



E-News from State and Federal Communications, Inc.

October 2017

He is Back

I am so very happy to report Joseph May has returned to State and Federal Communications. He is our new Manager of Corporate Social Responsibility.

What? You didn't know he left... Well, he left at the end of May to pursue an opportunity as a hospital chaplain but the prospects of long-term employment didn't seem to be there so he was back on the market.

Ren Koozer and I met with him to talk about what he was looking for and within a week I developed a job description, sent it to him, and he accepted. Things move fast in a small company. I barely had time to let my Comptroller Mark Sedmock know about the offer.

So, I am super excited he is back because he is an amazing person to have on staff—positive, involved, and just an all-around great guy.

Your next question is why would a small business need someone to oversee corporate social responsibility. That is an easy question to answer. State and Federal Communications is a great corporate citizen—locally, regionally, nationally, and internationally.

We have learned a lot from our friends at the Public Affairs Council. It regularly holds webinars about corporate social responsibility and some of it rubbed off. In fact, there are three webinars being held this month.

State and Federal Communications donates tickets to the Cleveland Indians, Cleveland Browns (yes, people want these tickets), and Cleveland Cavaliers to non-profits for their auctions and they all raise quite a bit of money. Joe is going to provide information to the State and Federal Community on what we are doing. Plus, he is going to highlight our staff who are working in the community as part of our Charitable Service Program.

It is all good. And, don't you agree we all need some good things right now. Enjoy your October and Oktoberfest and keep on the lookout for the great blog posts from Joe May. Remember, if not you, who...if not now, when.

[Elizabeth Z. Bartz](#)

President and CEO
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Summary of Changes UPDATE

Note Recent Changes to Compliance Regulations

by Michael Beckett, Esq., Research Manager

Update



CALIFORNIA: Gov. Jerry Brown signed Assembly Bill 187 and Assembly Bill 551, amending both lobbying and campaign finance laws. Assembly Bill 187 requires a committee to file a report within 10 business days of making a contribution or independent expenditure aggregating \$5,000 or more to support or oppose the qualification of a single local initiative or referendum ballot measure. Assembly Bill 551 extends revolving door restrictions to independent contractors of a local government agency or a public agency who are appearing or communicating on behalf of that agency. Both bills are effective January 1, 2018.

CALIFORNIA: The Fair Political Practices Commission (FPPC) voted to reverse a long-standing rule that limited how much money politicians and their committees can give to a candidate-controlled recall committee. The vote reversed a 2002 FPPC opinion that limited politician contributions to candidate-controlled recall committees to \$4,400. The rule change now allows politicians to give unlimited amounts of money to help fight the recall of Democratic state Sen. Josh Newman. Chair Jodi Remke was the only dissenting commissioner in the 3-1 final vote.

FEDERAL: The head of the Office of Government Ethics (OGE) has indicated anonymous contributions to legal defense funds of federal employees are prohibited. OGE Acting Director David Apol stated the policy has not changed, even though the note on a guidance document was changed earlier this year. In 1993, the OGE issued an opinion letter holding a fund established for the benefit of a government employee to pay the employee's legal expenses, while administered by a person having no connection with the employee's official duties, could accept anonymous contributions. The OGE guidance letter is not legally binding. A one-sentence note was

added to the top of the document in May signaling the OGE's long standing internal practice had diverged from the formal guidance. Subsequently, the document's note was changed to read, "NOTE: THE PRIMARY FINDING ABOUT THE LIMITED APPLICABILITY OF 18 U.S.C. §209 TO PAYMENTS MADE FOR AN EMPLOYEE'S LEGAL EXPENSES HAS NOT CHANGED. HOWEVER, BECAUSE EACH ANALYSIS IS VERY FACT-SPECIFIC, AGENCY ETHICS OFFICIALS SHOULD CONSULT WITH THEIR OGE DESK OFFICER BEFORE ADVISING EMPLOYEES ON THIS TOPIC." Critics of the change in May argued the note opened the door to lobbyists and other prohibited sources funding legal defenses for employees currently working in the White House.

NEW MEXICO: On September 8, Secretary of State Maggie Toulouse Oliver adopted campaign finance rules after three months of public hearings and reviews. Oliver introduced the rules to clarify New Mexico's Campaign Reporting Act (CRA) and bring the CRA into constitutional compliance. Under the new rules, independent expenditure groups will be required to disclose their significant donors if they expend on any single political advertisement more than \$2,500 for a statewide race or more than \$1,000 on any non-statewide race. The rules will be effective October 10.

