

LOBBYING DISCLOSURE

These resources are current as of 01/09/2018: 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 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 – Lobbying is an “*effort to influence*” “*legislative action*” or “*administrative action*” in Pennsylvania. Lobbying includes:
 1. “*direct communications*” (direct lobbying) or “*indirect communications*” (grassroots lobbying);
 2. office expenses; and
 3. providing any gift, hospitality, transportation or lodging to a State official or employee for the purpose of advancing the interest of the lobbyist or principal.

65 Pa. C.S. § 13A03.

- *Effort to influence* legislative action or administrative action is defined as “Any attempt to initiate, support, promote, modify, oppose, delay or advance a legislative action or administrative action on behalf of a principal for economic consideration and includes engaging a lobbyist.

51 Pa. Code §51.1

- *Legislative Action* – “An 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:

1. legislation;
2. legislative motions;
3. a veto by the Governor; or
4. confirmation of appointments by the Governor or appointments to public boards or commissions by a member of the General Assembly.”

Id.

- *Legislation* includes both:
 1. “[b]ills, resolutions, amendments and nominations” pending or proposed in either the state Senate or the House of Representatives.
 2. “any other matter which may become the subject of action by either chamber of the General Assembly.”
65 Pa. C.S. § 13A03.
Administrative regulations broaden the language of subsection 2 to specifically (but not exclusively) include “draft legislation” and “any bills, resolutions, amendments, and nominations pending or proposed by any state official or employee (51 PA Code § 51.1).
- *Administrative action* – all of the following are *administrative actions*:
 1. An agency’s:
 - 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 under the Commonwealth Procurement Code (Title 62 of Pennsylvania Consolidated Statutes);.
 2. The review, revision, approval or disapproval of a regulation;
 3. The Governor’s approval or veto of legislation;
 4. The nomination or appointment of an individual as an officer or employee of the Commonwealth; or
 5. The proposal, consideration, promulgation or rescission of an executive order.
65 Pa. C.S. § 13A03.
- *Agency* means an “agency, board, commission, authority or department of the executive department of the Commonwealth.”

65 Pa. C.S. § 13A03.

Types of Lobbyists:

- Lobbyist – includes any “individual, association, corporation, partnership, business trust or other entity that engages in lobbying on behalf of a principal for economic consideration. The term includes an attorney at law while engaged in lobbying. 65 Pa. C.S. § 13A03.
 - Membership in an association alone is not sufficient to make an association member a lobbyist.” 51 Pa. Code §51.1.
 - *Economic Consideration includes anything of value offered or received and includes compensation and reimbursement for expenses.* 65 Pa. C.S. § 13A03.
- Lobbying Firm – An entity that engages in lobbying for economic consideration on behalf of a principal other than the entity itself. 65 Pa. C.S. § 13A03.

Other Actors:

- Principal – includes any “individual, firm, association, corporation, partnership, business trust or business entity:
 1. on whose behalf a lobbying firm or lobbyist influences or attempts to influence an administrative action or a legislative action; or
 2. that engages in lobbying on the principal's own behalf. 65 Pa. C.S. § 13A03.Membership in an association alone is not sufficient to make an association member a principal. 51 Pa. Code §51.1.

Direct Lobbying:

- Direct communications (i.e., direct lobbying) include any “effort, whether written, oral or by any other medium, made by a lobbyist or principal, directed to a State official or employee, the purpose or foreseeable effect of which is to influence legislative action or administrative action. The term may include personnel expenses and office expenses.” 65 Pa. C.S. § 13A03.

Grassroots Lobbying:

- Indirect communications (i.e., grassroots lobbying) include any “effort, whether written, oral or by any other 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 administration action.” 65 Pa. C.S. § 13A03.
 - Indirect communication includes “letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards,

publications and educational campaigns on public issues,” but “does not include regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit corporation.” *Id.*

- The term “indirect communication” “may include personnel expenses and office expenses.” *Id.* This means that expenditures for personnel and office expenses devoted to indirect communication will count toward the threshold limits for reporting.
- The term “*gift*” means anything which is received without consideration of equal or greater value. The term shall not include a political contribution otherwise reportable as required by law or a commercially reasonable loan made in the ordinary course of business. The term shall not include hospitality, transportation or lodging. 65 Pa. C.S. § 13A03.

