



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

To: Commission
From: Emma Burke, Political Committee & Lobbyist Registrar
Date: March 18, 2024
Re: Required Harassment Prevention Training Not Attended by Four Lobbyists

As part of a complete annual registration, since July 2018 Maine lobbyists are required to attend a yearly harassment prevention training hosted by the Legislature. There are multiple opportunities to take the Zoom training during the first few months of the lobbying year, and lobbyists can participate in one before or after they submit their lobbying registrations to the Commission. In 2024, a total of six trainings were offered in December, January, and February. Three in-state lobbyists of the 218 registered as of February 2, 2024 (the date of the final training) failed to attend any of the trainings, resulting in their lobbying registrations being considered incomplete under Maine law. The Commission staff recommend penalties for each lobbyist based on the number of months they have been registered as of the March 2024 Commission meeting.

Legal Requirements

Title 3, § 170-B states: “All Legislators, legislative staff, lobbyists and lobbyist associates shall attend and complete a course of in-person education and training regarding harassment, including, but not limited to, sexual harassment and racial harassment, at the beginning of each regular session of the Legislature.” Under 3 M.R.S. Chapter 15, the Lobbyist Disclosure Procedures, § 312-B states:

A lobbyist or lobbyist associate shall complete the training required under section 170-B, retain proof of the that training for 2 years following completion and certify completion of that training to the Commission at the time of registration under section 313. If completion of the required training prior to registration is not possible due to circumstances that are beyond lobbyist’s or lobbyist associate’s control, the Commission may provide a limited extension to that lobbyist or lobbyist associate for completion of the training. If a lobbyist or lobbyist associate has a very limited presence in the State House and Burton M. Cross Building, the Commission may exempt the lobbyist or lobbyist associate from the requirements of this section.

The registration statute requires lobbyists to include the date of completion of training in their registrations or a request for an extension or exemption. 3 M.R.S. § 316(4-D). If a lobbyist does not participate in the required harassment prevention training, and does not qualify for an exemption, 3 M.R.S. § 321(9) declares (emphasis added): “The Commission *shall reject* registrations that do not include certification of completion of training required under section 170-B...” Additionally, § 319(1) notes:

Any person who files to file a registration or report as required by this chapter is subject to a civil penalty...of \$100 for every month the person fails to register...the Commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty...The Commission may waive the penalty in whole or in part if [it] determines the failure to register...was due to mitigating circumstances or the penalty is disproportionate to the level of experience of the lobbyist or harm suffered by the public...’[M]itigating circumstances’ means: A valid emergency determined by the Commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; An error by the Commission; or Circumstances determined by the Commission to warrant the waiver of the penalty in whole or in part, based upon relevant evidence presented that a *bona fide* effort was made to file...including, but not limited to, unexplained delays in internet service.

Discussion

For the 2024 lobbying year, the Legislature held six harassment prevention trainings, which were offered on December 19, 2023, January 12, January 31, and February 2, 2024. All lobbyists registered before the date of the final training were expected to fulfill the registration requirement by attending one of these trainings via Zoom. The training lasted approximately 30 minutes. Political Committee & Lobbyist Registrar Emma Burke sent out multiple email reminders to all lobbyists notifying them of the training dates, which were also posted on the Commission’s website. Since the three lobbyists reside in the State of Maine, they are unlikely to qualify for the “limited presence” exemption.

Nicholas Bennett

Nicholas Bennett is a lobbyist for Natural Resources Council of Maine (NRCM) and registered on December 21, 2023. The preliminary penalty for Mr. Bennett is \$300, as he has been registered for three months as of the March meeting. In response to the notice of recommended penalty, he apologizes and says he is embarrassed he missed the training. He noted during the time period when the trainings were offered his father had recently died and he was assisting his family in

dealing with that loss in addition to a stressful period at NRCM involving the resignation of the CEO and a heavy workload.

Jennifer DeChant

Jennifer DeChant is a lobbyist for Summit Natural Gas of Maine (SNGM) and registered on January 30, 2024. The preliminary penalty for Ms. DeChant is \$200, as she has been registered for two months as of the March meeting. In her response to the notice of recommended penalty she notes she did not expect she would be required to register as a lobbyist this year, as it is not normally part of her occupation. She also states she timely filed her February Monthly Lobbying Report, and that report will be the only one for the year that reports any lobbying activity for her. Due to her limited amount of time lobbying, the unexpected nature of her lobbying registration, and her registration being only a few days before the final harassment prevention training was offered, Ms. DeChant requests a waiver of the \$200 penalty.

