



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

December 15, 2021

To: The Commission

From: Adrian Gardner, General Counsel
Tracey Harvin, Senior Counsel
Michael Beckham, Acting Corporate Policy and Management Operations Director
Areaya Abebe, Acting Corporate Policy and Management Operations Manager

Subject: Proposed Amendments to Administrative Practice 5-61, Lobbying Disclosure

REQUESTED ACTION

The Commission is asked to review and consider proposed amendments to Administrative Practice 5-61, Lobbying Disclosure (Attachment A). This policy establishes when certain individuals and entities must register and file activity reports with the agency when money is spent, or expenses are incurred, to influence a Commission Action.

Commission Actions can include any executive, administrative, quasi-legislative, quasi-judicial, advisory, or adjudicatory action taken formally by the full Commission, the Planning Boards, or other officials. More specifically, these can include authorizing grants, awarding procurement contracts, adopting resolutions or policies, making recommendations for the General Plan, and making decisions on site plans.

Proposed amendments were shared with Department Heads at their November 23, 2021 meeting and with the Executive Committee at their December 1, 2021 meeting. Feedback from Departments is reflected in Attachment B, as well as noted below in the summary of proposed changes. With the Commission's input and support, proposed updates to the policy will be finalized and promulgated.

BACKGROUND

This Practice was originally approved by the Commission in 1983 to establish the agency's Lobbying Disclosure policy and was last revised in 1985.

Proposed amendments to the policy were shared with Department Heads and the Executive Committee in the latter half of 2019, at which time the Executive Committee requested that the Legal Department (i) help provide guidance to the agency regarding what Lobbying includes and does not include, as well as, (ii) work with the Policy Office on any further clarifications or changes needed to the policy.

The Policy team has subsequently worked with Legal on proposed changes, as described below.

SUMMARY OF PROPOSED CHANGES

The Maryland Public Ethics Law requires the agency to develop Lobbying disclosure standards that are “similar to the provisions” applicable to those who Lobby the State legislature and executive branches. Therefore, proposed changes seek to simplify the core elements of the policy while updating it and meeting this standard.

1. Definitions

The following changes have been made to the definitions within the policy:

- a. Lobbyist – Revised the definition of Lobbyist to mean any individual engaged in Lobbying.
- b. Compensation - Added to the definition section.
- c. Lobbying – Added to the definition section.
- d. Commission Action – Added to the definition section.
- e. Grassroots Lobbying Activity – Added to definition section.
- f. Individual or entity – Added to the definition section.
- g. Legislative or Quasi-Legislative – Removed from the definition section and incorporated into “Commission Action”.

2. Who Must Register

The revised policy casts a wider net on who must register with the agency, and reflects that a Lobbyist (i.e., any individual or entity who seeks to influence a Commission Action for Compensation) is required to register unless the Lobbyist: (#1) qualifies for an exemption, or (#2) does not exceed certain *de minimis* spending thresholds.

a. For qualifying exemptions (#1):

The draft policy is revised to more closely mirror the qualifying exemptions found in the Maryland Public Ethics Law and clarify the provision. The individuals/entities and related activities not previously covered which qualify for exemptions now include:

1. Certain Architects and Engineers who communicate with the agency representing a client in the adjudication of a particular land use application.
2. Educational Purposes where an individual or entity is a student or educator Lobbying as part of a course or student activity undertaken by a school or student organization.
3. Sales People who are bona fide sales agents promoting the sale of goods or services for a commercial entity.

4. Certain Public Interest Organizations where the individual or entity is a news organization, religious entity, or non-profit educational institution and is not attempting to influence a Commission Action related to the regulation of its property or interest.
5. Certain Attorneys who communicate with the agency exclusively on the records during an official hearing or meeting open to the public.
6. Personal Communications when limited to those with a Commission official or employee and when acting in the individual or entity's personal capacity for providing personal legal advice or professional services, or other reason not involving a Commission Action.
7. Hiring Third-Party Lobbyists where an individual or entity hires a third party to engage in Lobbying on its behalf.

