

MAYER • BROWN

Governmental Ethics For Lawyers

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Speakers



Joe Seliga practices in the area of state and local government law, representing public sector and private sector clients in a wide array of transactional, legislative and regulatory matters.

Joe is a leader of Mayer Brown's campaign finance practice, advising corporations, political committees and candidates on federal, state and local laws related to political contribution regulations and reporting requirements. In 2010, he was named by Illinois Governor Pat Quinn to the Illinois Campaign Finance Reform Task Force, a statutorily created task force that is reviewing and making recommendations on campaign finance laws in Illinois. Joe also advises clients on government ethics, procurement, lobbyist registration and open records laws.

Joe also has extensive experience in complex government transactions, particularly in the infrastructure sector. Joe played a principal role in the \$1.83 billion concession and lease of the Chicago Skyway Toll Bridge, the first transaction of its kind in the United States, and the \$3.8 billion Indiana Toll Road and \$603 million Northwest Parkway concession and lease transactions, each of which received the Project Finance North American Transport Deal of the Year Award. Joe also has advised clients on path-breaking parking garage, airport and port concession and lease transactions and lottery concession transactions and represented public sector and private sector clients with respect to wind farm, power plant, sanitary system and coal and coal gasification projects in various states.

Overview

- Review of Key Governmental Ethics Requirements Applicable to Lawyers (and to Others)
 - Campaign Contribution Limitations
 - “Pay to Play” Requirements
 - Judicial Ethics Related to Political Contributions
 - Lobbyist Registration
 - Gift Limitations
 - Open Government Requirements
 - Serving on a Public Board or Commission

Overview (cont'd)

- Different “Layers” of Government Ethics Laws
 - Federal
 - State
 - Local
- Legal Requirements vs. Other Factors
 - Law
 - Ethics
 - Perception
- Criminal Offenses

Campaign Contribution Limitations

- New Generally Applicable Campaign Contribution Limitations in Illinois
 - Specific Limits on Individual Contributions
 - Requirement to Disclose Occupation and Employer
- Long-standing Generally Applicable Limits Related to Federal PACs
- Contributions to Federal 501(c)(4) Entities
- Limitations in Other States
 - Often Much Lower
 - Different Requirements for In-State and Out-of-State Residents
 - Different Requirements for Different Offices

“Pay to Play” Requirements

- Illinois—Plethora of Specific “Pay to Play” Requirements
 - State of Illinois
 - Metropolitan Pier and Exposition Authority
 - City of Chicago Ordinance
 - City of Chicago Executive Order
- SEC Rule for Investment Advisers
- MSRB Rules for Municipal Finance Professionals, Municipal Advisors and Bank PACs

“Pay to Play” Requirements (cont’d)

- ABA Model Rule 7.6 Political Contributions To Obtain Legal Engagements Or Appointments By Judges
 - “A lawyer or law firm shall not accept a government legal engagement or an appointment by a judge if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment.”
 - NOT adopted as part of Illinois Rules of Professional Conduct

Judicial Ethics Related to Political Contributions

- *Caperton v. A.T. Massey Coal Co.*, 129 U.S. 2252 (2009)
 - Political Contributions May Rise to Level Where Due Process Requires Recusal
- State Law Rules Related to Judicial Candidate Contributions
 - Limits on Personal Involvement in Fundraising
 - Illinois: “A candidate shall not personally solicit or accept campaign contributions.”
 - Applicability of Disqualification Rules
 - Illinois: “Though not prohibited, campaign contributions of which a judge has knowledge, made by lawyers . . . , may be relevant to disqualification”
 - Required Disqualification Rules in Other States

Lobbyist Registration

- Layers of Government Have Separate Requirements
 - Federal Government
 - State of Illinois (covers executive, legislative and administrative action)
 - City of Chicago
 - Sister Agencies

Lobbyist Registration (cont'd)

- Factors to Consider
 - Influencing Activity
 - Goodwill
 - Lobbiable Officials
 - Expenditure Requirements
 - Contact Requirements
 - Exceptions, including for Lawyers
- Reporting Requirements
- Lobbying “Pay to Play”: City of Chicago Executive Order

Gift Limitations

- Layers of Government Have Separate Requirements
- Generally Applicable Requirements
- Separate Requirements for Lobbyists or Special Covered Individuals
- Distinctions Between Requirements
 - State of Illinois: \$75 Food and Beverage Limit per Day and \$100 *De Minimis* Exception per Year
 - City of Chicago: \$100 *De Minimis* Exception per Year only with no Gift More than \$50

Open Government Requirements

- Sunshine Laws
 - Freedom of Information/Public Records Laws
 - Open Meetings Act
 - Ex Parte Communication Recordkeeping
- Procurement Requirements
 - Procurement Related Communications
 - Mandated Disclosures

Serving on a Board or Commission

- Conflict of Interest Prohibitions (including for employees)
- State Lobbyist Prohibition
- Financial Disclosure Requirements
- Open Meetings Act
- Freedom of Information Act

Questions?

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