

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

Pennsylvania

Inside this Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Pennsylvania might apply to your work in the Commonwealth. 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 Pennsylvania?

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes, for both direct and grassroots lobbying	<p>Organizational registration is required when your organization has expenses of more than \$3,000 in any calendar quarter which are related to efforts to influence legislative (and administrative) action through either direct or indirect (grassroots) lobbying, including staff costs and office expenses spent to prepare for such work.</p> <p>Individual registration will be required when in any calendar quarter:</p> <ul style="list-style-type: none"> any employee works more than 20 hours <u>and</u> is paid more than \$3,000 on a pro rata basis for lobbying tasks any paid consultant is compensated for lobbying (through either pay or expense reimbursement) more than \$3,000
State Executive Branch Officials	Yes, for both direct and grassroots lobbying	Same triggers as for legislative lobbying, with all legislative and executive branch lobbying work combined for a single trigger.
Local Legislators or Local Executive Branch Officials	Maybe	Pennsylvania law does not cover lobbying activities at the local city or county level, but some local jurisdictions, including the cities of Philadelphia and Pittsburgh, have their own lobbying ordinances that may apply.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN PENNSYLVANIA:

- Both direct and grassroots lobbying are regulated:** The definition of lobbying activity in Pennsylvania is very broad and can sometimes even include educational campaigns on public issues.
- Disclaimers are required on all grassroots communications:** Disclaimer language clearly and conspicuously stating that your organization paid for any grassroots communications you make is required even if you have not triggered a lobbyist registration requirement.
- You will need good expense, time, and revenue tracking systems:** If you are doing direct or indirect (grassroots) advocacy work in Pennsylvania will need to have good recordkeeping systems in place, since you will need to examine, on a quarterly basis, whether organizational or individual lobbyist registration requirements have been triggered, based on expenses and hours worked. Once registration is required, you will also need to disclose quarterly if any of your donors contributed more than 10% of your total revenue in the period.

This resource is current as of December 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. In some states 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?

The intent of the lobbying law in Pennsylvania is to inform the public about the identity and scope of activity of those who are paid to influence the actions of the legislature and the executive branch of government in the Commonwealth.

The law broadly covers efforts to influence legislative and administrative action through either direct or indirect (grassroots) lobbying but does not include general educational campaigns on public issues unless the purpose of, or a foreseeable effect of, such general education campaigns is to “directly influence legislative action or administrative action.”

Important definitions that relate to the lobbying laws in Pennsylvania are outlined in more detail below:

- **“lobbying”** is an **effort to influence legislative action** or **administrative action** and includes:
 - direct or **indirect communication**;
 - incurring office expenses related to efforts to influence; and
 - providing any gift, hospitality, transportation or lodging to a state official or employee for the purpose of advancing the interest of the “Lobbyist” (the nonprofit staff or paid consultant lobbyist) or “Principal” (the nonprofit itself).
- **“effort to influence”** means any attempt to initiate, support, promote, modify, oppose, delay or advance a legislative or administrative action on behalf of your nonprofit for economic consideration.
- **“legislative action”** means any action taken by a state official or employee involving the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of any of the following:
 - **legislation**;
 - legislative motions;
 - a veto by the Governor; or
 - confirmation of appointments by the Governor or appointments to public boards or commissions by a member of the General Assembly.
- **“administrative action”** means:
 - an agency’s (which includes any executive agency, independent agency, board, commission, authority or department of an executive branch of the Commonwealth) (i) proposal, consideration, promulgation or rescission of a regulation; (ii) development or modification of a statement of policy; (iii) approval or rejection of a regulation; or (iv) procurement of supplies, services and construction that falls under the state’s procurement code (grants to nonprofits are not regulated by the procurement code);
 - the review, revision, approval or disapproval of a regulation under the Regulatory Review Act;
 - the Governor’s approval or veto of legislation;
 - the nomination or appointment of an individual as an officer or employee of the Commonwealth; or
 - the proposal, consideration, promulgation, or rescission of an executive order.
- **“indirect communication”** means any effort, whether written or oral or by another medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative action or administrative action.

