

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

ARIZONA

Inside this Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Arizona might apply to your state or local work. It includes:

- Summary of registration and reporting triggers
- Key takeaways for nonprofit organizations
- FAQs
- Case study for a hypothetical small student voting rights organization
- List of helpful additional resources

What Lobbying Activities Trigger Registration Requirements in Arizona?

| DIRECT LOBBYING OF: | CAN THIS TRIGGER? | TRIGGER |
|--|--|--|
| State Legislators | Yes | Attempting to influence the passage or defeat of any legislation by directly communicating with any legislator. It does not matter if the person doing the communication is paid or unpaid. |
| State Executive Branch Officials | Yes | Attempting to influence any rulemaking proceedings by directly communicating with any state officer or employee. It does not matter if the person doing the communication is paid or unpaid. |
| Local Legislators or Local Executive Branch Officials | Not for state level registration, but maybe at local level | The Arizona state lobbying statute does not regulate lobbying at the local level, but some municipalities and counties do have their own lobbying statutes that may require registration. |

Grassroots Lobbying: Grassroots lobbying (calling on members of the public to take action) is not regulated at the state level in Arizona.

Procurement (Contract) Lobbying: There are some additional regulations in Arizona regarding attempting to influence the public officials involved in contracts relating to the procurement of materials, services or construction by a state agency that are not discussed in this guide. Please see the full text of the Arizona statute or seek additional guidance if procurement (contract) lobbying might apply in your case.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN ARIZONA:

- **Both paid and unpaid lobbyists can trigger registration:** There is no compensation threshold trigger for the requirement to register as a lobbyist in Arizona. The key trigger is any direct communication attempting to influence legislation or state-level rulemaking.
- **State lobbyist nomenclature and process is somewhat confusing at first:** The state differentiates between different kinds of lobbyist entities and also different levels of lobbyists in a way that may be confusing for first time registrants, but once translated into your specific scenario the lobbyist registration and reporting procedures are relatively straightforward.
- **The state has helpful resources online and technical assistance is available:** The state puts out a detailed and helpful Arizona Lobbying Handbook, has an introductory training video workshop available online, and is generally friendly and available to answer any questions nonprofit organizations may have about lobbyist registration or reporting.

This resource is current as of October 2021. We do our best to periodically update our resources, and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.com.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy, and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover federal lobbying disclosure law, IRS regulations related to lobbying, or the details of any separate county or municipal regulations that may apply to lobbying activities. There is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

Q: What activities count as lobbying?

Arizona defines lobbying as (i) attempting to influence the passage or defeat of any legislation by directly communicating with any legislator, or (ii) attempting to influence any rulemaking proceedings by directly communicating with any state officer or employee. It does not matter if the person doing the communication is paid or unpaid.

- “legislation” means bills, resolutions, memorials, amendments, nominations, and other matters that are pending or proposed in either house of the legislature of the state
- “state officer” means a person who is duly elected, appointed or retained through election to any state office, or a member of any state board, commission or council, and includes a member of the legislature
- “state employee” means an employee of the legislature, a university under the jurisdiction of the Arizona board of regents, the judicial department or a state office, agency, board, commission or council

Q: Does supporting or opposing a ballot measure count as lobbying?

Supporting or opposing an Arizona ballot measure is not regulated as a lobbying activity under Arizona law (even though the IRS does count it as a lobbying activity). Instead, Arizona regulates activity to support or oppose a ballot measure under the state’s campaign finance laws. Nonprofit organizations considering working on ballot measures in Arizona (either working to get a measure on the ballot or supporting or opposing an existing measure) should seek advice on how to comply with any applicable state or local campaign finance reporting requirements.

Q: What triggers lobbyist registration and reporting with the state?

The requirement to register as a lobbyist with the state is triggered by any direct lobbying communication as defined above. You must register before lobbying begins, or in any case within five days of an initial lobbying communication.