Note: One exemption that is present in the Public Ethics Law that is not included is a carveout for Lobbying for small procurement transactions reasonably estimated to have a value under \$100,000.

b. For the certain *de minimis* spending thresholds:

The draft policy expands the types of financial exchanges which trigger a Lobbyist to register and adjust minimum thresholds that require registration. An individual or entity is required to register with the agency when, for the purposes of influencing a Commission Action, they:

1. Receive \$2,500 or more in compensation.
*Currently \$500 in the Practice; and \$5,000 in the State law.
2. Pay or incur more than \$2,500 in Compensation to one or more third-party.
*Currently \$500 in the Practice; the revised amount mirrors the State law.
3. Pay or incur \$1,000 or more for grassroots Lobbying.
*Currently \$2,000 in the Practice and in State law.
4. Pay or incur \$100 or more for gifts.
*Currently \$100 in the Practice and in State law.
5. Pay or incur \$500 or more for miscellaneous expenses.
*This includes paying or incurring postage expenses, which exists in the current practice with a threshold of \$2,000. Currently \$2,000 in State law.

3. How and When to Register

This section is amended to provide that every individual or entity required to register with the agency must do so no later than five (5) days after meeting the policy's registration requirements.

Additionally, while several jurisdictions charge a registration fee, the draft incorporates Department Head and Executive Committee input to not charge a registration fee to Lobbyists.

4. Contingent Compensation

This section is added to reflect that an individual or entity must not pay another a fee that is dependent upon whether a Commission Action is successful or defeated.

5. Reports to the Agency

a. Frequency of Activity Report Filing: This section reflects Department Head and Executive Committee input to maintain the status quo requirement for filing annual activity reports—unlike the State and several surrounding jurisdictions which require filing twice yearly.

b. Late Activity Report Fees: Although there was some discussion among Department Heads and the Executive Committee on charging a late activity report fee, the draft reflects the Executive Committee’s recommendation to provide that the agency may charge a late fee—if needed for enforcement after implementation. Department Heads recommended not charging a late activity report fee and revisiting the idea in a couple years after implementing the policy update.

6. Training

This section is added to require that a Lobbyist must complete the agency’s Lobbying training course within six months of registration, and every two years thereafter.

7. Agency Reporting

This section is added to reflect the Executive Director will submit a copy of the Practice to the Maryland State Ethics Commission. Additionally, the Executive Director will submit an annual report on Lobbying to the Chief Administrative Officer of Montgomery County and Prince George’s County each year and publish the report on the agency’s website.

8. Public Inspection of Lobbyist Records

This section is added to reflect the agency must maintain all required documents pertaining to the Practice and make them available to the public for inspection and copying. In providing copies, the agency may charge fees consistent with the Maryland Public Information Act (See: Maryland Public Information Act, Art. § 4-205, Annotated Code of Maryland).

Attachments

A: Proposed Amendments to Administrative Practice 5-61, Lobbyist Disclosure

B: Analysis of Comments Submitted for Proposed Amendments to Practice 5-61, Lobbyist Disclosure

**PROPOSED AMENDMENTS TO ADMINISTRATIVE PRACTICE 5-61,
LOBBYING DISCLOSURE**

Key to Revisions:

Shaded: Recommended additions

~~Strikeout~~: Recommended deletions***Bold Italicized***: Comments regarding proposed amendments**AUTHORITY**

This practice was approved by the Commission November 9, 1983, and ~~last~~ revised (date TBA) ~~June 12, 1985~~ by the [governing body to be inserted].

APPLICATION

This Practice applies to all individuals or groups who Lobby Commissioners and ~~appointees,~~ or employees (including appointees) of the Maryland-National Capital Park and Planning Commission for the purpose of influencing any legislative, quasi-legislative, or executive actions of the Commission, the Planning Boards, ~~the Merit System Board, or the~~ as well as agency employees in the performance of legislative or quasi-legislative functions. Lobbying provisions applicable to the Merit System Board may be found in the Board's Rules of Procedures. (***Note to Draft Reviewer***: This section was moved from its previous placement to standardize with layout of agency policies.)