REGISTRATION

Only activity that involves efforts to influence Pennsylvania legislative or administrative action give rise to a duty to register and report as a lobbyist or principal.

- While monitoring of legislation or legislative or administrative action is not itself lobbying activity, the costs of monitoring are subject to reporting requirements when done in connection with lobbying activity. 51 Pa. Code § 55.1(g)(3)(iv).

Registration of Principals:

- A principal must register if it spends more than \$3,000 on lobbying in any quarterly reporting period. See § 13A06(6) and 45 Pa. Bull. 2681 “Lobbying Disclosure Act; Increase in Threshold Amounts for Registering and Reporting” (raising the thresholds under 65 Pa.C.S. §13A06 for registration under 65 Pa.C.S. § 13A04 and the threshold for reporting under 65 Pa.C.S. § 13A05(d) from \$2,500 to \$3,000 effective January 1, 2017.
- Timing – A principal must register within 10 days of exceeding \$3,000 of lobbying expenses in a quarterly reporting period. See 65 Pa.C.S. §§ 13A04(a), 13A06(6). Pursuant to 65 Pa.C.S. §13A06(6) and 45 Pa. Bull. 2681, a principal is exempt from registration if the principal’s total expenses for lobbying purposes do not exceed \$3,000 during a reporting period. Registration is effective on a set biennial schedule starting Jan. 1 of odd numbered years; unless terminated, a registration statement is valid only until the end of the reporting period

during which it is filed, no matter when during that period the obligation to register occurs. 64 Pa.C.S. §13A04(a); 51 Pa Code § 53.2(g).

- Disclosures – A principal’s registration must disclose the following information:
 - Name, permanent address, telephone number and email address;
 - Name and nature of business;
 - Name, registration number and acronym of any affiliated PACs;
 - Name and permanent business address for each individual paid to lobby for the principal;
 - Registration number (when available)

65 Pa.C.S. § 13A04(b)(1)

- A principal that is an association or organization must include “the number of its dues-paying members in the most recently completed calendar year.” 65 Pa.C.S. § 13A04(b)(3). The Regulations do not indicate whether the number to be provided is the highest number of members at any point during the calendar year or the number of members on December 31.

If any information disclosed on the registration statement changes, the principal must file an amended statement within 14 days of the change. *Id.* at (d)(1). If the number of members in an organization changes from year to year, the organization must file an amended statement by January 14, stating the number of members during the previous year. *Id.* at (d)(2).

- The online and paper registration forms for principals are available at: (<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Registration-Forms.aspx>)
- Renewing Registration – A principal must renew its registration following the expiration of the biennial registration period, which runs from January 1 of an odd-numbered year through December 31 of the following even-numbered year. 65 Pa.C.S. § 13A04(a)
- Fee: The biennial registration fee is \$300. (Statutory fee is \$100, but the fee increased to \$300 on January 1, 2015. § 13A04(a); see 44 Pa. Bull. 7671 “Lobbying Disclosure Registration Fee”.

Registration of Lobbyists:

- An individual must register as a lobbyist within 10 days of acting as a lobbyist. 65 Pa.C.S. §13A04(a). Because of the exemption under 65 Pa.C.S. §13A06(4), registration will not be required until the threshold of \$3,000, in aggregate and from all principals, has been exceeded.
 - No registration or reporting is required for any individual who:

- i. Lobbies only on behalf of the individual's employer and spends less than 20 hours on those activities during any quarterly reporting period;
- ii. Whose economic consideration for lobbying, from all principals represented, does not exceed \$3,000 in the aggregate during any reporting period or who does not receive economic consideration for lobbying;
- iii. Limits lobbying to preparing testimony and testifying before a committee of the General Assembly or participating in an administrative proceeding of an agency;
- iv. Represents "a bona fide church or bona fide religious body of which the individual is a member where the lobbying is solely for the purpose of protecting the constitutional right to the free exercise of religion";
- v. Is a journalist or commentator acting in that capacity; or
- vi. Is an elected or appointed state or local official, or is an employee of the state, acting in an official capacity;
- vii. Is a vendor responding to a publicly advertised invitation to bid or request for proposal;
- viii. Participates as a party or as an attorney at law or representative of a party in an adjudication before any administrative agency.

