



VIRGINIA LOBBYING DISCLOSURE

These resources are current as of 3/1/19. 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.

This guide summarizes key aspects of state campaign finance law and regulations. 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 is defined as “influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official” or “solicitation of others to influence an executive or legislative official.” VA. CODE. ANN. § 2.2-419.

“Executive Action” means the “proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor.” Id.

“Legislative Action” means “[1. preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill resolution, amendment, motion, report, nomination, appointment or other matter by the General Assembly or a legislative official; 2. action by the General Assembly in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or 3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.” Id.

Types of Lobbyists

Lobbyist – any individual who is employed or reimbursed for expenses, or who represents an organization, association or other group for the purpose of influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official or solicitation of others to influence an official. Id. at § 2.2-419.

The Virginia lobbying laws, VA. CODE. ANN. § 2.2-418 et seq., created exemptions from the lobbyist registration and reporting provisions including, but not limited to:

- An individual who limits lobbying solely to (i) formal testimony before a public meeting of an executive agency or legislative body and registers the appearance in the records of the agency or body and (ii) testimony and information compelled by action of an executive agency or legislative body;
- A person who receives \$500 or less in compensation and reimbursements, excluding personal living and travel expenses that are not reimbursed from any other source, in a calendar year for his/her lobbying activities;
- A person who receives no compensation or anything of value for lobbying and does not expend more than \$500, excluding personal living and travel expenses that are not reimbursed from any other source, in lobbying in the calendar year; or

- An employee of a business, other entity, or local government whose job duties do not regularly include influencing or attempting to influence legislative or executive action or solicitation of others to influence an official.

Id. at § 2.2-420(6)-(9).

Other Actors

Principal – a “lobbyist’s principal” or “principal” is defined as the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying on its behalf is both a principal and an employer of the lobbyist. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members. Id. at § 2.2-419.

Grassroots Lobbying

Grassroots lobbying is not specifically defined by statute but would be included in the general definition of “lobbying” as “solicitation of others to influence an executive or legislative official.” Id. at § 2.2-419.

Preparation for grassroots lobbying would not trigger registration requirements, but it is the actual solicitation of others to influence an executive or legislative official that would trigger registration requirements. Absent limited exceptions, registration is required prior to engaging in lobbying activities. Id. at § 2.2-422.

REGISTRATION

Registration of Lobbyists

Timing: Lobbyists are required to register with the Secretary of the Commonwealth prior to engaging in lobbying activities. Lobbyists who engage in lobbying activities entirely outside of Richmond are required to register within fifteen days after first engaging in lobbying. VA. CODE. ANN. § 2.2-422. Note that registration is submitted electronically with the Virginia Conflict of Interest and Ethics Advisory Council, available at the Council’s website: ethics.dls.virginia.gov.

Scope: Lobbyists are required to provide registration information for each principal they represent. Id. at § 2.2-423.

Renewing Registration: Registration is required annually and expires May 1st of each year. Id. at § 2.2-422.

Fee: A lobbyist is required to pay a \$100 registration fee for each principal for whom he/she represents. Id. at § 2.2-424.

Disclosures – A lobbyist must disclose the following information:

- Contact information;
- Name and contact information of the person who will keep custody of the lobbyist's and principal's accounts and records required to comply with the statute, and the location and telephone number for the place where the accounts and records are kept;
- The name and contact information of the lobbyist's principal;
- The type of business of the lobbyist's principal;
- For each principal, the name of the individual to whom the lobbyist reports;
- For each principal, a statement regarding whether the lobbyist is employed or retained and whether exclusively for the purpose of lobbying;
- The position held by the lobbyist if he/she is a part or full-time employee of the principal; and
- Description of the lobbying subject matter.

Id. at § 2.2-423(A).

Note that in 2017 the statute was amended to remove a requirement that lobbyists provide the name and contact information of each other lobbyist employed by or representing the principal. As mentioned, registration is accomplished through an online system provided by the Council, which publishes a user guide for using the online system. The currently published user guide has not been updated to remove the requirement of co-lobbyist reporting, but Council staff report that the guide is in the process of being updated.

A lobbyist must notify the Secretary of the Commonwealth within one week of any changes, modifications or additions to a lobbyist's status. Id. at § 2.2-423(B). Notification is submitted online to the Virginia Conflict of Interest and Ethics Advisory Council.