**PURPOSE AND
BACKGROUND**

To ~~ensure~~ assure that Lobbying the Maryland-National Capital Park and Planning Commission, the Montgomery County Planning Board, the Prince George's County Planning Board, ~~or the Merit System,~~ for the purpose of influencing any legislative, quasi-legislative, or executive action of theirs, does not violate ethical norms or ~~and~~ erode the highest trust placed by the public in Commissioners, appointees, and employees of the Commission.

Subsequent to the initial adoption, the Practice has been amended as follows:

- June 12, 1985: Revised to reflect the Practice applies to Lobbying appointees and the Merit System Board; clarify lobbying applies to attempting to influence legislative or quasi-legislative actions; and add definitions for legislative or quasi-legislative functions.
- [Date TBA]: Revised to update definitions and references; clarify Lobbyist registration requirements and exemptions; add provisions for reports to the Chief Administrative Officers of Montgomery County and Prince George's County; add training requirement; and add reference to public inspections of Lobbyist records; and reflect Lobbying provisions applicable to the Merit System Board may be found in the Board's Rules of Procedures.

REFERENCES

- Maryland Public Ethics Law, General Provisions Article, Title 5, ~~40-A, §6-302,~~ Annotated Code of Maryland, ~~requires the Maryland National Capital Park and Planning Commission to develop a lobbying disclosure policy.~~ (***Note to Draft Reviewer***: This

1 section was moved from its previous placement to standardize layout of agency
2 policies.)

- 3
- 4 • ~~Article 28, §2-115, Annotated Code of Maryland.~~ (**Note to Draft Reviewer:** Deleted,
5 as the Conflict of Interest provision is now located within Title 5 of the General
6 Provisions Article, Maryland Public Ethics Law, referenced above.)
- 7
- 8 • Merit System Rules and Regulations, Chapter 1800, Political Activities
- 9
- 10 • M-NCPPC Notice 14-04, Employee Conduct with Respect to Political Activities
- 11
- 12 • M-NCPPC Administrative Practices addressing gifts, including, but not limited to:
13 * ~~Various Commission Practices and Merit Rules prohibit the acceptance of gifts in the~~
14 ~~course of Commission business by Commissioners or employees. See: Practices 2-72~~
15 ~~and 4-10 and Merit Rules 1625 and 1629.~~ (**Note to Draft Reviewer:** Content moved from
16 previous footnote and incorporated here in the References Section.)
 - 17
 - 18 ○ Practice 2-24, Ethics
 - 19
 - 20 ○ Practice 2-72, Conditions for Acceptance of Awards from Outside the Commission
 - 21
 - 22 ○ Practice 4-10, Purchasing Policy
 - 23

24 DEFINITIONS

25 For the purpose of this practice the following words are defined:

26 **Commission:** Means the Maryland-National Capital Park and Planning Commission (“M-
27 NCPPC” or “agency”).

28

29 **Compensation:** Means the payment or, if earlier, the accrual of an obligation to pay, any
30 salaries, fees and the actual cost of fringe benefits reasonably allocable in exchange for
31 Lobbying activities undertaken by any employee, contractual employee, consultant or other
32 independent third-party contractor of any nature.

33

34 **Commission Action:** Means any executive, administrative, quasi-legislative, quasi-judicial,
35 advisory, or adjudicatory action taken formally by the Commission, the Planning Boards, an
36 officer or other official so designated by the Commission. Commission Actions include:

- 37
- 38 a) Authorizing a grant, credit, or other subsidy from the Commission,
- 39
- 40 b) Awarding a procurement contract,
- 41
- 42 c) Preparing and adopting resolutions, rules, and regulations, and policies to direct the
43 operation of the Commission, the Planning Boards, and other agency functions,

1
2 d) Making recommendations for the General Plan, county sector or small area plan
3 approvals, zoning text amendments, revisions to the subdivision regulations, as well
4 as sectional and area map amendments, and

5
6 e) Decisions on preliminary plans of subdivisions and site plan applications.
7

8 **Grassroots Lobbying Activity:** Means hiring or engaging one or more third parties for the
9 express purpose of soliciting others to communicate with a Commission official or employee
10 to influence a Commission Action.

11
12 **Individual or entity:** Means any person, organization, unincorporated association, or other
13 legal entity.

