. If the waiver or reduction request is denied, payment of the applicable late filing penalty must be made no later than fourteen (14) business days after the date of mailing of such denial.

§1-12 Formal Proceedings.

(a) *Designation of OATH.* Pursuant to New York City Charter §1048(a), the City Clerk designates OATH to conduct on its behalf all hearings involving violations of the Lobbying Law. OATH's Rules of Practice shall govern all aspects of the proceedings, except as stated in subdivision (e) of this section.

(b) *Petition.* The City Clerk shall initiate formal proceedings in OATH by serving a petition on the Respondent's Principal Officer. If the Respondent notifies the City Clerk that Respondent is represented by counsel before the OATH proceeding begins, the City Clerk shall serve the petition upon both Respondent's Principal Officer and its counsel.

(c) *Effect of Failure to Answer.* If Respondent fails to serve an answer punctually, all allegations in the petition shall be deemed admitted and OATH shall proceed to hold a default hearing. At the default hearing, the City Clerk shall submit, for the record, an offer of proof

establishing the factual basis on which the presiding ALJ may issue a report and recommendation. If Respondent fails to respond specifically to any individual allegation in the petition, such individual allegation or charge shall be deemed admitted.

(d) *Adjournment.* A hearing may be adjourned upon written consent of both parties submitted to the ALJ no later than two (2) business days prior to the hearing. However, if consent of the parties cannot be obtained, an adjournment may be granted at the discretion of the ALJ for good cause, upon the request of either party or upon the ALJ's own motion, with notice to the parties.

(e) *Depositions.* Depositions shall be taken without leave from OATH as deemed necessary by the City Clerk.

(f) *Decision after the Hearing.*

(1) The City Clerk shall issue a final decision after the hearing based exclusively on the record and the transcript of the hearing. The City Clerk shall not be bound by the ALJ's recommendation in whole or in part. The City Clerk's decision shall be in writing and shall state reasons for the determination and, where appropriate, direct specific action. The final decision may consist of a letter from the City Clerk concurring with the ALJ's recommended findings and disposition. The City Clerk's decision after the hearing constitutes a final agency determination.

(2) The City Clerk shall send a copy of the decision by certified mail to the Respondent and its counsel, if applicable.

(3) In the event that a decision is adverse to the Respondent, in whole or in part, the Respondent has the right to seek judicial review in accordance with the provisions of Article 78 of the Civil Practice Law and Rules.

§ 1-13 Duty to Cooperate.

(a) *Lobbyist's and Client's Duty to Cooperate.* A lobbyist or client must cooperate with representatives of the City Clerk. If the City Clerk refers a complaint or other information to DOI, the lobbyist or client must cooperate with representatives of DOI.

(b) *City Clerk's Duty to Report to DOI.* If the City Clerk determines, on the basis of a report, complaint, investigation or other information available to the City Clerk, that a willful violation of the Lobbying Law or a criminal violation of a law other than the Lobbying Law has been or may have been committed, then the City Clerk shall report the determination and any related information to DOI.

§ 1-14 Requests to Review Reports Filed with the Lobbying Bureau.

(a) *Records.* All Reports must be:

(1) kept in electronic form at the Office of the City Clerk;

(2) available for public inspection upon request; and

(3) posted on the internet as soon as practicable.

(b) *Viewing Records.* Requests to view Reports may be presented in person, by first-class mail, fax or email to the Lobbying Bureau at the City Clerk's Address.

(c) *Copies of Records.* Copies of Reports may be purchased for twenty-five (25) cents per page.

§ 1-15 Amnesty Program.

(a) *Generally.* On January 1, 2016, a six-month amnesty program shall commence pursuant to section 3-223(h) of the Lobbying Law.

(b) *Eligibility.*

(1) The amnesty program shall be available to:

(i) any lobbyist who was required to file, but never filed, a statement of registration pursuant to section 3-213 of the Lobbying Law at any time on or after December 10, 2006; or

(ii) any client who was required to file, but never filed, an annual report pursuant to section 3-217 of the Lobbying Law at any time on or after December 10, 2006.

