



## **COLORADO LOBBYING DISCLOSURE GUIDE**

These resources are current as of 5/21/19. We do our best to periodically update these resources and welcome any comments or questions regarding new developments in the law. Please email us at [advocacy@afj.org](mailto:advocacy@afj.org).

*All lobbyists, including Volunteer Lobbyists, should become familiar with Article XXIX in the Colorado Constitution, Colorado Revised Statutes 24-6-through 24-6-309, and any rules of the General Assembly (“the Legislature”) concerning lobbying (Joint Senate and House Rule 36; Senate Rule 31; House Rules 39, 40 and 41).*

*We recommend visiting the Colorado Secretary of State’s website and clicking on Lobbyists for additional information. [www.sos.state.co.us](http://www.sos.state.co.us)*

This guide summarizes key aspects of laws and regulations governing lobbying on the state level. It is not intended to provide legal advice or to serve as a substitute for legal advice.

In some jurisdictions, like Denver, Colorado, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.

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### **NOTE:**

Nonprofits can lobby state lawmakers and state officials, but their employees, who are compensated to lobby, must register as a “lobbyist” with the state electronically before lobbying. The registration, reporting, and conduct details are below. If the nonprofit employee’s “lobbying” activities are limited to public testimony before a legislative committee or state agency, they are not required to register as a lobbyist.

# DEFINITIONS

Lobbying – communicating, or soliciting others to communicate, with a Covered Official for the purpose of aiding in or influencing bills before the general assembly or matters before any state agency having rule-making authority. CRS § 24-6-301(3.5). Colorado law makes no distinction between direct lobbying and grassroots lobbying.

## Types of Lobbyists –

- Professional Lobbyist – any individual who is paid to engage in lobbying. CRS § 24-6-301(6). An individual is not considered a professional lobbyist solely because of his appearance as a witness in rule-, standard-, or rate-making proceedings. CRS § 24-6-303(5).
  
- Volunteer Lobbyist – any individual who engages in lobbying and whose only receipt of money or other thing of value consists of reimbursement for actual and reasonable personal expenses such as meals, travel, lodging and parking either while engaged in lobbying or in informing the organization making the reimbursement or other members thereof of his/her lobbying. CRS § 24-6-301(7).

**Note: “Lobbying” excludes persons not otherwise registered as lobbyists who limit their activities to appearances to give testimony or providing information to legislative committees or at public hearings of state agencies. CRS § 24-6-301 (3.5) (d)(III)(B)**

## Other Actors –

- Principal – any person or entity that employs a lobbyist. CRS § 24-6-301(5.5).
  
- Covered Official – the governor, the lieutenant governor, a member of the general assembly, a member of legislative council staff, or for the purposes of administrative rule-making or rate-setting, an official of a state agency, board or commission which has jurisdiction over the subject matter of a rule, standard, or rate. CRS § 24-6-301(1.7).

Grassroots Lobbying – Colorado law makes no distinction between direct lobbying and grassroots lobbying. The definition of “lobbying” covers all activities to communicate, or to *solicit others to communicate*, with a Covered Official for the purpose of influencing bills before the general assembly or matters before any state agency having rule-making authority. CRS § 24-6-301(3.5).

# REGISTRATION

Electronic Filing – All registration and disclosure statements filed with the Secretary of State must be filed electronically – paper copies will not be accepted. Waivers to this requirement may be granted based on hardship or good cause. Applications for waivers must be received by the Secretary of State at least 15 days prior to the first applicable filing deadline. 8 CCR 1505-8 (5.1). Lobbyists may register electronically at <http://www.sos.state.co.us/lobby/RequestUserId.do> and may file reports electronically at <http://www.sos.state.co.us/lobby/Login.do>.

Registration of Principals – Principals do not need to register; only individuals who are paid to lobby must register.