NEW YORK: The New York Joint Commission on Public Ethics (JCOPE) issued a call to concerned individuals for comments regarding the Notice of Proposed Rulemakings for Comprehensive Lobbying regulations and Source of Funding Disclosure Regulations. The comprehensive regulations expand the definition of lobbying to include indirect lobbying, such as setting up a meeting between a legislator and a lobbyist. According to JCOPE, the purpose of the proposed regulations is to fully incorporate existing guidelines and decades of advisory opinions. The hearing will be held on Monday, October 30, in Hearing Room A of the Legislative Office Building. All public comments must be submitted by 5 p.m. on October 6 to Carol Quinn, deputy director of lobbying disclosure, at carol.quinn@jcope.ny.gov.

Legislation We Are Tracking

At any given time, more than 1,000 legislative bills, which can affect how you do business as a government affairs professional, are being discussed in federal, state, and local jurisdictions. These bills are summarized in State and Federal Communications' online Compliance Laws for Government Relations Professionals. They can be found on a jurisdiction's home page.

Summaries of major bills are also included in the monthly Summary of Changes email update sent to all clients. The chart below shows the number of bills we are tracking in regard to lobbying laws, political contributions, and procurement lobbying.

	Total bills	Number of Jurisdictions	Passed	Died	Carried over to 2018
Lobbying Laws	374	46	37	99	130
Political Contributions	573	50	52	163	211
Procurement Lobbying	505	51	50	122	171

Campaign Finance Amendments Arrive in Manitoba, Canada

George Ticoaras, Esq.
Research Associate



On August 20, new pay-to-play rules for the Financial Industry Regulatory Authority (FINRA) became effective and additional FINRA pay-to-play rules were proposed.

FINRA Rule 2030 restricts contributions made to an official of a government entity being provided investment advisory services or being engaged to provide investment advisory services

by certain parties. The rule applies to broker-dealers, placement agents, and covered associates acting on behalf of certain regulated investment advisors or soliciting a government entity to invest in certain pooled investment vehicles. If a contribution is made violating the rule, distribution or solicitation activities are prohibited for two years after the date of the contribution. The restrictions also prohibit soliciting a political action committee to make contributions or doing anything indirectly that, if done directly, would result in a violation of the rules.

The restrictions do not apply to contributions made by a covered associate that is a natural person to officials for whom the covered associate was entitled to vote at the time of the contributions and which in the aggregate do not exceed \$350

to any one official, per election. A covered associate may make contributions to officials for whom the covered associate was not entitled to vote at the time of the contributions and which in the aggregate do not exceed \$150 to any one official, per election. Additional exceptions to the restrictions apply for certain newly covered associates or when contributions are returned under specified conditions in the rule.

Also effective is FINRA Rule 4580, which mandates certain record-keeping requirements concerning related contributions.

FINRA filed a proposed rule change with the Securities and Exchange Commission (SEC) to expand FINRA rules 2030 and 4580 to cover capital acquisition brokers (CAB). A firm meeting the statutory definition of a CAB and electing to be governed by the FINRA rule set would be subject to the new FINRA pay-to-play rules effective August 20. If approved, the effective date will be no later than 30 days after FINRA's announcement of SEC approval.

[The details for this article have been updated on our website in the Federal Pay-to-play section of the Procurement Lobbying Compliance Laws.]

You
Should Know



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website

Understanding the potential of
State and Federal Communications
online political compliance publications.

www.stateandfed.com

**State and Federal Communication's
Primer Website** webinars are a
wonderful way to familiarize yourself with the
**Compliance Laws for
Government Relations
Professionals publications.**

These monthly webinars are an opportunity to understand the potential of our online political compliance publications. Join us to learn about their features and how they can help you.

**This month's webinar is on
Thursday, October 12 at 2 p.m. EDT**

Seats are limited, so register today.

Questions?
Contact marketing@stateandfed.com

ASK THE EXPERTS

State and Federal Communications' Experts Answer Your Questions -

Here is your chance to "Ask the Experts" at State and Federal Communications, Inc. Send your questions to experts@stateandfed.com. (Of course, we have always been available to answer questions from clients that are specific to your needs, and we encourage you to continue to call or email us with questions about your particular company or organization. As always, we will confidentially and directly provide answers or information you need.) Our replies are not legal advice, just our analysis of laws, rules, and regulations.