(2) Parties who act as both lobbyist and client shall be eligible for the amnesty program only in the capacity in which such party qualifies pursuant to subdivision (b) of this section. If the applicant qualifies in the capacity of both lobbyist and client then the applicant shall be eligible for amnesty in both capacities.

(3) Amnesty shall not be available to any lobbyist or client who is:

(i) the subject of any pending criminal investigation relating to any violation of the Lobbying Law; or

(ii) a party to any pending criminal litigation in any court of law relating to any violation of the Lobbying Law.

(c) *Notice of Intent to Participate.* Prior to January 1, 2016, a lobbyist and/or client may file a notice of intention to participate in the amnesty program on forms prescribed by the City Clerk. This filing entitles the lobbyist or client to the benefits provided in section 3-223(h)(2) of the Lobbying Law.

(d) *Amnesty Requirements.* (1) To apply for the amnesty program, a lobbyist or client must file an application on forms prescribed by the City Clerk. The amnesty application must include:

(i) the applicant's name and business address;

(ii) a summary of the lobbying activities, fundraising activities, or political consulting activities performed by the lobbyist from January 1, 2015, to either (A) the date that the amnesty application was filed, or (B) the date the notice of intent to participate, as described in section 1-15(c) of the Rules, was filed; and

(iii) a certification stating: “All statements contained in the application are true, accurate and complete and are made under the penalty of perjury. In addition, it is understood that the Office of the City Clerk will act in reliance on the statements made in this application.”

(2) *Submission of Application.* Applications must be submitted by first-class mail or hand-delivery to the City Clerk’s Address, Attn: Amnesty Program. All applications must be received no later than 5:00 p.m. eastern standard time on June 30, 2016.

(e) *Effect of Amnesty.* If amnesty is granted, the City Clerk shall waive all late filing and civil penalties that could be assessed against such lobbyist or client, as set forth in section 3-223 of the Lobbying Law, for the period from December 10, 2006 to the earlier of (i) the date the application was filed or (ii) the date the notice of intent was filed. Such lobbyist or client shall not be subject to any criminal penalties, as set forth in section 3-223 of the Lobbying Law, for the period from December 10, 2006 to the earlier of (i) the date the application was filed or (ii) the date the notice of intent was filed.

(f) *Denial of Amnesty. (1) Reasons for Denial.* An applicant may be denied amnesty if:

(i) the applicant is ineligible pursuant to section 1-15(b) of the Rules;

(ii) the application does not contain the requirements set forth in section 1-15(d) of the Rules; or

(iii) the applicant is the subject of a pending criminal investigation or party to any pending criminal litigation in any court of law relating to any violation of the Lobbying Law.

(A) For any applicant denied amnesty because it is the subject of a pending criminal investigation, should such pending criminal investigation or litigation subsequently find no criminal liability, whether through a prosecution not resulting in a conviction or by the investigating agency terminating the investigation, the applicant may re-file for amnesty for the previously denied filings on or before June 30, 2016. The applicant must re-submit its original application, the letter from the City Clerk denying amnesty, and evidence, satisfactory to the City Clerk, of the finding of no criminal liability.

(2) *Process of Denial.* If the City Clerk determines that an applicant is not entitled to amnesty, the City Clerk shall issue a written statement describing the reasons for such denial and shall send the statement to the lobbyist or client as soon as practicable.

(3) *Effect of Denial of Amnesty.* If amnesty is denied, any applicable penalties will not be waived and the City Clerk may proceed with any administrative, civil or criminal action against the lobbyist or client.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Implementation of Lobbying Law Amendments

REFERENCE NUMBER: CLERK-2

RULEMAKING AGENCY: CLERK

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Provides cure periods for many violations of the lobbying law or its rules.

/s/ Francisco X. Navarro
Mayor's Office of Operations

April 15, 2015
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Implementation of Lobbying Law Amendments

REFERENCE NUMBER: 2015 RG 031

RULEMAKING AGENCY: Office of the City Clerk

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 14, 2015