Q: Are there exceptions to what counts as lobbying?

Yes. Certain types of lobbying activities do not require state-level lobbyist registration or reporting. The exemptions most relevant to nonprofit organizations are:

- grassroots lobbying (encouraging citizens to contact government officials to urge official action);
- individuals acting on their own behalf to convey a personal opinion regarding legislation or a rule;
- answering technical questions or providing technical information at the request of a legislator (or another registered lobbyist) so long as no reportable lobbying expenditures are made;
- directly communicating with a state officer or employee solely for the purpose of acquiring information;
- oral comments or questions made to a state officer or employee regarding a proposed rule during a public meeting or workshop (this exemption applies to rulemaking not legislative lobbying); and
- lobbying local legislative bodies or local executive branch officials (although the local jurisdictions may have separate lobbying regulations).

Q: How does the Request to Speak system intersect with these exceptions?

Arizona’s “Request to Speak” system is designed to make it easier for interested advocates to either arrange to speak on a bill in committee at the legislature, or to simply register online their support or opposition to a bill being discussed, without having to be physically present at the committee meeting.

FAQS

Arizona regulates only direct communication with a legislator designed to influence a decision on a bill. If your nonprofit has a staffperson use the Request to Speak system only to register support or opposition to a bill as a representative of the nonprofit this would not trigger lobbyist registration. If your staffperson speaks in committee on behalf of your organization (without having been asked to provide technical information) it will trigger registration. Individual members of the public using the system to speak in committee on their own behalf and not as a representative of your nonprofit will not trigger lobbyist registration because of the exception outlined in the FAQ above.

For more information about Arizona's Request to Speak system see https://www.azleg.gov/alisPDFs/RTS_Manual_public.pdf. Initial activation of the account must be done at a special kiosk at the Capitol or in Tucson, and after that the account can be used fully remotely. Many nonprofits will help individuals not able to make it to the Capitol create and activate a Request to Speak account.

Q: If we are required to register, how does the process work?

If your organization is engaging in the kind of lobbying activities that trigger registration, then you must register your organization as a lobbying "principal" by completing the Principal Registration form available at: https://azsos.gov/sites/default/files/PPB_Registration.pdf, uploading it at <https://lobbying.az.gov/> and paying a \$25 registration fee. The designated lobbyist will also need to attest that they have read the Arizona Lobbying Handbook.

Your organization will also need to name a "designated lobbyist" as the person responsible for making all periodic reporting filings with the state. If your designated lobbyist is an employee of your organization (as opposed to a paid outside consultant), your employee will also need to complete a Lobbyist Registration form available at: https://azsos.gov/sites/default/files/20191209_LOB_%20Registration_Form.pdf.

Note that on the individual Lobbyist Registration form, employee lobbyists for nonprofit organizations will not be deemed a "designated public lobbyist" (that is a category for lobbyists employed by state agencies or other public bodies like a city), and will also not usually be a "lobbyist for compensation" (this is a category of individuals whose primary job is to lobby). Individual lobbyists would also not check the box describing their employees who act as lobbyists.

If more than one employee on your staff is going to lobby on your behalf, your organization may, but is not required to, add them as "authorized lobbyists" on the "Principal Registration Attachment: Record of Lobbyists" form.

Registrations need to be renewed every two years (in December of even years for the principal (the organization) and in December of odd years for the designated lobbyist (the employee lobbyist responsible for the filings).

More details about these registration procedures and forms can be found in the Arizona Lobbying Handbook at: <https://azsos.gov/sites/default/files/2020.02.04%20Lobbying%20Handbook%20%28002%29.pdf> or by reaching out to an to an Arizona Secretary of State Lobbyist Specialist at: Phone: 602-542-8683 or via e-mail at lobbyist@azsos.gov.

Q: When are periodic lobbying reports due?