65 Pa.C.S. § 13A06.

- Disclosures – A lobbyist's registration must include the following:
 - Name, permanent business address, daytime phone number, and email address;
 - Recent photograph;
 - Name, permanent business address, daytime telephone number and, when available, registration number of each principal for whom the lobbyist will engage in lobbying;
 - Name and, when available, registration number of any lobbying firm that pays the lobbyist;
 - Name, registration number and acronym of any affiliated political action committees; and
 - Name, registration number and acronym of any candidate political committee of which the lobbyist is an officer.

65 Pa.C.S. § 13A04(c).

- The online and paper registration forms for lobbyists and lobbying firms are available at:
 (<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Registration-Forms.aspx>)

- Renewing Registration – A lobbyist must renew his or her registration following the expiration of the biennial registration period, which runs from January 1 of an odd-numbered year through December 31 of the following even-numbered year. 65 Pa.C.S. §13A04(a).
- Fee: The registration fee is \$300. § 13A10(a). (Statutory fee is \$100, but the fee increased to \$300 on January 1, 2015. § 13A10(a); see 44 Pa. Bull. 7671 “Lobbying Disclosure Registration Fee”.

REPORTING

Reporting by Principals:

- Principals must report their activities quarterly. Reports are due 30 days after the calendar quarter ends. § 13A05(a).
- Once a principal has registered, the principal must file an expense report for each quarter in which its total expenses for lobbying exceed \$3,000. If its total expenses during a reporting period are \$3,000 or less, the principal must file a statement that its expenses didn’t exceed the \$3,000 threshold. § 13A05(d); 51 Pa. Code § 55.1(b) and 45 Pa. Bull. 2681 “Lobbying Disclosure Act; Increase in Threshold Amounts for Registering and Reporting” (raising the thresholds under 65 Pa.C.S. §13A06 for registration under 65 Pa.C.S. § 13A04 and the threshold for reporting under 65 Pa.C.S. § 13A05(d) from \$2,500 to \$3,000 effective January 1, 2017.
 - .
- The quarterly report must detail:
 - Names and registration numbers of the lobbyists who lobbied on behalf of the principal during the reporting period; if there is no individual that triggers the registration requirement (e.g., the costs are spread among a number of staff members), the system will accept a report from a principal that does not name any individual lobbyists; § 13A05(b)(1).
 - The general subject matter or issue being lobbied. *Id.*
 - The total costs of lobbying conducted during the reporting period, which must be allocated to one of the following three categories (reporting is by total for each category, however gifts, transportation and lodging expenditures over a threshold amount are itemized separately from the report of total costs in these categories):
 - gifts, hospitality, transportation and lodging for state officials, employees or their immediate families;
 - direct communications; and

- indirect communications.
 - Total costs for direct and indirect communications must include office and personnel costs. 51 Pa. Code §§ 55.1(g), 55.1(i).
- § 13A05(b)(2).
 - Gifts provided to state officials and state employees. Gifts must be itemized only when aggregate gifts to a recipient equal \$250 or more in the calendar year. The report must identify:
 - The name and position of the recipient;
 - The name and address of the source of the gift, referring to the person(s) who provided the gift;
 - The date the gift was given;
 - The value of the gift;
 - A description of the gift; and
 - The circumstances of the gift.
 - § 13A05(b)(3); 65 Pa. C.S. § 1105(b)(6).
 - Travel and hospitality provided to state officials and state employees. Travel must be itemized only when aggregate payments for an individual's travel exceed \$650 in a calendar year. The report must identify:
 - The name and position of the recipient;
 - The name and address of the source of the payment;
 - The value of the transportation, lodging or hospitality; and
 - The date of the payment or reimbursement.
 - The name, address and telephone number of any individual or entity that contributed more than 10% of the total resources received by the principal during the reporting period.
 - §13A05(b)(3); § 65 Pa. C.S. § 1105(b)(7).
- A principal's report must be signed by all of the lobbyist firms that are registered to lobby on behalf of the principal, and also by all lobbyists not affiliated with firms who are registered to lobby for the principal. See § 13A05(b)(4). A principal's report for a principal required to report, but which does not have any lobbyist firms or individual lobbyists registered on its behalf, will be signed only by the principal.
- The online and pdf reporting forms are available at:
(<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Expense-Reports-.aspx>)

Reporting by Lobbyists:

- A lobbying firm, or a lobbyist not associated with a lobbying firm, must file a quarterly report only a) if the compensation they received from lobbying exceeds \$3,000; and b) if the lobbying firm or lobbyist engaged in lobbying that was not contained in any expense report filed by a principal. § 13A05(b)(6), 51 Pa. Code § 55.1(a).