14
15 **Lobbying:** Means any communication undertaken for compensation that is directed to a
16 member or employee of the Commission for the purpose of directly or indirectly influencing
17 any Commission Action, including any Grassroots Lobbying Activity.

18
19 **Lobbyist:** Means any individual or entity that engages in any Lobbying or hires a third-party
20 to engage in Lobbying.

21
22 ~~(a) Lobbyist: Means a person who:~~

23 ~~(1) Receives \$500 or more as compensation, or~~

24 ~~(2) Expends a cumulative sum of \$100 or more during a fiscal year to~~
25 ~~entertain a Commissioner or employee with meals and beverages,~~
26 ~~entertainment, or other gifts*, and~~

27 ~~(3) Communicates orally or in writing with any Commissioner or employee for the~~
28 ~~purpose of influencing any action which that Commissioner or employee is~~
29 ~~authorized to take in the performance of legislative or quasi-legislative functions.~~

30 ~~(b) Legislative or Quasi-Legislative Function: The preparation and adoption of rules and~~
31 ~~regulations to direct the operation of the Commission, the Planning Boards, and the~~
32 ~~Merit System Board.~~

1 **POLICY**

2
3 **I. Who Must Register as a Lobbyist ~~Registration of Lobbyist with the Commission~~**

4
5 A. A Lobbyist is required to register unless the individual or entity (i) qualifies for an exemption set forth
6 in Subsection I(B) or (ii) does not exceed any *de minimus* spending threshold set forth in Subsection
7 I(C).

8
9 B. An individual or entity is not required to register during a reporting period if one of the following
10 exemptions applies:

- 11
12 1. Government and Related Entities. The individual or entity is a government entity, the
13 Metropolitan Washington Council of Governments, Maryland Association of Counties, the
14 Maryland Municipal League, a comparable quasi-governmental agency designated by the
15 Executive Director for this purpose by giving written notice in advance, or an employee of such an
16 organization acting within the scope of their official duties;
- 17
18 2. Certain Public Interest Organizations. The individual or entity is a news organization, religious
19 institution, or not-for-profit independent college or university that is not attempting to influence a
20 Commission Action related to the regulation of its property or interests related to its property, or
21 an employee of such an organization acting within the scope of their official duties;
- 22
23 3. Educational Purposes. The individual or entity is a student or educator lobbying as part of a course
24 or student activity undertaken by an elementary, secondary, or post-secondary school student or
25 student organization;
- 26
27 4. Work for Hire or By Commission Request. The individual or entity's only communications (a) are
28 limited to work for hire by the Commission, or (b) pertaining to a particular Commission Action
29 undertaken at the request of an agency employee or official authorized to make such request;
- 30
31 5. Personal Communications. The communications undertaken by the individual or entity are limited
32 to communications directly with, and for hire by, a Commission official or employee acting in their
33 personal capacity to obtain personal legal advice, professional services, or other information for
34 reasons that do not involve official Commission business or a Commission Action;
- 35
36 6. Sales People. The individual or entity is an employee or bona fide sales agent promoting sales of
37 goods or services for a commercial entity before the Commission and has advertised or otherwise
38 solicited bids or proposals for a specific procurement transaction;
- 39
40 7. Certain Attorneys. With respect to a particular Commission Action, the individual or entity is a
41 licensed attorney who communicates with agency officials and staff exclusively on the record by
42 means of (a) writings that are published on the agency website and available as part of the official

1 public record of the proceeding and/or (b) oral argument (in person, via video conference or
2 teleconference) during an official hearing or other meeting that either is open to the public or
3 properly closed under the Maryland Open Meetings Act;

4
5 8. Certain Architects, Engineers, Etc. With respect to a particular Commission Action, the individual
6 or entity is a licensed architect, engineer or similarly licensed professional representing a client in
7 the adjudication of a particular land use application who communicates (a) with agency officials
8 and staff exclusively on the record (1) in writings that are published on the agency website and
9 available as part of the official public record of the proceeding and/or (2) oral presentations (in
10 person, via video conference or teleconference) during an official hearing or other meeting that is
11 open to the public under the Maryland Open Meetings Act, and (b) exclusively pertaining to the
12 submission or interpretation of plans, drawings, blueprints or similar technical documents; or

13
14 9. Hiring Third-Party Lobbyists. With respect to a particular Commission Action, the individual or
15 entity does not engage directly in Lobbying but hires one or more third-parties to engage in
16 Lobbying on its behalf, provided, that every such third-party registers timely as a Lobbyist in
17 compliance with this Practice.