Registration of Principals

Principals are not required to register. However, principals are required to attest to the accuracy of lobbyists' reporting on their behalf or submit a signature waiver, and they also have reporting requirements themselves for combined lobbyists' activities totaling more than \$500 if the individual lobbyists are exempt from the registration and reporting requirements.

REPORTING

Annual Reporting by Lobbyists

Lobbyists are required to file a separate annual report of expenditures, including gifts, for each principal for whom he/she lobbies by July 1 for the preceding 12-month period ending May 1. VA. CODE. ANN. § 2.2-426(A).

Report Contents

Expenditures are defined as:

1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;
2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;
3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;
4. A payment that directly benefits an executive or legislative official or a member of the official's immediate family;
5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with an executive or legislative official;
6. A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive or legislative official; or
7. A payment or reimbursement for categories of expenditures required to be reported pursuant to this chapter.

Expenditure does not mean a campaign contribution properly received and reported.

A Gift is defined broadly, and specifically includes “anything of value.” It does not include, among numerous other things, printed information or promotional material, or items valued at less than \$20.

Id. at § 2.2-419.

The annual report is made on a form prescribed by the Virginia Conflict of Interest and Ethics Advisory Council and is required to be submitted electronically. Id. at §§ 2.2-426(C), 30-356.

The format of the annual report is not prescribed by statute but the Council is required to provide instructions. Id. at § 2.2-426(C). The Council publishes a user guide on its website concerning reporting. (ethics.dls.virginia.gov; staff from the Council reported that the guide is in the process of being updated). Much of the information required for the annual report mirrors what is required during Lobbyist registration, e.g. Principal name and contact information, the Lobbyist’s method of compensation, and the lobbying activities engaged in for the Principal.

Financial Disclosures

Financial information pertaining to the lobbying activity for the Principal is required to be disclosed. The manner of reporting depends on whether the Lobbyist reports individually or if his/her financial disclosure is included in another Lobbyist's report. Either way, required information includes any Compensation or Expenditures for entertainment, gifts, communications, travel expenses, honoraria, and other non-specified items connected with the lobbying activities for the Principal.

Itemization of Events, Entertainment, Meals, and Travel Expenses

- Single events with a value greater than \$50 must be itemized.
- Must include date, location, and description of event.
- Whether it was "widely attended" (meaning at least 25 persons were invited or there is a reasonable expectation that at least 25 persons will attend an open event. Id. at § 30-103.1).
- Total attendees.
- Names of legislative and executive officials in attendance must be disclosed if the total per-person cost is greater than \$50.
- If the legislative or executive official reimburses the Principal for attendance at an entertainment event then the name of the official is not required to be disclosed.
- Reimbursement is calculated using the average value for each person attending the event.

Id. at § 2.2-426(E).

Itemization of Gifts

- Any gift to a legislative or executive official with a value greater than \$50 must be itemized.
- Must include date accepted, value, name of recipient, and description.
- Only required to itemize single gifts with a value greater than \$50.

Other Lobbyist Reporting Requirements

A Lobbyist is required to send to each legislative and executive official identified on the Lobbyist's annual report as receiving entertainment expenses or gifts, a copy of the report or a summary of the information pertaining to the official. This must be provided by January 10 for the preceding 12-month period complete through December 31st.

A Lobbyist is required to send to each legislator and executive official who is required to file a report of gifts accepted or received during a regular legislative session a summary of all gifts made by the Lobbyist to the legislator or executive official or a member of his/her immediate family during the period of January 1 complete through the adjournment of the legislative session. The summary must be provided

by the Lobbyist to the legislator or executive official no later than three weeks after adjournment.

Id. at § 2.2-426(F).

Reporting by Principals

The Virginia Conflict of Interest and Ethics Advisory Council prescribes the format and instructions for annual Lobbyist reporting. These instructions require that the Principal sign the Lobbyist's annual disclosure. The Principal may submit a completed waiver of signature form which eliminates the requirement for the Principal to separately sign the annual disclosure. Id. at § 2.2-426(C).

Each Principal who expends more than \$500 to employ or compensate multiple Lobbyists is responsible for filing a consolidated Lobbyist report in any case where the Lobbyists are each exempt from the Lobbyist registration and reporting requirements. Id. at § 2.2-426(B).