Q

Help! My company is a lobbyist employer, and we forgot to include a reportable expenditure on our last report. Will we be fined?

A

Most jurisdictions will not issue a registered lobbyist or employer a fine for amending a disclosure report. However, as a good rule of thumb, all amendments should be filed as soon as practicable after the missing information has been discovered. Sometimes, depending on the jurisdiction and the nature of the missed expenditure, your company may be asked to submit a formal or informal explanation for the amendment, either at the time of the filing or once the filing has been processed.

A fine is more likely where a missed expenditure has resulted in a missed disclosure filing. For example, if a report is triggered by an expenditure and your company or your registered lobbyist did not file a report at all, a penalty may be assessed by that jurisdiction for the missed report. Further, your company is more likely to be fined if a jurisdiction discovers the missed expenditure on its own (i.e., an event has multiple sponsors and the other sponsors have properly filed) and it makes a request that is ignored. Bottom line: if a jurisdiction sends your company a notice of a deficiency or a request for additional information, you must provide it in the time specified.

So what happens once a missed expenditure is discovered? Here's a quick list of action items:

Gather all the necessary information required for reporting. It's crucial to file the amendment promptly after the discovery is made; however, you want to avoid filing an amendment to an amendment if at all possible.

Find out if there are penalties for amendments or missed disclosures in your jurisdiction. This information will usually be included in the enforcement portion of the jurisdiction's ethics and lobbying laws. This information is additionally available on our website under the Penalties and Remedies section.

If the missing information is high profile (subject to media interest) or the amendment has a high likelihood of triggering a fine, call the jurisdiction to confirm receipt of the amendment and clarify if any additional information is required.

After the amendment has been filed and accepted by the jurisdiction, take a look at your internal process for collecting and reporting expenditures. Make any necessary adjustments to your company's procedures to avoid future compliance issues.

For more information, be sure to check out the Reports Required and Penalties and Remedies sections of the Lobbying Compliance Laws online publication for any jurisdiction. Please feel free to contact us if you have any questions.



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Myra A. Cottrill, Esq., Client Specialist

Jurisdiction Added to our Website

The number of municipalities and regional governments our research associates track continues to grow. We now cover almost 300 municipalities and local governments. This is part of a continuous effort to better serve the needs of our clients.

This month's new jurisdiction is:

Butte County, California

W E B S I T E T I P



States continue to expand definitions of lobbying and what it means to be a lobbyist for purposes of registration and reporting requirements. State and Federal Communications has a quick reference chart in the Lobbying Compliance Laws publication dedicated to cataloging the definitions of lobbying and lobbyist in the states. The chart can be accessed by clicking the three horizontal bars on the right side of the red Lobbying Compliance Laws button and selecting "Definitions of Lobbying" in the pop-up menu. Be sure to reference these charts before you decide what activities will be a part of your next advocacy campaign.

See Us in Person

Plan to say hello at future events where **State and Federal Communications, Inc.** will be attending and/or speaking regarding compliance issues.

Events

- October 5 - 8, 2017 **National Hellenic Society Heritage Weekend**
Las Vegas, NV
- October 5, 2017 **PAC Speed Vending & Networking**
Herndon, VA
- October 5, 2017 **Changing the Face of International Journalism: An Evening with Global Press**
Washington, DC
- October 10, 2017 **Professional Women in Advocacy: Balance is Bullsh****
Washington, DC
- October 10, 2017 **WGR Toastmasters**
Washington, DC
- October 11, 2017 **WASRG 2017 Symposium**
Washington, DC
- October 12, 2017 **WGR; Managing Stress and Burnout Development Event**
Washington, DC
- October 11-13, 2017 **Public Affairs Council Fall Meeting**
San Francisco, CA
- October 24, 2017 **WGR Toastmasters**
Washington, DC



There was a lot to see and hear at this year's PAC State and Local Government Relations Conference.
Thanks for a great conference.



Thank you Judith Zimomra for this beautiful piece for my office. Jennifer Hoerig Cline of Blessed are the Peacemakers stopped by this afternoon. I wasn't prepared to put it up immediately but it will be prominently displayed.