Myles Smith

Myles Smith is a lobbyist for Maine Broadband Coalition (MBC) and registered on January 31, 2024. The preliminary penalty for Mr. Smith is \$200, as he has been registered for two months as of the March meeting. In his response to the notice of recommended penalty he explains he operates a small non-profit organization by himself, and also registered on January 31st, two days before the final training session. He notes “As the only staff member of our organization, it is difficult to remain in compliance with all the relevant requirements of the job while also completing our work.” He states he has not been in person at the State House for the last month, and thinks it unlikely he will be there again this session. He “ask[s] for some relief and consideration from the Commission...on this requirement by eliminating or reducing the penalty...owed.”

Staff Recommendations

The preliminary penalties are \$300 for Nicholas Bennett, and \$200 for Jennifer DeChant and Myles Smith. Commission staff leave it to your discretion whether to grant any waiver based on the work and personal circumstances described by the lobbyists. In previous years, the Commission has not assessed penalties for this violation, due to a combination of factors such as covid, a lack of violations in some years, and the timing of Legislature’s training schedules.

Unlike late campaign finance reports where statute provides a formula to assign a preliminary penalty, the incomplete lobbying registration statute directs the Commission to *reject* the registration. Commission staff recommend penalizing the lobbyists under the direction of § 319(1), which calls for a penalty of \$100 for every month the registration remains incomplete. Considering no additional harassment prevention trainings will be offered this year, it is not possible for the registrations of these three lobbyists to come into compliance for the 2024 lobbying year, thus a penalty of \$1,200 could be assigned to Nicholas Bennet, and a \$1,100 penalty assigned to Jennifer DeChant and Myles Smith.

The Commission staff calculated the preliminary penalties to reach an end point as of the date of the Commission's March meeting, as none of the three individuals have an opportunity to take a training at this juncture and complete their registrations. Penalties of \$200 and \$300 are not insignificant and are high penalties compared to the most commonly penalized lobbying violation: a late filed monthly report. The Commission staff are comfortable with the Commission taking into account any further information it has learned from the responses from Mr. Bennett, Ms. DeChant, and Mr. Smith when deciding whether to waive the preliminary penalty amounts on a more case-by-case basis, which the Commission staff does not have the authority to do by statute.

Burke, Emma

From: Nick Bennett <nbennett@nrcm.org>
Sent: Friday, March 8, 2024 3:17 PM
To: Burke, Emma
Subject: My apologies for missing harassment training

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Ms. Burke:

I am writing to apologize for missing the harassment trainings for the 2024 legislative session. I am very sorry and embarrassed about missing these. I know it's not a particularly good excuse, but it has been a tough few months. My father died at the end of 2023, and I have been busy and distracted with helping my sister, who has been very troubled by this event, cope with that.

It has also been a very stressful time for me at work, both because of my workload and because of internal difficulties at NRCM with a new CEO who has resigned and will soon leave our office. If it helps, I also forgot to register my car, though I did remember to do so before I got pulled over.

Anyway, at the risk of being repetitive, I am very sorry and embarrassed to have missed the trainings this year. It won't happen again.

Sincerely,

Nick Bennett

Staff Scientist and Healthy Waters Director
3 Wade Street, Augusta, Maine 04330
Direct: (207) 430-0116



Natural Resources
Council of Maine
Protecting the Nature
of Maine – join us!

NRCM is committed to a more inclusive Maine.

Burke, Emma

From: Jennifer DeChant <jdechant@summitutilities.com>
Sent: Monday, March 11, 2024 10:41 AM
To: Burke, Emma
Cc: Jennifer DeChant
Subject: Lobbyist Harassment Prevention Training

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

March 11, 2024

Emma Burke
Political Committee and Lobbyist Registrar
Commission on Governmental Ethics and Election Practices
Augusta, Maine

Emma-

Please allow this email to follow up on the February 24 regarding Notice of Violation -Failure to Attend Required Lobbyist Harassment Prevention Training. I appreciate the opportunity to provide context to how this error occurred.

I did not anticipate that I would exceed the lobbying threshold at the beginning of this year. Lobbying was not a focus of my position, prior to the beginning of this legislative session. Because of the introduction of a very extensive bill related to our industry, I was asked to spend time on lobbying activities by my employer. Therefore, I registered online on January 30. When I registered, I was not aware the January 31 (the next day) or February 2 -only 2 days later – were the only remaining training sessions for sexual harassment.