- The practical impact of this requirement is that staffers for nonprofit organizations generally will not be required to file reports as individual lobbyists. A staffer would only be required to file lobbyist reports if that person conducted lobbying for other entities outside of his or her work activities. Any lobbying the staffer conducts inside his or her work activities for his or her employer nonprofit organization will be reported on the report filed by the organization as a principal.
- If the total lobbying expenses of the principal, registered lobbying firm or individual lobbyist combined are \$3,000 or less for lobbying during the reporting period, then a statement must be filed to that effect with the Department of State by checking the appropriate box on the quarterly reporting form. 51 Pa. Code § 55.1(b).
- The reporting forms are available at:
(<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/Expense-Reports-.aspx>)

LOBBYING RESTRICTIONS

Grassroots Lobbying:

Registration – For purposes of the registration and reporting requirements, Pennsylvania does not distinguish between expenditures for direct and indirect communications. An entity that spends more than \$3,000 on grassroots lobbying communications during a calendar quarter will be required to register as a principal.

- Grassroots lobbying is an effort whether written, oral or by any other medium, to encourage others, including the general public, to take action, the purpose or foreseeable effect of which is to directly influence legislative or administrative action. 65 Pa.C.S. §13A03.
 - It includes letter-writing campaigns, mailings, telephone banks, print and electronic media advertising, billboards, publications and educational campaigns on public issues.
 - It exempts a narrow form of membership communications: regularly published periodic newsletters primarily designed for and distributed to members of a bona fide association or charitable or fraternal nonprofit. 65 Pa.C.S. §13A03. This is very limited and narrow exemption which, for example, would not exempt email messages to members asking members to “Call your representative about this upcoming vote.”

Reporting – The total amount spent on the category of grassroots lobbying – called “indirect communications” – during a reporting period must be disclosed on a filer’s quarterly report, but the specific expenditures need not be itemized. 65 Pa.C.S. §13A05(b)(2). This amount must include personnel and office costs. 51 Pa. Code §§ 55.1(g), 55.1(i).

- Disclaimer – Indirect communications must clearly and conspicuously state the name of the person who made or financed the communication. 65 Pa.C.S. §13A05(e).
 - This statutory language explicitly requires disclosure for “a communication, such as a mailing, telephone bank, print and electronic media advertisement, billboard, publication or education campaign.” 65 Pa.C.S. §13A05(e). Regulations extend the disclosure to automated telephone calls. 51 Pa. Code § 55.1(o).
 - Regulations do not explicitly address emails and websites, but the statutory language requiring disclosure as to “a communication, such as a . . . electronic media advertisement,” 65 Pa.C.S. §13A05(e), would support such a requirement. See also §VIII of the Lobbying Disclosure Manual published by the Attorney General, listing ‘communicating with others, asking them to contact state officials or employees’ and specifically exempting member communications other than periodic newsletters. (*available at* <http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Resources/Documents/LobbyingDisclosureManual.pdf>).

Identification of Lobbyists:

- Pennsylvania has no requirement that a lobbyist wear a badge. Photo identification cards are available by application, however, in order to facilitate access to the State Capitol by avoiding security barriers. Applications are available at:
<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/LobbyingAccountServices/Pages/ID-Badge-.aspx>

Time Restrictions on Lobbying:

- There are no time periods during which lobbying is restricted.