Quarterly expenditure reports are due by the end of the month following each quarter end, and a full annual expenditure report is due by the first day of the following March. Reports need to be filed even in periods when no lobbying was done, or when no expenditures are reportable. The reports are filed by uploading them to the Secretary of State's website or e-mailing them. The Arizona Lobbying Handbook contains further details.

FAQS

Q: What information do the periodic lobbying reports include?

In general, the periodic reports in Arizona require the disclosure of expenditures made on legislators, state officers and state employees, whether or not such expenditures were made in the course of a lobbying communication. The reports do not require the disclosure of your organization's internal lobbying expenses such as office expenses, employee compensation for time spent preparing to lobby or lobbying, or lobbyist travel and lodging costs if you are lobbying in person.

Q: What is considered a reportable "expenditure"?

Reportable expenditures in Arizona include expenditures made on legislators or state officers or employees. Categories include (i) food or beverage, (ii) travel and lodging, (iii) speaking engagement honoraria, and (iv) flowers. These categories require listing the officials receiving the expenditure. The report also requires listing aggregate expenditures of \$20 or less made during the quarter, and expenses relating to events where groups of legislators or public officers or employees are invited to events like a picnic cookout on the Capitol lawn. Expenses for certain personal gifts, plaques of recognition of accomplishment, and informational materials are not required to be reported.

Gift Ban: In Arizona, unless the expenditure is in one of the above categories, the total value of gifts given may not add up to more than \$10 in any calendar year. In addition, most entertainment expenditures are banned completely, and the entertainment gift ban also applies to local officials. It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and "gift ban" laws. Those state and local rules often apply even if your organization has not triggered lobbyist registration, and may apply to a broader range of officials. You should be certain that you understand the intricacies of both sets of rules before giving any gifts to, or paying expenses for, any public officials at the state or local level.

More details about reportable expenditures can be found in the Arizona Lobbying Handbook.

A webinar training session explaining the expenditure reporting requirements can also be viewed at: <https://www.youtube.com/watch?v=UDHWxobQtoU>

Q: Do our organization's donors need to be disclosed on any lobbying reports?

No.

Q: How are our lobbyists required to identify themselves while lobbying?

Lobbyists are not required to wear badges or other forms of identification while lobbying, but must disclose that they are a lobbyist when lobbying a legislator for the first time, or upon any legislator's subsequent request.

Q: Are there any other restrictions on lobbyists that we should be aware of?

Principals and lobbyists are prohibited from making or promising to make campaign contributions to legislators or the governor while the legislature is in regular session, or to the governor when regular session legislation is pending executive approval veto. This prohibition also applies to soliciting contributions for legislators or the governor during these timeframes. Paying lobbyists contingency fees based on securing passage or defeat of legislation is also prohibited.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 1001 currently pending in the Arizona State House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their state house representative about the bill;
- Doing a physical lobby day at the state capital about Bill 1001 to meet with legislators, or alternatively arranging a virtual zoom lobby event. The lobby day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from the organization to the legislators, or if done by Zoom, the purchase of a new higher-end Zoom account;
- Testifying before a committee of the state House of Representatives regarding the student perspective on Bill 1001; and
- Having an employee engage with the Mayor of Phoenix about a similar, but separate, local ordinance being considered.