18
19 (a) This practice does not apply to the following:

20 ~~(1) Professional services by any Commissioner or employee of the Commission in drafting or in~~
21 ~~advising and rendering opinions as to the construction and effect of proposed or pending actions~~
22 ~~where these services do not otherwise constitute activities as a lobbyist.~~

23 ~~(2) Appearances before the Commission, Planning Board, or any committee, upon its specific~~
24 ~~invitation or request, but only if the person engages in no further or other activities in connection~~
25 ~~with the passage or defeat of proposed actions.~~

26 ~~(3) Appearances as part of the official duties of a duly elected or appointed official, or employee of~~
27 ~~the state, or a political subdivision of the state, or of the United States, and not on behalf of any~~
28 ~~other entity.~~

29 ~~(4) Actions of a publisher or working member of the press, radio, or television in the ordinary course~~
30 ~~of business of disseminating news or making editorial comment to the general public, but who does~~
31 ~~not engage in further or other lobbying that would directly and specifically benefit the economic,~~
32 ~~business, or professional interests of that person or that person's employer.~~

33 ~~(5) Appearances as a witness before the Commission, or Planning Board, or a committee at the~~
34 ~~specific invitation or request of a lobbyist, provided no other act is undertaken for which reporting~~
35 ~~is required, and provided the witness identifies himself as appearing at the request of the lobbyist.~~

36 ~~(6) The representation of a bona fide citizens' organization solely for the purpose of protecting the~~
37 ~~rights of its own members.~~

38
39 C. An individual or entity that engages in any Lobbying and is not exempted for a reason set forth
40 Subsection I(B) is required to register only if they exceed any of the expenditure thresholds specified,
41 as follows:

42
43 1. Compensation Received. The individual or entity actually or constructively receives Compensation
44 for Lobbying from one or more sources totaling \$2,500 or more during a reporting period;

2. Compensation Paid. The individual or entity pays or incurs Compensation payable to one or more third-parties for Lobbying totaling \$2,500 or more during a reporting period;
3. Grass Roots Spending. The individual or entity pays or incurs Compensation payable for Grass Roots Activities totaling \$1,000 or more during the reporting period;
4. Gifts. The individual or entity pays or incurs expenses for gifts having an aggregate fair market value of at least \$100, including meals, beverages, or special events during the reporting period; or
5. Miscellaneous Expenses. The individual or entity pays or incurs other expenses for postage, telecommunications services, electronic services, advertising, printing, and delivery services, or similar business expenses having a fair market value of at least \$500.

II. How and When to Register as a Lobbyist

- A. Every individual or entity required to register with the M-NCPPC pursuant to Section I must disclose the following information on a form provided by the agency.

~~(a) Except as exempted above the following persons shall register with the Commission: (1) A lobbyist; (2) Any person who has expended \$500 or more for compensation of one or more lobbyists in a fiscal year; and; (3) Any person who expends \$2,000, including postage, during any fiscal period for the express purpose of soliciting others to communicate with any Commissioner or employee to influence any Commission action.~~

~~(b) On or before January 31st of each year if required, and, in any event, not later than five days after first authorized to perform any act requiring registration under this Practice, every person required to register with the Commission pursuant to subsection (A) shall provide the following information, where appropriate, on a form approved by the Commission and provided by the Executive Director:~~

1. The Lobbyist's ~~(or other person's)~~ name and permanent address;
2. The name and permanent address of ~~each any~~ person who is required to register under this practice and ~~who will Lobby on the registrant's behalf as applicable~~ of the Lobbyist;
3. The name, address, and nature of business of ~~any person~~ individual or entity who compensates ~~person~~ the Lobbyist ~~accompanied by the Lobbyist's statement that he is authorized to represent that person and that the person will be exempt from the provisions of this practice; and~~
4. The identification, by formal designation, if known, of ~~matters~~ each matter on which the Lobbyist expects to ~~Lobby or employs someone to Lobby~~ to act or employ someone to act in a manner which requires registration under this practice.