Indirect communication includes grassroots lobbying activities such as letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, and billboards, but also specifically includes “publications and educational campaigns on public issues” to the extent that the purpose of, or a foreseeable effect of, such indirect communication is to “directly influence legislative action or administrative action.”

- **“legislation”** means bills, resolutions, amendments, and nominations pending or proposed (including drafts) in either the Senate or the House of Representatives, or by any state official or employee, or any other matter which may become the subject of legislative action by either chamber of the General Assembly.

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

Supporting or opposing a Pennsylvania ballot measure is not regulated as a lobbying activity under Pennsylvania law (even though the IRS does count it as a lobbying activity). Instead, Pennsylvania regulates activity to support or oppose a ballot measure under Pennsylvania’s campaign finance laws. Nonprofit organizations considering working on ballot measures in Pennsylvania (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 in Pennsylvania?

Organizational registration: Once your nonprofit spends more than \$3,000 in a calendar quarter on lobbying, you will need to register and report as a “Principal” for the remainder of the two-year registration period (unless you later are no longer required to be registered and terminate the registration). In Pennsylvania lobbying expenses include all organizational costs associated with lobbying activities, including staff and consultant compensation and reimbursements, office expenses, advertising, staff and volunteer meals, travel and lodging, and any other costs of doing the lobbying-related work. These related expenses must be reported on your nonprofit’s Principal quarterly expense report.

Individual registration: Individuals lobbying for your organization may trigger a separate individual registration requirement and need to register as “Lobbyists” if in any calendar quarter:

- any employee works more than 20 hours and is paid more than \$3,000 on a pro rata basis for lobbying tasks
- any paid consultant is compensated for lobbying (through either pay or expense reimbursement) more than \$3,000

It is possible when the lobbying work is spread amongst multiple employees that your organization will need to register and report, but none of your individual employees will need to register because no single employee’s work hours spent lobbying meet the threshold of at least 20 hours per quarter.

Note that once your organization is registered you will need to continue to keep track of all employee compensation and work hours allocated to lobbying, even for unregistered individual employees, since it is possible that employees who did not originally trigger individual registration requirements might trigger them in a later quarter.

Example 1: Your organization’s programming in the first quarter of the year includes several lobbying-related activities, with expenses totaling \$20,000 for the quarter. Three employees worked more than 20 hours in the quarter on lobbying activities, but the pro rata compensation for lobbying work for only one of them amounted to \$3,000 or more during the period. In this case, your organization must register as a “Principal,” and only the one employee who was also paid more than \$3,000 on a pro rata basis for lobbying activities will need to register as an individual “Lobbyist.” Both your organization and your individual registered lobbyist employee will need to continue to report for the entire remainder of the two-year registration period even if you do not do any more

lobbying work in later quarters. If you do any additional lobbying work during the remainder of the registration period, you will need to continue to monitor each quarter if any additional employees or consultants need to register.

Example 2: Your organization spent \$5,000 in the first quarter of the year to design, print, and mail postcards to voters in your county asking them to call their senators to support a particular bill. Your policy director spent 10 hours on the task, and no other employee spent more than an hour or two each on the task. In this case your organization has spent more than \$3,000 on lobbying in the quarter and will need to register as a “Principal.” However, since every employee worked less than 20 hours on the lobbying activities in the quarter, none of your employees will need to register as individual lobbyists. Your organization will need to continue to report through the end of the two-year registration period even if you do not do any more lobbying work in later quarters. If you do any additional lobbying work during the remainder of the registration period, you will need to continue to monitor each quarter if any employees or consultants need to register.

Q: Are there exceptions to what counts as reportable lobbying?

The below activities, if they are the only lobbying-like activities your organization and employees perform during a reporting period, do not trigger a registration requirement – even if your organization is spending more than \$3,000 a quarter on the work and even if any of your employees devotes at least 20 hours a quarter to these activities.

