



## **OHIO LOBBYING DISCLOSURE**

*These resources are current as of 6/12/2019. 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).*

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*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, city and/or county regulations may also apply to certain political activities. Check with the appropriate local jurisdiction before undertaking any activity.*

# DEFINITIONS

## Lobbying

- Lobbying – “actively advocat[ing]” by promoting, advocating or opposing the passage or modification of any legislation, or the executive signing or veto of any bill, by direct communication with a state legislator, the governor, controlling board member, or certain public employees. O.R.C. § 101.70(E). Generally excluded are activities by individuals who are not compensated to lobby, contacts made for the sole purpose of gathering information contained in the public record, and appearances to give testimony. O.R.C. §§ 101.70(E), 101.76.
- Executive Agency Lobbying – directly communicating with an elected executive official or certain public employees to influence the outcome of an executive agency decision. O.R.C. § 121.60(I).

## Types of Lobbyists

- **Legislative Agent** – “any individual ... who is engaged during at least a portion of his time to actively advocate as one of his main purposes.” The definition exempts General Assembly members and staff, and statewide elected officials. O.R.C. § 101.70(F). An individual is a legislative agent for an employer if his direct communications with covered officials or employees constitute at least five percent of the total time for which the employer compensates the individual. See 2014 Lobbying Handbook, Joint Legislative Ethics Committee & Office of the Legislative Inspector General (hereinafter “2014 Lobbying Handbook”), p. 14, available here. (<http://www.jlec-olig.state.oh.us/>)
  - Engagement – an arrangement where the individual is paid or retained to actively advocate on behalf of an employer. O.R.C. § 101.70(H).
- **Executive Agency Lobbyist** – “any person engaged to influence executive agency decisions or to conduct executive agency lobbying activity as one of his main purposes on a regular and substantial basis.” The definition exempts officials or employees of the federal, state or municipal governments or state colleges. O.R.C. § 121.60(H). An individual is an executive agency lobbyist for an employer if his direct communications with any covered official or employee constitutes at least 25 percent of the total time for which the employer compensates the individual. See 2014 Lobbying Handbook, p. 15, available here. (<http://www.jlec-olig.state.oh.us/>)

- **Retirement System Lobbyists** – any person engaged to influence through direct communications, as one of the person’s main purposes on a regular and substantial basis, decisions affecting the investment of funds for one of the following retirement systems: public employees retirement system, Ohio police and fire pension fund, state teachers retirement system, school employees retirement system, and state highway patrol retirement system. O.R.C. §§ 101.90(F)-(I). An individual is a retirement system lobbyist for an employer if his direct communications with any covered official or employee constitutes at least 25 percent of the total time for which the employer compensates the individual. See 2014 Lobbying Handbook, p. 17, available here. (<http://www.jlec-olig.state.oh.us/>)

#### **Other Actors:**

- **Employer** – a person who, directly or indirectly, engages a legislative agent, executive agency lobbyist or retirement system lobbyist. See O.R.C. §§ 101.70(G), 121.60(C),

#### **Grassroots Lobbying:**

- **Grassroots lobbying** – Ohio law does not regulate grassroots lobbying; the law only addresses “direct communication” with decision-makers. See 2014 Lobbying Handbook, p. 13, available here. (<http://www.jlec-olig.state.oh.us/>)

## **REGISTRATION**

### **Electronic Registration and Reporting**

Lobbyist registration and reporting information is now submitted electronically on the JLEC Website (<http://www.jlec-olig.state.oh.us/>). Lobbyists complete and submit initial and updated registration forms online via the Ohio Lobbying Activity Center (OLAC) website (<http://www2.jlec-olig.state.oh.us/olac/>). Completion of an initial registration form generates a signature page which must be signed by both the lobbyist and the employer and returned to JLEC within 15 business days of the electronic filing.

## Registration of Employers:<sup>1</sup>

**Timing:** Within 10 days of engaging a legislative agent, an employer must register with the state. O.R.C. § 101.72(A).

- **Disclosures:** An employer must disclose to following information:
  - The legislative agent's name, business address and occupation;
  - The employer's name and business address, and the parties on whose behalf the legislative agent is actively advocating;
  - A brief description of the type of legislation or activity to which the engagement relates. See O.R.C. § 101.72(A).
  - An employer may file a single registration statement, providing the required information for each of its legislative agents. Id. at (C).
- **Renewing Registration:** *An employer must file an updated registration statement three times per year. Id. at (B). These forms are described in the reporting section, below, as they accompany the required expenditure reports.*
  - An employer's registration is valid from the date of initial registration through the next December 31 of an even-numbered year. Id. At (F).
- **Fee:** A \$25 fee is charged for each initial registration statement. Id. At (E).

## Registration of Legislative Agents:<sup>1</sup>

**Timing:** Within 10 days of being engaged as a legislative agent, the agent must register with the state. O.R.C. § 101.72(A).