I submitted my January hours with the lobbying report on February 15. This activity was the exception. For the next 11 months, I will report zero hours of activity by the 15th of each month.

Due to the timing challenge of when I registered and the scheduling of the trainings, combined with my inexperience in registering as a lobbyist, I request a waiver on the penalty fee that has been assessed.

Sincerely,
Jennifer DeChant



Jennifer DeChant

Burke, Emma

From: Myles Smith <myles@mainebroadbandcoalition.org>
Sent: Friday, March 15, 2024 2:04 PM
To: Burke, Emma
Subject: Re: Penalty for Missed Harassment Prevention Training

EXTERNAL: This email originated from outside of the State of Maine Mail System. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello Emma,

Please provide the following to your fellow staff of the Maine Commission on Governmental Ethics and Election Practices. Thank you!

Dear Commission:

I humbly ask for some relief and consideration from the Commission staff on this requirement by eliminating or reducing the penalty we are owed. I am the Executive Director and only staff member of the Maine Broadband Coalition, which educates and advocates for digital equity and rural broadband access for Mainers on behalf of its members, which are a group of economic development organizations, community groups, small businesses, and education and health care institutions. More information can be found here: www.mainebroadbandcoalition.org.

After working on a number of bills on broadband this winter, including one before the EUT (LD 240) to support the rights of tenants to access broadband in their apartments, I realized I had probably crossed the threshold, for the first time, into needing to register as a lobbyist in January. I registered on January 31, promptly paid the registration fee, and filed my lobbying reports. One requirement for lobbyists was to complete the anti-harassment training, the last session of which was offered on February 2, right after I filed my registration. I missed it.

I assure you I value the intent of the course, and would have been happy to take it as a self-paced session, but there's no option for that now. As the only staff member of our organization, it is difficult to remain in compliance with all the relevant requirements of the job while also completing our work.

I have not been in person at the State House for a month, and it's unlikely I'll be there again this session. If I continue in this work in the fall, I'll happily complete the training at that time.

Thank you for your consideration. I'm happy to answer any other questions you have.

Myles Smith
Executive Director, Maine Broadband Coalition
207-200-1795



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135 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0135

February 23, 2024

Nicholas Bennett
3 Wade Street
Augusta, Maine 04330

Re: Notice of Violation - Failure to Attend Required Lobbyist Harassment Prevention Training

Dear Mr. Bennett:

Commission records indicate you did not attend the harassment prevention training required annually of lobbyists in the 2024 lobbying year. All lobbyists and lobbyist associates registered in Maine must “attend and complete a course of in-person education and training regarding harassment...at the beginning of each regular session of the Legislature.” 3 M.R.S. § 170-B. This lobbying year, trainings were offered on December 19, 2023, January 12, 2024, January 31, 2024, and February 2, 2024.

Under 3 M.R.S § 321(9), the Commission staff believes your lobbyist registration to be incomplete. Any lobbyist who has not filed a complete registration may be assessed a fine of \$100 for every month a complete registration is not filed. 3 M.R.S. § 319(1).

Your failure to attend a harassment prevention training will be considered by the Ethics Commission at its March 27, 2024 meeting, where the Commission staff will recommend your lobbyist registration for this year be determined incomplete and recommend a penalty of \$300, as you will have been registered for 3 calendar months without a complete registration at the time of the March 27th Commission meeting (3 M.R.S § 321(9)). You may request a waiver of this penalty based on the mitigating factors listed in 3 M.R.S. § 319(1).

You may respond to the proposed enforcement actions by submitting a written response no later than March 15, 2024, and participating in the Ethics Commission meeting on March 27, 2024. Please contact me at 207-287-4709 or emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar



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February 23, 2024

Jennifer DeChant
2 Delorme Drive
Yarmouth, Maine 04096

Re: Notice of Violation - Failure to Attend Required Lobbyist Harassment Prevention Training

Dear Ms. DeChant:

Commission records indicate you did not attend the harassment prevention training required annually of lobbyists in the 2024 lobbying year. All lobbyists and lobbyist associates registered in Maine must “attend and complete a course of in-person education and training regarding harassment...at the beginning of each regular session of the Legislature.” 3 M.R.S. § 170-B. This lobbying year, trainings were offered on December 19, 2023, January 12, 2024, January 31, 2024, and February 2, 2024.

Under 3 M.R.S § 321(9), the Commission staff believes your lobbyist registration to be incomplete. Any lobbyist who has not filed a complete registration may be assessed a fine of \$100 for every month a complete registration is not filed. 3 M.R.S. § 319(1).