However, once your organization is required to register, then the costs of the below activities must also be reported in your quarterly expense reports.

With those caveats in mind, the types of activities that do not, on their own, trigger registration requirements include:

- monitoring of legislative or administrative action
- preparing testimony and testifying before a committee of the General Assembly
- participating in any administrative proceeding of an agency, including preparing and delivering comments on regulations or at agency advisory committee meetings

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

All registrations must be done online, within 10 days of triggering registration.

In order to initiate the process, your organization, and any employee or consultant who is also individually required to register, must first open a Keystone Login Account at: <https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/default.aspx>

Once the account is set up registration proceeds at: <https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Registration-Forms.aspx>

Your nonprofit organization will register as a “Principal” and any individual employees or consultants that are required to separately register will register as “Lobbyists.”

Detailed instructions on how to complete the registration process are available at: <https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Pages/PA-Lobbying-Services-Online.aspx>

A biannual registration fee of \$300 is required for the organization and each individual lobbyist. Registrations are valid until December 31st of the next even-numbered year, and then expire and must be renewed if your organization or any of your staff continue to trigger registration.

Individual lobbyists will need to upload a photograph to complete their registration. Failure to do so can result in late registration fines!

If information on your organization's registration changes (for example, your mailing address) you will need to amend your registration online within 14 days of the change (other than for associations or member organizations whose number of members changes, which in that case the registration can be updated within 14 days of the end of the year.)

Q: When are periodic lobbying reports due?

Quarterly expense reports to be filed by your organization are due by the 30th day of the following month. Individual lobbyists do not have to submit separate quarterly reports.

Quarterly reports must be filed for the entire remainder of the two-year registration period, even in quarters where no lobbying work was done, or the lobbying expenses totaled under \$3,000. In such cases there is a box to check that will simplify the form, but the report still needs to be submitted every quarter.

As of 2021, there is also an annual requirement for all individual registered Lobbyists to file an "Equity Report" (described below) by July 30 of each calendar year, relating to the period July 1 of the prior year through June 30 of the current year.

For more information about the equity reporting requirement see:

<https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Pages/Equity-Reports.aspx>

Late fees for both quarterly expense reports and the annual equity reports are \$50 for the first ten late days, \$100 for each late day after the first 10 late days through the 20th late day, and then \$200 for each late day after the first 20 late days.

Q: What information do the periodic lobbying reports include?

In general, once your organization is required to register, all the organizational costs associated with your lobbying activities, including staff and consultant compensation and reimbursements, office expenses, advertising, staff and volunteer meals, travel and lodging, and any other costs of doing the lobbying-related work will need to be reported in the quarterly expense report.

You will also need to report the general topic of the legislation or administration regulation being worked on, details of any gifts or payments made to public officials or state employees, as well as information about any donor (called in the report "source of contribution") that contributed more than 10% of your organization's revenue in the period.

The annual Equity Report filed by each individual registered Lobbyist requires the disclosure of the Principals that the individual Lobbyist lobbied for in the period, and the amount of equity the Lobbyist held in the Principal. For staff working only for you during the reporting period, the disclosure will simply be the name of your nonprofit organization as the Lobbyist's sole Principal, and a statement that the employee does not own any equity in your nonprofit (nonprofits do not issue equity!)

Q: What is considered a reportable "expenditure"?

All organizational expenses related to your lobbying work are reportable in the quarterly expense report.

The total expenses are reported in three categories:

- expenditures made for the benefit of state officials, state employees or their immediate family members (gifts, hospitality, transportation or lodging). If any of these expenditures are reported they must also be reported to the public official at least seven days before the expense report due date so that the official can make an appropriate ethics filing.
- costs for direct lobbying communications
- costs for indirect (grassroots) lobbying communications

Detail of individual expense items is not required, other than for any gifts reported in the first category.