Registration of Volunteer Lobbyists – Volunteer Lobbyists and citizens who lobby on their own behalf do not need to register with the Secretary of State. CRS § 24-6-303 (6). However, Volunteer Lobbyists must register with the Chief Clerk of the Colorado House of Representative as required by Rule 40 of the Rules of the House of Representatives and Rule 36(c) of the Joint Rules of the House and Senate. The Clerk of the House requires a simple one-page form to be completed prior to engaging in voluntary lobbying disclosing the name of the Volunteer Lobbyist, a business address and telephone number (home address and home telephone number optional), and the committee(s) or group(s) represented by the Volunteer Lobbyist. The form also requires confirmation that the Volunteer Lobbyist has received a copy of the Secretary of State publication, *Guidelines for Lobbyists*, available on the Secretary of State's website at [www.leg.colorado.gov/agencies/house-representatives/guidelines-lobbyists](http://www.leg.colorado.gov/agencies/house-representatives/guidelines-lobbyists), and from the Office of the Chief Clerk, Colorado House of Representatives. The name of the Volunteer Lobbyist and the committees or groups represented is incorporated into the [lobbyist database accessible on the Colorado Secretary of State website](#).

For more information, the Chief Clerk of the House of Representatives' telephone number is 303-866-2345.

## Registration of Professional Lobbyists

- Timing – Before lobbying, a Professional Lobbyist must register with the Colorado Secretary of State, regardless of whether the person's activities constitute direct or grassroots lobbying. CRS § 24-6-303(1).
- Registration Procedure –
  - A Professional Lobbyist's registration must include:
    1. Their name, business address and phone number;
    2. The name, address, and telephone number of any person who employs the lobbyist;
    3. The name, address and the telephone number of any person or entity for whom the lobbyist will lobby; and

4. The name, address, and telephone number of any person by whom the lobbyist or firm organized for professional lobbying is paid or is to be paid for such lobbying. CRS § 24-6-303(1).

- Registration Fee – Electronic filing of the Professional Lobbyist registration statement is mandatory. The fee for submission is \$40. Upon request, the Secretary of State may waive this fee for a nonprofit organization if:
  1. the lobbyist derives his or her compensation solely from the organization; *and*
  2. one of the following are true:
    - a. the organization can demonstrate financial hardship conditions; *or*
    - b. the lobbyist will have interest in only one issue or bill and does not intend to lobby throughout the state fiscal year. 8 CCR 1505-8 (2.1.2 (a)).
- Updating Registration – A Professional Lobbyist must notify the Secretary of State each time he or she is hired to lobby by a person or entity that was not disclosed in the lobbyist’s original registration statement. When the General Assembly is not in session, the notice must be filed within five business days of agreeing to lobby for the person or entity. During a General Assembly session, the notice must be filed within 24 hours of 1) a written agreement to lobby, 2) the commencement of lobbying activities, or 3) payment for lobbying, whichever occurs first. CRS §24-6-302(6)(a).

Effective January 1, 2020, during a General Assembly session, additional notice must be filed with the Secretary of State within 72 hours each time after a lobbyist agrees to undertake lobbying for new legislation, rules or rates for either a new or existing client or if the lobbyist takes a new position on a new or existing bill for a new or existing client. This notice must include the bill number and whether the lobbyist’s client is supporting, opposing, amending, or monitoring the legislation. CRS §24-6-302(6.5).

- Renewing Registration – A Professional Lobbyist must file an updated registration statement on or before July 15 of each year, unless at that time he or she is no longer a Professional Lobbyist. Registration is effective until July 1 of the next year. CRS § 24-6-303(1.5). The annual renewal registration fee is \$25.00. Failure to renew causes the registration to lapse. A termination statement is not required.

## REPORTING

Reporting by Principals – Colorado law requires principals to report only expenditures for gifts and entertainment for Covered Officials over \$200 in the

aggregate per fiscal year<sup>1</sup>. CRS § 24-6-302(2). These reports must be filed monthly. However, no such report is required if the principal is described in the disclosure statement of a Professional Lobbyist or any firm organized for professional lobbying services. CRS § 24-6-302(2.5)(b).

Reporting by Volunteer Lobbyists – No reporting is required for Volunteer Lobbyists, political committees, citizens who lobby on their own behalf, or elected public officials acting in their official capacity. CRS § 24-6-302(5).

Reporting by Professional Lobbyists and Lobbying Firms –

- Professional Lobbyists and any firm organized for professional lobbying services must file disclosure statements. CRS § 24-6-302(2.5).