Your failure to attend a harassment prevention training will be considered by the Ethics Commission at its March 27, 2024 meeting, where the Commission staff will recommend your lobbyist registration for this year be determined incomplete and recommend a penalty of \$200, as you will have been registered for 2 calendar months without a complete registration at the time of the March 27th Commission meeting (3 M.R.S § 321(9)). You may request a waiver of this penalty based on the mitigating factors listed in 3 M.R.S. § 319(1).

You may respond to the proposed enforcement actions by submitting a written response no later than March 15, 2024, and participating in the Ethics Commission meeting on March 27, 2024. Please contact me at 207-287-4709 or emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar



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AUGUSTA, MAINE 04333-0135

February 23, 2024

Myles Smith
PO Box 8318
Portland, Maine 04104

Re: Notice of Violation - Failure to Attend Required Lobbyist Harassment Prevention Training

Dear Mr. Smith:

Commission records indicate you did not attend the harassment prevention training required annually of lobbyists in the 2024 lobbying year. All lobbyists and lobbyist associates registered in Maine must “attend and complete a course of in-person education and training regarding harassment...at the beginning of each regular session of the Legislature.” 3 M.R.S. § 170-B. This lobbying year, trainings were offered on December 19, 2023, January 12, 2024, January 31, 2024, and February 2, 2024.

Under 3 M.R.S § 321(9), the Commission staff believes your lobbyist registration to be incomplete. Any lobbyist who has not filed a complete registration may be assessed a fine of \$100 for every month a complete registration is not filed. 3 M.R.S. § 319(1).

Your failure to attend a harassment prevention training will be considered by the Ethics Commission at its March 27, 2024 meeting, where the Commission staff will recommend your lobbyist registration for this year be determined incomplete and recommend a penalty of \$200, as you will have been registered for 2 calendar months without a complete registration at the time of the March 27th Commission meeting (3 M.R.S § 321(9)). You may request a waiver of this penalty based on the mitigating factors listed in 3 M.R.S. § 319(1).

You may respond to the proposed enforcement actions by submitting a written response no later than March 15, 2024, and participating in the Ethics Commission meeting on March 27, 2024. Please contact me at 207-287-4709 or emma.burke@maine.gov if you have questions.

Sincerely,

Emma Burke
Political Committee & Lobbyist Registrar

§170-B. Required training regarding harassment

All Legislators, legislative staff, lobbyists and lobbyist associates shall attend and complete a course of in-person education and training regarding harassment, including, but not limited to, sexual harassment and racial harassment, at the beginning of each regular session of the Legislature. The Legislative Council shall develop and implement this course of education and training. For the purpose of this section, "lobbyist" and "lobbyist associate" have the same meanings as in section 312-A, subsections 10 and 10-A, respectively. [PL 2019, c. 587, §2 (AMD); PL 2019, c. 587, §18 (AFF).]

SECTION HISTORY

PL 2017, c. 443, §1 (NEW). PL 2019, c. 41, §1 (AMD). PL 2019, c. 587, §2 (AMD). PL 2019, c. 587, §18 (AFF).

§312-B. Required training regarding harassment

A lobbyist or lobbyist associate shall complete the training required under section 170-B, retain proof of completion of the training for 2 years following completion and certify completion of that training to the commission at the time of registration under section 313. If completion of the required training prior to registration is not possible due to circumstances that are beyond a lobbyist's or lobbyist associate's control, the commission may provide a limited extension to that lobbyist or lobbyist associate for completion of the training. If a lobbyist or lobbyist associate has a very limited physical presence in the State House and the Burton M. Cross Building, the commission may exempt the lobbyist or lobbyist associate from the requirements of this section. [PL 2019, c. 587, §6 (AMD); PL 2019, c. 587, §18 (AFF).]

SECTION HISTORY

PL 2017, c. 443, §2 (NEW). PL 2019, c. 587, §6 (AMD). PL 2019, c. 587, §18 (AFF).