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 and principals may give gifts to state officials and state employees, but these must be included in the lobbyists' or principals' quarterly expense reports, as described above. The same information must be provided to the official or employee at least seven days before the report is submitted, in order to allow the official or employee to comply with the disclosure required by the state Ethics Act.
 - Elected or appointed public officials and certain categories of public employees must disclose the gifts they receive on the official's or employee's annual Ethics Act Statement of Financial Interests. 65 Pa.C.S. §§1102 (Definitions); 1105(b)(6) (Required information—gifts). The report must include the name and address of the source and amount of any gift or gifts valued in the aggregate at \$250 or more and the circumstances of each gift. The reporting requirement applies to each source of a gift or gifts valued in the aggregate at \$250. Paragraph 1105(b)(6) does not apply to a gift or gifts received from family members or friends “when the circumstances make it clear that the motivation for the action was a personal or family relationship,” but “for purposes of this paragraph, the term ‘friend’ shall not include a registered lobbyist or an employee of a registered lobbyist.”
- 65 Pa. C.S. §13A05(b)(3)(vi), referencing 65 Pa.C.S. §1105(b)(6).

Travel and hospitality:

- Lobbyists and principals may pay for travel and hospitality (including meals) for state officials and state employees, but these must be included in the lobbyists' or principals' quarterly expense reports. The same information must be provided to the official or employee at least seven days before the report is submitted, in order to allow the official or employee to comply with the disclosure required by the state Ethics Act.
 - To report the value of meals and receptions, the lobbyist or principal may either divide the bill by the number of people, or keep detailed records of what each individual ordered.
 - Elected or appointed public officials and certain categories of public employees must disclose on the official's or employee's annual Ethics Act Statement of Financial Interests the name and address of the source and the amount of any payment for or reimbursement of actual expenses for transportation and lodging or hospitality received in connection with public office or employment where such actual expenses for transportation and lodging or hospitality “exceed \$650 in the course of a single occurrence.” 65 Pa.C.S. §§ 1102 (Definitions); 1105(b)(7)(Required information—transportation, lodging or hospitality). The trip is reported on the

official's or employee's annual Ethics Act Statement of Financial Interests.

See 65 Pa.C.S. §13A05(b)(3)(vi), referencing 65 Pa.C.S. §1105(b)(7).

Campaign Contributions:

- Lobbying contracts may not be paid with the understanding that some part of the payment will be converted into a political contribution. 65 Pa.C.S. §13A07(b).
- “Any lobbyist who has given a [campaign] contribution or pledge regardless of amount, to any candidate, shall be subject to the same registration and reporting provisions [under the Pennsylvania Election Code] as are political committees,” 25 P.S. §3245(a), and “[t]he registration statement required by section 1624 [of the Election Code, 25 P.S. § 3244] shall be filed by a lobbyist who has given a contribution or pledge regardless of amount, to any candidate.” 25 P.S. § 3245(b). These provisions require not only the filing by the lobbyist of a political committee registration statement but also the filing of pre-election, post-election and annual reports on the same schedule as political committees. 25 P.S. §3246.

Campaign Involvement:

- Lobbyists may not serve as the treasurer or chair of a candidate's statewide or legislative political campaign. 65 Pa.C.S. §13A07(a).

Contingency Fees:

- Lobbyists may not be paid fees that are contingent on success in obtaining administrative or legislative action. Contingency fees for procurement work are permissible. 65 Pa.C.S. §13A07(e); 51 Pa. Code §55.1(h)(1).

Revolving Door:

- No former public official or public employee may represent a person, with promised or actual compensation, on any matter before the governmental body with which he has been associated for one year after he leaves that body. 65 Pa.C.S. §1103(g).

CONTACT INFORMATION FOR STATE AND LOCAL AGENCIES

The lobbying disclosure portal of the website of the Pennsylvania Department of State (<http://www.dos.pa.gov/OtherServices/LobbyingDisclosure/Pages/default.aspx>) provides access to the forms required to register and report, including the manual issued January 9, 2010, “Manual for Accounting and Reporting — How to Comply with Act 134 of 2006,” which is available at

http://www.portal.state.pa.us/portal/server.pt/community/manual_for_accounting_and_reporting/17869)

Pennsylvania Department of State
210 North Office Building
Harrisburg, PA 17120

Bureau of Commissions, Elections and Legislation:
telephone: 717-787-5280
Fax: (717) 705-0721
Email: RA-LobbyDisclosure@pa.gov

Office of Chief Counsel
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Pennsylvania State Ethics Commission
PO Box 11470
Room 309 Finance Building
Harrisburg, PA 17108-1470
(717) 783-1610
800-932-0936 (toll free in PA)
(717) 787-0806 (fax)

FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

**Email: Advocacy@afj.org
Telephone: 1-866-NPLOBBY
(675-6229)**

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