| ACTIVITY | LOBBYIST REGISTRATION/REPORTING REQUIREMENTS |
|---|--|
|  <p>Student Engagement</p> | <p>Student engagement activities are grassroots lobbying activities not regulated by the state. They will not trigger lobbyist registration or reporting.</p> |
|  <p>Lobby Day</p> | <p>This activity counts as lobbying since Students Vote Now will be attempting to influence the passage or defeat of legislation by directly communicating with legislators. Students Vote Now will need to register as a “principal” with the state, and register at least one “designated lobbyist” responsible for making all of the organization’s filings. Other Students Vote Now employees or volunteers can be named as “authorized lobbyists” but are not required to be registered. As described, only the potential swag gifts for the legislators would be considered reportable expenditures, and Students Vote Now should either hand out informational materials instead, or make sure swag gifts are allowed under the Arizona gift ban rules. If Students Vote Now were to consider holding a picnic type lawn event at the Capitol during the lobby day that would require additional reporting.</p> |
|  <p>Committee Testimony</p> | <p>There is no specific exemption for legislative testimony, and this activity would count as lobbying unless such testimony would fall into another exemption. If Students Vote Now were invited to provide technical information at the hearing, or if student constituents made comments at the committee hearing on their own behalf, such actions would not trigger lobbyist registration.</p> |
|  <p>Mayor</p> | <p>Phoenix has a separate lobbyist registration ordinance¹, but exempts from registration employees communicating on behalf of employers unless the employee was hired and primarily compensated by an employer to act as a lobbyist. The cities of Tempe² and Peoria³ also have their own lobbying registration statutes. There is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local authorities before undertaking local lobbying activity.</p> |
| <p>Bottom Line</p> | <p>Students Vote Now will not trigger lobbyist registration requirements for their proposed student engagement work or local work with the Mayor of Phoenix (assuming the relevant employee is not primarily hired to lobby). The organization may be able to structure the legislative testimony to avoid triggering registration. The lobbying day activity will trigger registration. Students Vote Now should either refrain from giving any swag to the legislators during the lobby day or the Mayor, or investigate exactly how any such proposed gifts might be regulated under the state and local gift bans.</p> |

¹ <https://www.phoenix.gov/cityclerk/services/lobbyistinfo>

² <https://www.tempe.gov/government/city-clerk-s-office/lobbyist-registration-and-reporting>

³ <https://www.peoriaaz.gov/government/departments/city-clerks-office/elections/lobbyist-forms>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact our team of experts by emailing us at advocacy@afj.org, or calling us during standard business hours at 866-NP-LOBBY (866-675-6229).

BOLDER ADVOCACY'S MORE DETAILED STATE LAW RESOURCES:

- See our *Arizona Lobbying Disclosure Guide* for more details on the actual text of the Arizona lobbying statute, and any related advisory opinions. <https://bolderadvocacy.org/resource/arizona-lobbying-disclosure/>
- Also see our *Arizona Campaign Finance and Ballot Measure Guide* for rules related to state ballot measure advocacy, which Arizona regulates as a campaign finance activity, unlike the IRS which regulates such activities as direct legislative lobbying. <https://bolderadvocacy.org/resource/arizona-campaign-finance-and-ballot-measure-guide/>

ARIZONA STATE RESOURCES:

- **Arizona Secretary of State**
The Lobbying Division of the Secretary of State's Office is responsible for administering the lobbyist registration and reporting system in Arizona. <https://azsos.gov/elections/lobbyists>
- **Full Text of Arizona Lobbying Statutes**
The full text of the Arizona state lobbying statute can be found starting on page 56 of the Arizona Lobbying Handbook cited below.
- **Arizona Lobbying Handbook**
The Lobbying Division puts out the Arizona Lobbying Handbook to help lobbyists comply with the registration and reporting requirements of the law. It contains copies of the relevant registration and reporting forms and instructions for filing, as well as the full text of the state lobbying statute. <https://azsos.gov/sites/default/files/2020.02.04%20Lobbying%20Handbook%20%28002%29.pdf>
- **Training Webinar**
A link to an online training webinar about lobbyist reporting can be found at: <https://www.youtube.com/watch?v=UDHWxobQtoU>
- **Request to Speak System**
Information about Request to Speak: https://www.azleg.gov/alisPDFs/RTS_Manual_public.pdf
- **Additional Questions**
Any questions about lobbyist registration and reporting can also be directed to an Arizona Lobbyist Specialist at: Phone: 602-542-8683 or via e-mail at lobbyist@azsos.gov.

BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review our federal law resources to ensure all IRS compliance obligations are being met. See our *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*. <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



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