

## **Bolder Advocacy**

State of Delaware

Q: What is a “lobbyist” in Delaware?

A: Broadly, Delaware considers a lobbyist to be anyone who communicates with elected officials and state agencies on behalf of someone else with the purpose of influencing any votes or decisions.

Q: Am I a lobbyist if I go to Dover to express my own opinion?

A: No. Delaware encourages active participation by citizens regarding issues that are important to them. That even includes testifying at public hearings. Generally speaking, a lobbyist is someone who is speaking on behalf of someone else.

Q: Can I go to Legislative Hall with my nonprofit without registering as a lobbyist?

A: Of course! Many people visit Dover when legislative session is in (January to June) with the distinct purpose of speaking with legislators about issues important to them. The issue is if you do it frequently and on behalf of an organization, like a nonprofit.

Q: What if my organization asks me to go to legislative hall regularly for them?

A: You should register as a lobbyist. It’s free, it’s online, it’s quick.

Q: Even if I go for free?

A: Yes. While receiving compensation is a bright line for sure, Delaware doesn’t require payment in order to be a lobbyist. If you’re looking to regularly influence decision makers on behalf of another entity, you’re a lobbyist.

Q: What is “regularly?”

A: Delaware law doesn’t set a bright line, but instead it’s fact-specific and looks to see if there’s “substantial purpose” to influence. If members are being asked to engage in ongoing and purposeful contact with legislators on behalf of even one bill, consider registering them on the organization’s behalf.

Q: Can I take my legislator to lunch?

A: Maybe. If you’re speaking on behalf of your nonprofits goals, that lunch may constitute a gift which means you have to register as a lobbyist and report the gift. If you’ve already registered as a lobbyist, you need to track how much you spent on lunch and report it as a gift. If a gift, like a meal, is over \$50, you must also name who you went to lunch with in the report.

Q: Wait, food can be a gift? What else is a gift?

A: Gifts aren’t just money, but also include entertainment, long-distance travel, recreational activities, lodging, and items of value.

Q: My organization hands out t-shirts. That’s a gift?

A: Informational cards, t-shirts, certificates, and other “items of immaterial value” are commonly used by organizations to inform legislators of their organization’s purpose and are fine to give out to elected officials.

Q: Can the members of my nonprofit attend constituent events and other public events with legislators and not lobby?

A: Probably. The Public Integrity Commission has said that members attending public meetings to express their opinion was outside of the intent of the law. However, Delaware law doesn't differentiate between locations where you may interact with a legislator or other official. If certain of your members are going to legislative hall, requesting meetings, and also attending public events on behalf of your organization, the Public Integrity Commission says they may be lobbying if they're actions are specifically directed to influence.

Q: What if I contribute to a candidate's campaign?

A: Campaign contributions from individuals don't count as expenditures under Delaware's code when it comes to lobbying. However, be wary to avoid any appearances of giving donations in return for specific votes or other official actions.

Q: Can my 501(c)(3) support an candidate for office or elected official for re-election?

A: No. At least it cannot keep its tax-exempt status when it comes to the IRS. However, your organization may consider forming a parallel entity like 501(c)(4) for such a purpose.

Q: Can my organization sign onto a coalition letter?

A: Delaware law doesn't set express limitations on organizations signing onto letters or other advocacy materials. However, be aware that the IRS does look closely at tax-exempt organizations (*aka*, non-profits) and their activities. If the letter a nonpartisan analysis of the issue or discusses broad issues, it's probably ok, but check out the [Alliance for Justice Flowchart](#).

Q: What about grassroots lobbying? Can my nonprofit ask its members to contact their legislators to support or oppose a bill and not register as lobbyists?

A: Delaware's Public Integrity Commission has said that "non-paid rank and file members" can respond to such a request and not worry about filing as a lobbyist so long as they don't expend funds in connection with the request. However, the nonprofit should check the guidelines for its tax-exempt status.

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