You may use any reasonable method to calculate the pro rata allocation of the costs of your lobbying activities, including compensation and reimbursements for staff who do work other than lobbying, office expenses that are also used for other organizational activities, staff and volunteer meals, travel and lodging, and any other costs where the lobbying work is not the only reason for the expense.

The reports must be filed online at:

<https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Expense-Reports.aspx>

Gift Ban: 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 any expenses for, any public officials at the state or local level.

Because of this overlap between lobbyist registration and reporting and gift ban/ethics rules, most nonprofits without experienced professional lobbyist staff will refrain from making any expenditures for the benefit of public officials and employees, and hence their reports will only include costs of direct and indirect communication.

Q: Will our lobbyist reports be audited by Pennsylvania?

Maybe!

Pennsylvania law currently requires that outside independent auditors be hired to audit the reporting of 3% of the Principals and 3% of the individual Lobbyists that were registered during the year. The organizations and individuals that will be audited are chosen by lottery.

The law also requires that you keep records sufficient to document the information contained in your reports for at least four years. Your organization should put in place appropriate operational mechanisms to ensure that if you are audited you have reasonable backup to support your filings.

Q: What kind of disclaimer is required on our grassroots communications?

Pennsylvania law requires disclaimer language be included in any indirect (grassroots) lobbying communications even if your organization is not required to register and report. The text (or audio in the case of phone or radio communications) must clearly and conspicuously state the name of your organization as having paid for the communication.

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

Maybe!

If your organization is required to register, the quarterly expense reporting includes the requirement to disclose the source of any contribution (including gifts or grants) that totals 10% or more of your revenues in the reporting period.

Note that from a practical perspective this means that once you are registered, you will need to have a procedure in place to examine your revenues every quarter to check if any gifts or grants from donors exceeded 10% of that quarter’s total revenue.

Before you make any donor disclosures on your lobbyist reports, you should also check for any donor disclosure prohibitions in the relevant grant contract, since many donors require prior notice, or potentially even prohibit disclosure of their identity. If you find that the terms of a grant agreement conflict with the donor

FAQS

disclosure requirements under the Pennsylvania lobbying regulations, you should seek additional legal guidance.

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

A photo is required to be submitted to complete the lobbyist registration, but lobbyist identification badges are not required to be worn while lobbying. However, lobbyists may request a photo ID card that can be used to avoid having to go through public security procedures.

<https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/ID-Badge-.aspx>

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

Lobbyists are not allowed to serve as the treasurer or chair of a political campaign, or a candidate authorized PAC for statewide public office, state senate, or state house of representatives.

Paying lobbyists contingency fees based on securing passage or defeat of legislation or administrative action is also prohibited.

A lobbyist may not charge a fee or receive economic consideration based on a contract, either written or oral, that any part of the fee or economic consideration will be converted into a contribution to a state or local candidate for public office or a political committee.