- B. This form must be filed no later than five days after an individual or organization first meets the requirements for registration under this Practice.

1 C. A Lobbyist shall file a separate registration must register separately for each employer.

2
3 D. Each registration, if applicable, shall include the authorization required under Section III.

4
5 E. Each registrant Lobbyist may file a notice of termination within 30 days after:

- 6
7 1. Ceasing any Lobbying activity that requires registration; and
8
9 2. Filing file the reports required hereunder this Practice.

10
11 **III. Authority to Lobby ~~Authorization of Lobbyist to Act~~**

12
13 A. ~~Every employer of~~ An entity that engages a Lobbyist for the purpose of Lobbying shall furnish provide a
14 written and signed authorization for the person to act which shall be filed with the Commission by the
15 lobbyist at the time he acts pursuant to the authority. If the entity employer is a corporation or other entity,
16 any an authorized officer or agent other than the Lobbyist shall furnish and sign the written authorization.

17
18 B. The authorization to act required by Subsection (A) of this section shall include the full and legal name and
19 business address of both the employer and the Lobbyist, the period during which the Lobbyist is authorized
20 to act (subject to subsequent modification), unless sooner terminated and the subject matter upon which
21 the Lobbyist represents the entity employer is represented.

22
23 C. Any individual or entity must not pay any other person a fee or any other compensation that depends
24 on or varies with the success or defeat of any Commission Action.

25
26 **IV. Reports of Lobbying to the Commission**

27
28 A. Each Lobbyist must file a Lobbyist Activity Report with the agency, affirmed under oath, covering the
29 period of January 1st through December 31st of the previous year, by January 31st of the current year. Each
30 registrant shall file with the Commission, one report per year under oath concerning his/her lobbying
31 activities. The report shall be filed by January 31st, covering the previous calendar year.

32
33 B. Failure to timely file a Lobbyist Activity Report may result in a fee of \$10 for each late day, up to
34 a maximum of \$1,000.

35
36 C. For an entity that is required to register as a Lobbyist (i.e., not an individual) if the registrant is not an
37 individual, an authorized officer or agent of the registrant must shall sign the form. Each Lobbyist must
38 shall file a separate activity report for each individual or entity person from whom the Lobbyist he
39 receives compensation. The report must shall include:

- 40
41 1. A complete and current statement of the information required to be supplied pursuant to this
42 pPractice.
43
44 2. Total expenditures on acts requiring registration in each of the following categories: (**Note to Draft**

1 **Reviewer:** Some content below has been reorganized in the numbering sequence, however, the text
2 is unchanged.)
3

- 4 a. Meals and beverages for **Commissioners officials**, or employees, or their immediate families;
5
 - 6 b. Entertainment, including parties, dinners, athletic events, and other functions to which all
7 members of the **agency Commission** and employees are invited;
8
 - 9 c. Expenses of food, lodging, and scheduled entertainment of Commissioners and employees for a
10 meeting which is given in return for participation in a panel or speaking engagement at the
11 meeting;
12
 - 13 d. Expenses for a ticket or free admission to Commissioners and employees to attend charitable,
14 cultural or political events where a Commissioner or employee is invited by the event holder;
15
 - 16 e. ~~Other~~ Gifts to or for Commissioners, or employees, or their immediate families;
17
 - 18 f. Total compensation paid to the registrant not including either expenses reported under
19 ~~subparagraph subsections (a), (h), (i), (j), (k) (iii) through (vi)~~ or salaries, compensation, and
20 reimbursed expenses for the staff of the registrants;
21
 - 22 g. Salaries, compensation and reimbursed expenses for staff who were not required to register;
23
 - 24 h. Office expenses of the registrant not reported in ~~subparagraph (i) of this subsection (f)~~;
25
 - 26 i. Professional and technical research and assistance not reported in ~~subparagraph (i) of this~~
27 subsection (f);
28
 - 29 j. Publications which expressly encourage persons to communicate with **Commissioners officials** or
30 employees;
31
 - 32 k. Names of witnesses, and the fees and expenses paid to each;
33
 - 34 l. Any other relevant expenses.
35
- 36 3. The name of each Commissioner, or employee, or ~~member of his~~ immediate family **member**, who
37 has benefited from gifts with ~~accumulative~~ a cumulative value of \$75 or more during the reporting
38 period given by the registrant or anyone acting in behalf of the registrant, whether or not the gifts
39 were given in connection with the registrant's Lobbying activities.
40

