

New York Warns Lobbying Community on Legislative Receptions

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In recent guidance posted on the New York Commission on Public Integrity's website, state authorities caution lobbyists, their clients and state officials/employees about the Commission's heightened future scrutiny of legislative receptions. In particular, after taking a relaxed approach to enforcement in 2009 to give all parties time to adjust to changes in the law, the Commission will now take a hard line approach toward legislative receptions that do not fall specifically within the widely attended event exception.

Prior to the enactment of ethics reform legislation in 2007, which included restrictions on gifts from lobbyists and their clients, state law included both a widely attended event exception and a \$75 general "catch-all" exception for gifts. In many cases, lobbyists and their clients were able to use the \$75 gift exception to provide complimentary attendance to legislative receptions that did not satisfy all of the requirements to be considered a widely attended event. The new ethics law eliminated the \$75 exception, meaning that each of the four widely attended event requirements must be met in order for an event to be permissible under the lobbyist and lobbyist employer gift ban.

As detailed in the guidance, to meet the requirements of the exception, the event must:

- Be open to a large number of persons from a given industry or profession;
- Have a principal purpose to promote the exchange of information about one or more issues of public interest;

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- Be attended by persons with a broad and diverse range of interests in the subject matter; and
- Be related to the duties and responsibilities of the public officials who are offered or accept complimentary attendance.

The Commission's guidance emphasizes that many of these requirements are more strenuous than some may have perceived in the past. For example, according to the guidance, an "event that is primarily social in nature [or] that merely affords an opportunity for attendees to 'meet and greet'" does not fit within the contours of the widely attended event exception because the principal purpose of such a reception is not to exchange information about issues in the public interest.

During the past year, the Commission entered into *de minimis* settlements with registered lobbyists involved in legislative receptions that did not meet each of these four criteria. A number of organizations, including the State Trial Lawyers Association and the Greater Rochester Association of Realtors, were assessed \$250 penalties under the Commission's more lenient standard. Effective January 1, 2010, however, the Commission is adopting a tougher approach. The guidance emphasizes that lobbyists can be penalized up to \$25,000 per violation. Although the actual penalties imposed may vary based on the violator's prior history and degree of cooperation with an investigation, among other factors, lobbyists and their employers should be cautious when planning receptions and similar events involving New York public officials and employees.

For more details, please see the Commission's notice at www.nyintegrity.org/pubs/ebblast/Application%20of%20Gift%20Ban%20to%20Legislative%20Receptions.pdf.