A lobbyist may not attempt to influence a state official or employee on legislative or administrative action by making or facilitating the making of a loan to the state official or employee, or by the promise of financial support or the financing of opposition to the candidacy of the state official or employee at a future election.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about House Bill 101 currently pending in the Pennsylvania House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct postal mailings, e-mails, and volunteer phone banking, in order to get the students to call their state house representative about the bill;
- Doing an in person lobby day at the state capital about House Bill 101 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 an upgraded Zoom account;
- Testifying before a committee of the House of Representatives regarding the student perspective on House Bill 101; and
- Having an employee engage with the Mayor of Philadelphia about a similar local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying (indirect communication) is regulated in Pennsylvania, and time and money spent on this activity will count towards the registration threshold. Even if Students Vote Now does not end up triggering the registration requirement with this work, the grassroots communications, including the phone banking, will need to include a disclaimer clearly and conspicuously stating that Students Votes Now paid for the communications.</p>
 <p>Lobby Day</p>	<p>The lobby day activities are direct communication activities that will also count towards the registration thresholds, and time and money spent on the work needs to be considered together with the other activities planned. Volunteers who attend the event will not need to register because they are not compensated. If Students Vote Now chooses to give swag gifts to the legislators they must report those gifts in a separate category on their quarterly disclosure report, but it is best practice to refrain from doing so.</p>
 <p>Committee Testimony</p>	<p>If Students Vote Now is not required to register for any other reason, the time and money that it spends on this activity is not counted towards a registration threshold. If, because of its other activities, Students Vote Now is required to register, then the costs of preparing for and giving testimony do then need to be included in the quarterly expense report. Staff hours (and pro rata pay and reimbursement allocations spent on this task) would also not be counted towards an individual registration trigger if there are no other disclosable lobbying expenses during the quarter.</p>
 <p>Mayor</p>	<p>While lobbying a local public official is not covered under Pennsylvania law, Philadelphia has its own separate lobbying ordinance which is very similar in structure to the state law¹. Students Votes Now may be able to avoid city-level registration by keeping its spending on this activity to under the registration threshold of \$2,500 in the quarter. Pittsburgh also has its own city-level lobbying ordinance².</p>
<p>Bottom Line</p>	<p>If Students Vote Now spends no more than \$3,000 on all of its planned Pennsylvania level activities combined in a calendar quarter (including preparation time and including pro rata staff costs) it would not be required to register and report. Consideration could be given to splitting the work over two quarters, using volunteers, or using in-kind donations to keep costs down. Disclaimers will need to be used with the grassroots communications even if registration is not required. Registration may also potentially be required for work with the Philadelphia Mayor if the spending exceeds the threshold in the Philadelphia ordinance.</p>

¹ <https://www.phila.gov/departments/board-of-ethics/lobbying/>

² <https://www.openbookpittsburgh.com/>

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 *Pennsylvania Lobbying Disclosure Guide* for more details on the actual text of the Pennsylvania lobbying statute, and any related advisory opinions. <https://bolderadvocacy.org/resource/pennsylvania-lobbying-disclosure/>
- Our *Lobbying or Not?* one pager <https://bolderadvocacy.org/resource/pennsylvania-lobbying-or-not/> and our *Pennsylvania State Lobbying Flowchart* give some additional examples of what activities count as lobbying in Pennsylvania <https://bolderadvocacy.org/resource/pennsylvania-state-lobbying-flowchart/>
- Also see our *Pennsylvania Campaign Finance and Ballot Measure Guide* for rules related to ballot measure advocacy, which Pennsylvania regulates as a campaign finance activity, unlike the IRS which regulates such activities as direct legislative lobbying. <https://bolderadvocacy.org/resource/pennsylvania-campaign-finance-and-ballot-measure-guide/>

PENNSYLVANIA RESOURCES:

- **Pennsylvania Department of State**
The PA Department of State is responsible for overseeing lobbyist registration and reporting, as well as audits. <https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Pages/default.aspx>
- **Full Text of Pennsylvania Lobbying Statutes and Regulations**
<https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Resources/Pages/Laws-and-Regulations-.aspx>
- **Detailed Instructions for the Online Registration and Reporting System**
<https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Pages/PA-Lobbying-Services-Online.aspx>
- **Pennsylvania Lobbying Disclosure Manual**
Published by the Pennsylvania Department of State, this manual contains detailed guidance for calculating and reporting expenses related to lobbying and is available at: <https://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Resources/Documents/LobbyingDisclosureManual.pdf>
- **Additional Questions**
Questions about lobbyist registration and reporting can be directed to the Bureau of Campaign Finance & Lobbying Disclosure at (717) 787-5280, Option 5, or ra-lobbydisclosure@pa.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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This resource was prepared by Susan J. Zachman, of The Law Offices of Susan J. Zachman, PLLC, with the assistance of Steve Masters, Esquire, President of JustLaws PLLC, and with thanks to the many, many advocates and activists who do this critical work every day.