41 For the purpose of this subsection, gifts totaling less than \$15 in a calendar day need not be
42 counted toward the cumulative value of \$75, but if the cumulative value of \$75 is attained or
43 exceeded, each gift of \$15 or more, thereafter, shall be itemized by date, recipient, amount of
44 value, and the nature of the gift. Expenses reported for each meeting, event, **or seminar shall be**

1 stated with and the date, location, and total expense incurred by the registrant but need not shall
2 be stated without with allocation of expenses to each individual participant.

3
4 D. The agency Commission may require any registrant to file additional reports as it may deem necessary.

5
6 E. Notice to Commissioner or Employee Named in Report

7
8 1. If any report filed with the Executive Director contains the name of a Commissioner, or employee
9 of the agency or member of their his/her immediate family, the Executive Director shall notify the
10 Commissioner or employee within 30 days, with a copy of such notification sent to the agency.

11
12 2. Following notification of inclusion of their his name in a report filed by a registrant, the
13 Commissioner or employee shall have 30 days to file a written exception or explanation to the
14 inclusion of their his or her name.

15
16 **V. Training Course**

17 Lobbyists shall complete the M-NCPPC Lobbyist training course within six (6) months of registering with the
18 agency or within two years following the date of the most recently-completed training course. (**Note**
19 **to Draft Reviewer:** Text added to reflect § 5–704.1 of the Maryland Public Ethics Law, which requires Lobbyists
20 to complete mandatory training.

21
22 **Note to Draft Reviewer:** New Section on reports to the State Ethics Commission (below) added to reflect § 5-830(c)
23 and (d) of the Maryland Public Ethics Law, as well as the Bi-County Commissions – Annual Reports – Conflicts of
24 Interest and Lobbying Act of 2020, which became effective October 1, 2020.

25
26 **VI. Agency Reports**

27
28 A. The Executive Director, on behalf of the agency, will:

29
30 1. Submit a copy of this Practice, inclusive of all future amendments, to the Maryland State Ethics
31 Commission.

32
33 2. On or before April 30th of each year:

34 a. Prepare an annual report on the Lobbying before the agency for the previous calendar year.

35
36 b. Submit the annual report to the Chief Administrative Officer of Montgomery County and Prince
37 George's County, and

38
39 c. Publish the annual report on the agency's website, www.mncpc.org.

1 **Note to Draft Reviewer:** New Section on public inspection of Lobbyist records (below) added to reflect § 5-710 of
2 the Maryland Public Ethics Law.

3
4 **VII. Public Inspection of Lobbyist Records**

- 5
6 A. The agency must maintain all required documents under this Practice and make them available to the public
7 for inspection and copying.
8
9 B. The agency may establish procedures for inspection. The agency may charge fees for copying as permitted
10 by the Maryland Public Information Act, § 4-205, Annotated Code of Maryland.
11

12 **VIII. Compliance and Enforcement**

- 13
14 A. The Executive Director is vested with the authority to implement and enforce this Practice, including
15 the authority to collect and maintain Lobbying registration and activity reports, as well as to
16 promulgate any forms, internal Administrative Procedures, and develop online applications or tools
17 deemed necessary or appropriate for such implementation.
18
19 B. The Maryland-National Capital Park and Planning Commission will enforce strict compliance of this
20 Practice ~~its practice~~, including by reporting any known violations in accordance with Section VI above
21 for this purpose. ~~by taking appropriate legal measures for this purpose.~~
22
23 C. Without limiting the generality foregoing, except upon good cause shown, the Executive Director may
24 suspend Lobbying privileges for a Lobbyist who violates this Practice.
25

26
27 **APPENDICES:**

- 28
29 A. Lobbyist Registration Form and Instructions
30
31 B. Lobbyist Activity Report Form and Instruction

**ANALYSIS OF COMMENTS SUBMITTED FOR
PROPOSED AMENDMENTS TO PRACTICE 5-61, LOBBYIST DISCLOSURE**

Six (6) submitted substantive comments are outlined by the relevant policy/procedure section, along with policy staff analysis/response. Recommendations for additional policy amendments are indicated as appropriate.