- **Disclosures:** A legislative agent must disclose to following information:
  - The legislative agent's name, business address and occupation;
  - Employer's name and business address, and the parties on whose behalf the legislative agent is actively advocating;<sup>2</sup>
  - A brief description of the type of legislation or activity to which the engagement relates. See O.R.C. § 101.72(A).
  - A person paid as a legislative agent by multiple employers must file a separate registration statement for each employer. Id. at (C).
- **Renewing Registration:** A legislative agent must file an updated registration statement three times per year. Id. at (B). These forms are described in the reporting section, below, as they accompany the required expenditure reports.

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<sup>1</sup> There is proposed legislation that would expand disclosure for both employers and legislative agents, to include disclosure of the compensation provided by the employer to the legislative agent. 2013 OH H.B.(130th General Session, 2013-2014).

<sup>2</sup> There is proposed legislation that would expand reporting from just expenditures to expenditures and compensation paid to/earned by lobbyists. Id.

- A legislative agent's registration is valid from the date of initial registration through the next December 31 of an even-numbered year. *Id.* at (F).
  - For executive agency lobbyists and retirement system lobbyists, the registration expires on the January 31 of the year following the year in which the initial registration was filed. O.R.C. §§ 121.62(F), 101.92(F).
- **Fee:** A \$25 fee is charged for each initial registration statement. *Id.* At (E).

## REPORTING

### Reporting by Employers:

- Three times per year, each employer must file an updated registration statement, showing any changes to the registration, along with an expenditure report.<sup>2</sup>
- **Timing** – reports are due on the last days of May, September and January. O.R.C. § 101.72(B). The expenditure reports cover the four-month period ending on the last day of the month prior to the month in which the report is due (e.g. April, August, December). O.R.C. § 101.73(D).
- **Disclosures** – The reports must disclose the following information:
  - Confirmation that each legislative agent described in the initial registration statement is still engaged by the employer; O.R.C. § 101.72(B).
  - A list of the specific legislation or decisions the registrant sought to influence during the period covered by the updated registration statement; O.R.C. § 101.72(B).
  - Expenditures to, at the request of, for the benefit of or on behalf of certain covered officials and employees; O.R.C. § 101.73(B)
    - The statement must disclose the name of the beneficiary, the total amount of expenditures made, a brief description of the expenditures made, the approximate date the expenditures were made, the specific items of legislature for which the expenditures were made and the identity of the client on whose behalf they were made.
  - Total expenditures by the employer during the period covered by the statement. O.R.C. § 101.73(C).
  - Financial transactions between the employer or the employer's legislative agent and any covered official or employee, or an immediate family member of the covered official or employee. O.R.C. § 101.74(B). A copy of the statement must be given to the covered official or employee. § 101.74(C).

- Employers do not need to report expenditures or financial transactions that are reported on the statement of a legislative agent engaged by the employer. O.R.C. §§ 101.73(C), 101.74(D).

## Reporting by Legislative Agents:

- Three times per year, each legislative agent must file an updated registration statement, showing any changes to the registration, along with an expenditure report.
- **Timing** – Reports are due on the last days of May, September and January. O.R.C. § 101.72(B). The expenditure reports cover the four-month period ending on the last day of the month prior to the month in which the report is due (e.g. April, August, December). O.R.C. §101.73(D). If the deadline falls on a weekend, then the deadline is the next business day. See 2014 Lobbying Handbook, p. 20, available here: <http://www.jlec-olig.state.oh.us/>
- **Disclosures:** The reports must disclose the following information:
  - Confirmation that the legislative agent remains engaged by the employers listed on the initial registration statements; O.R.C. § 101.72(B).
  - A list of the specific legislation or decisions the registrant sought to influence during the period covered by the updated registration statement; O.R.C. § 101.72(B).
  - Expenditures to, at the request of, for the benefit of or on behalf of certain covered officials and employees; O.R.C. § 101.73(B)
  - Expenditures for food and beverages, if the legislative agent has spent more than \$50 during the calendar year on food and beverages for a particular covered official or employee; O.R.C. § 101.73(B)
    - The statement must disclose the name of the beneficiary, the total amount of the expenditures made, a brief description of the expenditures made, the approximate date the expenditures were made, the specific item(s) of legislature for which the expenditures were made and the identity of the client on whose behalf they were made.
  - Total expenditures made by the legislative agent during the reporting period. O.R.C. § 101.73(B).
  - Financial transactions between the legislative agent and any covered official or employee, or an immediate family member of the covered official or employee. O.R.C. § 101.74(B). A copy of the statement must be given to the covered official or employee. § 101.74(C).
  - A legislative agent must file a separate updated registration statement and expenditure report for each employer for whom the agent actively advocates. O.R.C. §§ 101.72(C), 101.73(A).

