

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

ARIZONA

New in This Update:

This Practical Guidance resource updates the 11.04.21 version. Updates include:

- A new FAQ describing how to use this resource
- A new FAQ comparing federal and state lobbying rules
- Links to updated resources at the Secretary of State's office

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 May 2022. 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 or at info@democracycapacity.org with any comments.

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 details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related 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: How should we think about using this Practical Guidance resource?

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas that would allow your program to be in compliance with the regulations but not require registration and reporting.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below and on the Additional Resources page of this Guide.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use our free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in our resource library at <https://bolderadvocacy.org/>

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: 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 exceptions 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

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- 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 exception applies only to executive branch public meetings, not to legislative public meetings)
- Lobbying local legislative bodies or local executive branch officials (although 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.

Arizona regulates only direct communication with a legislator designed to influence a decision on a bill. If your nonprofit has a staff person 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 staff person 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: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (regulated by the IRS) **and** any state and local lobbying laws that apply to their work.

The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not count as lobbying advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to "register" with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test. See our resource <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See

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our <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities.

Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with sustained lobbying activities and expenses to file. For more information see: https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

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: 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.

Your organization will also need to name a person responsible for making all of your organization's periodic reporting filings with the state. The state calls this your Designated Lobbyist ("DL"). If your designated lobbyist is an employee of your organization (as opposed to a paid outside consultant), your employee will need to complete an individual Lobbyist Registration form available at:

https://azsos.gov/sites/default/files/20191209_LOB_%20Registration_Form.pdf.

When filling out the individual Lobbyist Registration form for an employee that is lobbying for your nonprofit organization as part of their duties, you should generally fill it out as follows:

- For the drop down choice of Individual vs Company/Firm select Individual.
- Check the Designated Lobbyist box if this employee has been named your designated lobbyist responsible for making the filings for your organization.
- Employee lobbyists for nonprofit organizations should **not** check the box for Designated Public Lobbyist ("DPL") since that is a category for lobbyists employed by state agencies or other public bodies like a city. Your staff should also usually **not** check the box for Lobbyist for Compensation ("LFC") as this is a category of individuals whose **primary** job is to lobby.
- You would also not check the box describing employees who act as lobbyists (since your employees do not have their own lobbyist employees). Instead, 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 ("AL") on your organizational registration using the Principal Registration Attachment: Record of Lobbyists form.

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Registrations need to be renewed every two years (in December of even years for the principal (your organization) and in December of odd years for the designated lobbyist (your employee lobbyist is 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/Lobbying_Handbook_Jan.pdf or by reaching out to an Arizona Secretary of State Lobbyist Specialist via e-mail at lobbyist@azsos.gov or via phone: 602-542-8683.

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.

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 like a picnic cookout on the Capitol lawn where public officials are invited. Expenses for certain personal gifts, plaques of recognition of accomplishment, and informational materials are not required to be reported. Many smaller nonprofit organizations find it simpler not to make expenditures on public officials, and this can reduce the operational compliance burden since only expenditures made on public officials are reportable. Note that reports must still be filed with the state even when no expenditures are made.

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.

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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?

Once you are registered, both your organization and your registered lobbyists are prohibited from making, promising to make, or soliciting 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, even if your registered lobbyist would be making such contributions in their personal capacity. Also remember that under IRS rules 501(c)(3) public charities are **never** allowed to make or solicit contributions.





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 an in-person 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 an upgraded Zoom account.
- Testifying before a committee of the state House of Representatives regarding the student perspective on Bill 1001.
- 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 staff person as its “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 for legislators at the Capitol during the Lobby Day that would require additional reporting.</p>
 <p>Committee Testimony</p>	<p>There is no specific exception for legislative testimony, and this activity would count as lobbying unless such testimony would fall into another exception. 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 ordinance,¹ 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 lobbyist 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 Lobby 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 at the end 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 links to 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/Lobbying_Handbook_Jan.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 via phone at 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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