Section II (How and When to Register as a Lobbyist)

1. **Comment/Question submitted by the Montgomery County Planning Department Director:** I do not support a lobbyist [registration] fee.

Staff Response/Recommendation: This change has been implemented and is reflected in the current draft which shows the agency will not charge a Lobbyist registration fee.

Section IV(A) (Reports of Lobbying to the Commission)

2. **Comment/Question submitted by the Montgomery County Planning Department Director:** I support an annual report.

Staff Response/Recommendation: The draft reflects the status quo requirement for Lobbyists to file an activity report once annually.

Section IV(B) (Reports of Lobbying to the Commission)

3. **Comment/Question submitted by the Montgomery County Planning Department Director:** I do not support a late [activity report] fee at this time, although I think this should be re-assessed after 2 years.

Staff Response/Recommendation: The draft has been updated to reflect the Executive Committee's recommendation that the agency may charge a late activity report fee—in case this is needed for enforcement after implementing the updated policy.

Section IV(C) (Reports of Lobbying to the Commission)

4. **Comment/Question submitted by Prince George's Planning Department:** Clarity regarding content of Lobbyist Activity Report. Section IV(C) states:

- C. If the registrant is not an individual, an authorized officer or agent of the registrant ~~must shall~~ sign the form. Each Lobbyist ~~must shall~~ file a separate activity report for each ~~individual or entity person~~ from whom ~~the Lobbyist~~ he receives compensation. The report ~~must shall~~ include:

After this language, there is a list of numerous items/information that must be provided. So, this begs the question whether this information must be provided by all lobbyists, or just those registrants who are not

individuals. I just want to make sure this is the intent given that there are no other provisions that discuss the specific content of the Lobbyist Activity Report.

Staff Response/Recommendation: This information must be provided by the lobbyist (when the lobbyist is an individual) and by an authorized officer or agency (when the lobbyist is an entity). The language has been revised and clarified to provide:

C. For an entity that is required to register as a Lobbyist (i.e., not an individual) ~~if the registrant is not an individual~~, an authorized officer or agent of the registrant ~~must shall~~ sign the form. Each Lobbyist ~~must shall~~ file a separate activity report for each individual or entity ~~person~~ from whom the Lobbyist he receives compensation. The report ~~must shall~~ include:

5. **Comment/Question submitted by Prince George’s Planning Department:** Language was added to Section IV(C) that requires the lobbyist to report on the "[s]alaries, compensation and reimbursed expenses for staff who were not required to register"

Requiring all of this information seems to be onerous, especially seeking information about all of the employees' reimbursed expenses. Who is really going to review this potentially voluminous information? Will it be too voluminous to be of use? Maybe some limiting language could be added seeking list of reimbursed expenses related to MNCPPC and its employees, or expenses related to public entities or employees.

Staff Response/Recommendation: This section is almost entirely existing and is modeled after the State’s Lobbyist disclosure system, at least in terms of the content of the disclosure. Therefore, no change is recommended in the level of information required to be disclosed.

Practice 5-61 in General

6. **Comment/Question submitted by Prince George’s Planning Department:** Tracking requirements: I have the same concerns about the tracking requirements required in this policy, i.e., late fees, written authorizations, training, etc. However, if EOB is going to administer those provisions, then I defer to them about whether they have the capacity to address those items.

Staff Response/Recommendation: The requirement for the agency is for its Lobbying provisions to be “similar to the provisions” applicable to those who lobby the State legislature and executive branches. Therefore, addressing elements such as requiring written authorizations, training, etc. seek to cover the core elements of the policy while updating it and meeting this standard.