# TERMINATION

Within 30 days of terminating an engagement with an employer, the legislative agent must notify the state in writing. O.R.C. § 101.72(D)(2). Both the employer and the legislative agent will still be required to file an updated reporting statement for the period that includes the termination date. See 2014 Lobbying Handbook, p. 34, available at <http://www.jlec-olig.state.oh.us/>.

## **Lobbying Regulations:**

### **Time Restrictions on Lobbying:**

- No time restrictions exist under Ohio law.

### **Identification of Lobbyists:**

- No identification requirements are imposed on legislative agents, executive agent lobbyists or retirement system lobbyists, however legislative agents in good standing may apply for building access ID cards for the Ohio Statehouse online.

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:**

- A member of the general assembly cannot accept cash or cash equivalent gifts (e.g. gift cards) from an employer or a legislative agent. Neither may a member of the general assembly accept gifts exceeding \$75 in value from an employer or legislative agent. O.R.C. § 102.031(C)(3).
- A legislative agent must report any gift valued \$25 or more to a member of the general assembly, even if their share of the gift is under \$25. See 2014 Lobbying Handbook, p.46, available at <http://www.jlec-olig.state.oh.us/>.
- Members and staff are prohibited from accepting honorariums unless they are de minimis (under \$25).

### **Entertainment:**

- A legislative agent may provide no more than \$75 worth of food and beverages to a member of the general assembly, unless the member is participating in a panel or speech, or if all members of either house of the general assembly are invited.
- If the member receives notice from a legislative agent that the legislative agent has provided more than \$75 worth of food and beverages to the member, a violation of the law will be avoided if

the member reimburses the legislative agent for the amount in excess of \$75. O.R.C. §§ 102.031(C), (D).

### **Travel:**

- The law generally prohibits paying for expenses of a general assembly member's travel over \$75. Id. at (C)(1). There is a narrow exception for trips involving the member's official duties. Id. at (C)(3); Trips by automobile under 50 miles are also excluded from the prohibition. see Joint Legislative Ethics Committee Advisory Opinion 97-006, available at: [http://www.jlec-olig.state.oh.us/?page\\_id=336#1997](http://www.jlec-olig.state.oh.us/?page_id=336#1997).
- Exception: Payment for travel expenses, meals, food and beverage are not prohibited if the member is participating in a panel, seminar or speaking engagement, nor is it considered an honorarium to accept payment for such. O.R.C. § 102.03(H).

### **Campaign Contributions:**

- No restrictions exist on contributions from – or bundling by – legislative agents. O.R.C. § 101.76(C).

### **Contingency Fees:**

- Contingency fees are prohibited. O.R.C. § 101.77.

### **Revolving Door:**

Former public officials and employees are restricted in their ability to lobby. The restrictions extend for 12 or 24 months following the conclusion of the person's service, depending on their governmental role and the issue on which they seek to lobby. See O.R.C. § 102.03. While the outright ban on all lobbying by public officials and employees was found to not be narrowly tailored, and thus an unconstitutional infringement on free speech in *Brinkman v. Budish*, the law on the books has not been updated. *Brinkman v. Budish*, 692 F. Supp. 2d 855 (S.D. Ohio 2010). As such, the Ohio Ethics Commission has offered guidance on post-employment restrictions, stating that former public officials, members of the general assembly and employees are generally prohibited from representing any person on any matter in which the official has participated. See *Post-Employment Restrictions*, § V, The Ohio Ethics Commission, available at [https://ethics.ohio.gov/education/factsheets/Revolving\\_Door\\_Information\\_Sheet.pdf](https://ethics.ohio.gov/education/factsheets/Revolving_Door_Information_Sheet.pdf).

In addition, the Commission has issued numerous advisory opinions illuminating the statutory provision, which are available here. (<http://www.jlec-olig.state.oh.us/PDFs/AdvisoryOpinions/ListedByCategory.pdf>)

<u>Activity</u>	<u>Regulated by State?</u> (Y/N)	<u>Statutory Citation</u>
Lobbying by Former Officials	YES- "revolving door law"	O.R.C. 102.03
Limits on Lobbyists' Gifts to Officials	YES – gifts valued at \$25.00 or more are generally reportable and gifts valued over \$75.00 and gifts of cash are prohibited.	O.R.C. 102.031; Executive Order 2007-01S
Hospitality Provided to Officials	YES – acceptance of food and beverages over \$75 aggregated per year is generally prohibited, certain food and beverage expenses require itemization on updated registration statements.	O.R.C. 102.031
Trips Organized by Lobbyists	YES – travel expenses are generally prohibited.	O.R.C. 102.03
Honoraria.	Honoraria are prohibited.	O.R.C. 102.03

# CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Office of the Legislative Inspector General, Joint Legislative Ethics Committee

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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:

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