§319. Penalty

1. Failure to file registration or report. Any person who fails to file a registration or report as required by this chapter is subject to a civil penalty, payable to the commission, of \$100 for every month the person fails to register or is delinquent in filing a report pursuant to section 317. If a registration or report is filed late, the commission shall send a notice of the finding of violation and preliminary penalty. The notice must provide the lobbyist with an opportunity to request a waiver of the preliminary penalty. If a lobbyist files a report required pursuant to section 317 within 24 hours after the deadline, the amount of the preliminary penalty is \$50. The preliminary penalty is increased by \$50 for each successive violation during a lobbying year. The commission may waive the penalty in whole or in part if the commission determines the failure to register or report was due to mitigating circumstances or the penalty is disproportionate to the level of experience of the lobbyist or the harm suffered by the public from the late registration or report. For purposes of this subsection, "mitigating circumstances" means:

A. A valid emergency determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [PL 2023, c. 324, §3 (AMD).]

B. An error by the commission; or [PL 2011, c. 179, §7 (NEW).]

C. Circumstances determined by the commission to warrant the waiver of the penalty in whole or in part, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with this chapter, including, but not limited to, unexplained delays in Internet service. [PL 2023, c. 324, §3 (AMD).]

[PL 2023, c. 324, §3 (AMD).]

1-A. Notice of suspension. Any person who fails to file a report or pay a fee as required by this chapter may be suspended from further lobbying by written notice of the commission until such failure is corrected.

[PL 1993, c. 446, Pt. B, §12 (AMD).]

2. Class E crime.

[PL 1979, c. 632, §3 (RP).]

3. Exemption. Notwithstanding section 317, subsection 1, a registered lobbyist is exempt from the penalty imposed under this section if, while the Legislature is convened in special session, the lobbyist failed to file a report with the commission pursuant to section 317 if no lobbying has been performed during that special session.

[PL 1993, c. 446, Pt. B, §13 (AMD).]

SECTION HISTORY

PL 1975, c. 576 (NEW). PL 1975, c. 621, §2 (RP). PL 1975, c. 724 (REEN). PL 1977, c. 696, §17 (AMD). PL 1979, c. 632, §3 (RPR). PL 1989, c. 114 (AMD). PL 1991, c. 465, §2 (AMD). PL 1993, c. 446, §§A15,B11-13 (AMD). PL 1993, c. 691, §22 (AMD). PL 2011, c. 179, §7 (AMD). PL 2023, c. 324, §3 (AMD).

§321. Powers and duties of the commission

In order to carry out the purposes of this chapter, the commission shall have the following powers and duties. [PL 1993, c. 446, Pt. B, §15 (AMD).]

1. Furnishing of forms. The commission shall furnish forms to persons required to register or file reports.

[PL 1993, c. 446, Pt. B, §15 (AMD).]

2. Availability of copying facilities. The commission shall make copying facilities available to the public during regular office hours and, notwithstanding any other provisions of law fixing the cost of such services, shall charge the actual cost of such services.

[PL 1993, c. 446, Pt. B, §15 (AMD).]

3. Filing of voluntary information. The commission may accept and file any information voluntarily supplied that exceeds the requirements of this chapter.

[PL 1993, c. 446, Pt. B, §15 (AMD).]

4. Preservation of registrations and reports. The commission shall preserve all registrations and reports filed pursuant to this chapter for 4 years from date of receipt and may dispose of same.

[PL 1993, c. 446, Pt. B, §15 (AMD).]

5. Acceptance or rejection of forms. The commission may prescribe forms for all documents required or permitted to be filed with the commission and may refuse to accept documents not filed on those forms.

[PL 1993, c. 691, §24 (AMD).]

6. Refusal of filing. The commission may refuse to accept any document that is not legible or that can not be clearly reproduced photographically.

[PL 1993, c. 446, Pt. B, §15 (AMD).]

7. Review reports for completeness. The commission may reject reports that are incomplete.

[PL 1993, c. 691, §25 (AMD).]

8. Investigations. The commission may undertake investigations into the failure to file a registration or to determine the accuracy and completeness of the registration and reporting of lobbyists and their employers if the members of the commission have found cause to believe that a violation may have occurred based on a properly filed complaint or other information received by the commission.

[PL 2007, c. 630, §16 (NEW).]

→ **9. Reject registrations.** The commission shall reject registrations that do not include certification of completion of training required under section 170-B or requests for extensions or exemptions pursuant to section 312-B.

[PL 2019, c. 587, §17 (AMD); PL 2019, c. 587, §18 (AFF).]

SECTION HISTORY

PL 1975, c. 576 (NEW). PL 1975, c. 621, §2 (RP). PL 1975, c. 724 (REEN). PL 1989, c. 732, §2 (AMD). RR 1993, c. 1, §2 (COR). PL 1993, c. 446, §§A17,B15 (AMD). PL 1993, c. 691, §§24,25 (AMD). PL 2007, c. 630, §16 (AMD). PL 2017, c. 443, §5 (AMD). PL 2019, c. 587, §17 (AMD). PL 2019, c. 587, §18 (AFF).