Disclosure Statement and Schedule –

- Monthly Reports – Lobbying activities must be reported monthly, beginning with the first month in which the lobbyist makes or incurs any expenditure for lobbying or receives any income for lobbying. After a lobbyist files a report, he or she must continue filing for the rest of the calendar year, even if there are months in which the lobbyist does not have any lobbying activities, makes or incurs no expenditures, and receives no income for lobbying. Disclosure reports must be filed within 15 days after the end of the month covered by the report. CRS § 24-6-302(2.5)(a).
  - Contents – Monthly disclosure statements must include:
    1. Gross income for lobbying since the prior month’s disclosure statement and the name and address of any person or entity from whom gross income for lobbying is received totaling \$100 or more. CRS § 24-6-302(2.5); §24-6-301(1.9)(a)(I-III).
    2. The name of any Covered Official to or for whom expenditures of \$65 or more have been made for gift or entertainment purposes in connection with lobbying, and the total of all expenditures made by or on behalf of the disclosing lobbyist to Covered Officials for gift or entertainment purposes in connection with lobbying since the last disclosure statement. Gifts valued at \$65 or more must be disclosed, regardless of whether the lobbyist made any expenditure for such gifts. 8 CCR 1505-8 (2.2); CRS § 24-6-301(1.9)(a)(IV), (V);
    3. A description of the person or entity for whom the Professional Lobbyist renders services and any business association the Professional Lobbyist has in any pending

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<sup>1</sup> “Fiscal year” means the period commencing July 1 and concluding June 30 of the following calendar year. CRS 24-6-301(2.3).

legislation. CRS § 24-6-301(1.9)(XI & XII). Effective January 1, 2020, lobbyists may not disclose only the name of their lobbying firm (or any other firm or entity), but instead must also disclose the name of the client who employs or retains the services of the lobbyist to undertake lobbying on its behalf. CRS §24-6-302(6.5)(9).

4. Disclosure of all mass-communication advertising and articles or editorials placed by the lobbyist, and his or her employer or agent; CRS § 24-6-301(1.9)(IX);
  5. The nature of the legislation, rules or rates and, when known, the specific legislation the Professional Lobbyist is interested in, the name of the person or entity for which the Professional Lobbyist renders services in connection with that legislation, and the position taken for that legislation. CRS § 24-6-301(1.9)(X); and a log of all position changes (monitoring, opposing, supporting, or amending) on each bill, rule, or rate, by date, 8 CCR 1505-8 (2.2.4); *and*
  6. If the Professional Lobbyist was not retained in connection with any legislation for the disclosure period, the Professional Lobbyist must make an affirmation to that effect. CRS § 24-6-301(1.9)(X).
- o Annual Report – Annual reports cover the state’s fiscal year, from July 1 through the following June 30. This report is cumulative for all income during the fiscal year, and must be filed on or before July 15 following the reporting period. CRS § 24-6-302(3)(b).
    - For example, a cumulative disclosure statement is due on or before July 15, 2012 for the period beginning July 1, 2011 and ending June 30, 2012.
    - Contents – The annual cumulative disclosure statement must contain the name of and total gross income for lobbying received from each person or entity during the covered year. If a lobbying firm or lobbyist subcontracts lobbying business to another firm or lobbyist, only the subcontractor is to report that income. The firm or lobbyist that subcontracted the business is to attach as an addendum to its report the total gross income received from lobbying that is being contemporaneously reported by the subcontractor. CRS § 24-6-302(3)(b).

Record Retention – Every person required to file disclosure statements must retain records pertaining to the disclosures for five years. CRS § 24-6-304. The following records must be retained: a) receipts for expenditures or contributions made; b) documentation of income; and c) contracts. The Secretary of State has the right to request an examination of the records pertaining to disclosure. CRS § 24-6-304.5.