REGULATIONS

Time Restrictions on Lobbying

Once registered, there are no time restrictions on lobbying. Note that during the regular legislative session, legislators and statewide office-holders may not accept or solicit contributions, nor may any person promise to make a contribution to any of these officials during the regular session. VA. CODE. ANN. at § 24.2-954.

Identification of Lobbyists

Lobbyists are not required to wear an identification badge; however, in light of security requirements one has been made available to permit easier access to the General Assembly Building during the legislative session. A Lobbyist badge can be obtained from the Clerk's Office of the Senate or House of Delegates. The Lobbyist should bring a copy of the completed Lobbyist registration form for issuance of the badge.

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

Lobbyists are required to itemize on their annual report all gifts with a value of \$20 and over. Under the Lobbyist reporting requirements, gifts are defined broadly as "anything of value." Id. at §§ 2.2-419, 2.2-426(A).

Additionally, legislators and candidates for the General Assembly are prohibited from soliciting, accepting, or receiving any single gift for himself or herself or for a member of his or her immediate family with a value in excess of \$100 or a combination of gifts with an aggregate value in excess of \$100 within any calendar year, from a Lobbyist or Principal. Gifts with a value less than \$20 are not subject to aggregation. For this prohibition a gift is defined as any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. Id. at §§ 30-101, 30-103.1.

Entertainment

Entertainment is included within the definition of Gift. Gifts of entertainment or hospitality with a value of \$20 and over that are provided by a Lobbyist must reported on the Lobbyist's annual statement. Id. at § 2.2-419. Additionally, legislators and candidates for the General Assembly are prohibited from soliciting, accepting, or receiving any single gift of entertainment for himself or herself or for a member of his or her immediate family with a value in excess of \$100 or a combination of gifts with an aggregate value in excess of \$100 within any calendar year, from a Lobbyist or Principal. Gifts with a value less than \$20 are not subject to aggregation. Id. at § 30-103.1.

Travel

Travel is included within the definition of Gift. Gifts of transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred, with a value of \$20 or over, that are provided by a Lobbyist is a reportable expenditure and must reported on the Lobbyist's annual statement. Id. at § 2.2-419. Additionally, legislators and candidates for the General Assembly are prohibited from soliciting, accepting, or receiving any single gift of transportation, lodgings, and meals for himself or herself or for a member of his or her immediate family with a value in excess of \$100 or a combination of gifts with an aggregate value in excess of \$100 within any calendar year, from a Lobbyist or Principal. Gifts with a value less than \$20 are not subject to aggregation. Id. at § 30-103.1.

Legislators or candidates for the General Assembly or immediate family members may accept or receive gifts of travel valued in excess of \$100 from Lobbyists when a request for approval has been submitted to the Virginia Conflict of Interest and Ethics Advisory Council and the Council has approved the request. Id. at § 30-103.1.

Exception for Widely Attended Events

Legislators or candidates for the General Assembly or members of their immediate families are not prohibited from accepting or receiving gifts of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when the gift is accepted or received while in attendance at and associated with a widely attended

event, which means an event at which at least 25 persons were invited or there is a reasonable expectation that at least 25 persons will attend and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue. Id. at § 30-103.1.

Exception for Personal Friendships

Legislators or candidates for the General Assembly or immediate family members may accept or receive gifts valued in excess of \$100 from Lobbyists when the gift is made on the basis of a “personal friendship.” Id. at § 30-103.1.

Campaign Contributions

Campaign contributions are explicitly exempt from the definition of a “gift.” Id. at § 2.2-419. Note that during the regular legislative session, legislators and statewide office-holders may not accept or solicit contributions, nor may any person promise to make a contribution to any of these officials during the regular session. Id. at § 24.2-954.

Contingency Fees

Contingency fees are prohibited. Id. at § 2.2-432.

Revolving Door

Legislators are prohibited from lobbying before the General Assembly or any agency of the legislative branch of government, and certain high-ranking state officers and employees are prohibited from lobbying their former agency for 12 months following the end of their public service. Id. at §§ 2.2-3104, 30-103.

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

Virginia Conflict of Interest and Ethics Advisory
804-698-1847
ethics@dls.virginia.gov
<http://ethics.dls.virginia.gov/>

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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