# LOBBYING REGULATIONS

## Prohibited Practices

Under CRS § 24-6-308, it is prohibited for persons engaged in lobbying to, *inter alia*:

- make any agreement in which consideration by any means is contingent upon the passage, defeat or veto of any legislation;
- knowingly attempt to deceive, or to make a false statement to, a covered official relating to that official's duties;
- conceal from a covered official the identity of the person/entity for whom the lobbyist is lobbying;
- knowingly use a false or inaccurate name;
- seek to influence a covered official by communication with the covered official's employer; knowingly represent an interest adverse to the lobbyist's principal without first obtaining the consent of the principal;
- make any form of payment or loan to a covered official or engage in any transaction which would make the covered official personally obligated to the lobbyist;
- attempt to influence the vote of a covered official by threat of political reprisal, including promise of financial support of or opposition to the covered official's candidacy in any future election;
- make a campaign contribution in excess of the limitation established by law or rule;
- engage in any other practice that discredits the practice of lobbying or the general assembly.

In addition, when the general assembly is in session or legislation is pending before the governor, CRS § 1-45-105.5 prohibits lobbyists from making or promising to make a contribution to, or soliciting or promising to solicit a contribution for a member of the general assembly or candidate for the general assembly, or for governor, lieutenant governor, secretary of state, state treasurer, attorney general or for a candidate for any of those offices.

Participation in fund-raising events of a political party when the legislature is in session or legislation is pending before the governor is exempt from these prohibitions UNLESS the event is designed for specifically designated members of the general assembly or for the governor or specifically designated candidates for governor.

Reporting requirements and the calculation of the value of a meal at events sponsored by a political party, and reporting requirements for meals with incumbents or candidates are detailed in C.R.S. 25-6-302.

Note: A legislator may not request a lobbyist to make donations to any type of charitable organization.

Separate and apart from statutory and regulatory lobbying requirements, lobbying practices before the General Assembly are governed by Joint Rule 36 of the Joint Rules of the Senate and House of Representatives. The Rule specifies prohibited practices and establishes a complaint and enforcement process. Key provisions include:

#### Threats

- Lobbyists may not threaten economic or political reprisal (or violence) with the intent to alter a decision or vote.

#### General Assembly Operations:

- Lobbyist may not become an active participant in the internal organization or leadership races of the General Assembly;

#### State Resources:

- Lobbyists may not misappropriate or misuse state office supplies or use state copying machines without paying for their use.

*Note that many states' rules on gifts, travel and other benefits provided to public officials are extremely complex. The laws outlined below are only summaries of some of the more commonly encountered issues; organizations and lobbyists are advised to consult with legal counsel for a complete analysis of their proposed activities before giving gifts or other benefits to officials.*

### **Gifts**

- Article XXIX § 3 of the Colorado Constitution contains a very broad restriction on gifts. Under this provision, a public officer, member of the general assembly, local government official, or government employee may not accept gifts from any one person totaling more than \$65 in a calendar year, other than relatives and personal friends given on special occasions. For the purposes of this constitutional provision, "person" means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee or other legal entity. Colo. Const. Article XXIX, § 2(4). The current gift limit of \$65 is to be adjusted for inflation every four years, with the next adjustment due the first quarter of 2023. CO Independent Ethics Commission Position Statement 19-01 (2/8/19).
- Gifts from lobbyists in any amount are banned. Colo. Const. Article XXIX, § 3.

### **Contingency Fees**

- A Professional Lobbyist may not charge a fee that is contingent upon the passage, defeat, approval or veto of legislation or the making or defeat of any rule or rate. CRS § 24-6-308.

## **Revolving Door**

- Former statewide elected officeholders may not be paid to lobby statewide elected officeholders or members of the general assembly officials for two years after leaving office. Colo. Const. Article XXIX, § 4.
- If a lobbyist employs or causes his employer to employ a Covered Official, the employer must file a statement under oath with the Secretary of State within 15 days after employment stating the name of the Covered Official, a description of the job duties and the amount to be paid. CRS § 24-6-306. This does not apply to former Covered Officials.

## **Identification of Professional Lobbyists**

Professional lobbyists must wear a blue identification badge that differentiates them from legislative staff.

# CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

## Colorado Department of State

Elections Division – Lobbying Desk

1700 Broadway, Suite 270

Denver, CO 80290

303-894-2200

<http://www.sos.state.co.us/>

For assistance with locating manual lobbyist filings or with the online lobbyist system, contact Angela Larson 303-894-2200 ext. 6304.

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## FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

Email: [Advocacy@afj.org](mailto:Advocacy@afj.org)

Telephone: 1-866-NPLOBBY (675-6229)

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