



NAfME Field Guide to State Lobbying

Introduction

NAfME state affiliate associations are advised to consult this Field Guide prior to engaging in advocacy activities which could be construed as lobbying. This resource is not intended as legal advice and is provided strictly for the purpose of encouraging state affiliate associations to become aware of state specific lobbying laws. State affiliate associations should consult legal counsel in the association's state of operation for specific guidance related to state lobbying laws.

The Field Guide should be made readily available to all persons involved with music education advocacy. Advocacy on behalf of the cause is your RIGHT and we strongly encourage you to take advantage of it!

What is lobbying?

What constitutes lobbying varies from state-to-state as do the lobbying registration and reporting requirements. The following definitions are general definitions and are provided solely for illustrative purposes. State affiliate associations are advised to become familiar with the lobbying laws and definitions applicable to the association's state.

Lobbying – Any attempt to influence state legislative action through direct communication with a state legislator or the legislator's staff. In some states lobbying also includes attempts to influence action by the state's executive branch officials and staff, and may also include attempts to influence the political appointment process. States generally exempt from lobbying testifying at a public hearing or responding to requests for information from legislators. Other exemptions may apply, but will vary from state-to-state.

Grassroots Lobbying – Attempts to influence legislation by encouraging the general public to contact elected officials and ask the elected official to take legislative or regulatory action. Various states require organizations to report grassroots lobbying even if the organization is not engaged in direct lobbying, while other states require organizations to report grassroots lobbying only if the organization is engaged in direct lobbying.

State Regulation of Lobbying

State lobbying is generally regulated by the Secretary of State, the Ethics Commission, or the Campaign Finance and Public Disclosure Board. Generally, an individual who is compensated for lobbying must register with the applicable state agency as a lobbyist. Some states, however, do not require registration unless certain compensation thresholds are met.

Organizations that employ an in-house or outside lobbyist generally must also register with the state. Again, some states do not require organizations to register unless the organization spends a specified amount on lobbying activities.

Individuals and organizations should check with the agency that regulates lobbying in the state to determine whether state law requires the renewal of the lobbying registration for each legislative session.

In addition to registering with the state, individuals and organizations that engage in state lobbying will be required to file periodic reports with the state's regulatory agency. The frequency of the report filings also varies from state-to-state.

State Lobbying By Volunteers

Often, when an organization does not have a paid lobbyist on staff and does not have a paid outside lobbyist, volunteers will undertake organizational lobbying efforts. Many states exempt organizations that use only volunteers to carry out the organization's lobbying efforts from registration and reporting requirements. Some states, such as Colorado and Rhode Island, do not provide exemptions from the registration and reporting requirements when organizational lobbying is conducted by volunteers.

Federal Laws Applicable to Lobbying By State Affiliate Associations

In addition to state laws, there are also federal laws that state affiliate associations must follow when engaging in lobbying at the state level.

- 501(c)(3) organizations may engage in lobbying, but must ensure that lobbying does not constitute a substantial amount of the organization's total activities and is determined by applying either the "substantial part test" or "expenditure test."
- 501(c)(6) organizations are also permitted to lobby, but do not have the same restrictions as 501(c)(3) organizations, and lobbying may be the organization's sole activity so long as it is germane to the accomplishment of the organization's tax exempt purpose.
- Expenditures made by 501(c)(3) and 501(c)(6) organizations for lobbying at the state level must be reported on the organization's Form 990 filed with the IRS.
- 501(c)(3) organizations are strictly prohibited from engaging in political activity. Political activity is generally defined as participating or intervening in any political campaign on behalf of (or in opposition to) any candidate for elected office. Political activity includes contributions to political campaigns by the organization and public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for elected office.
- A 501(c)(6) organization may engage in some political activities, so long as that is not its primary activity. However, expenditures made for political activities may be subject to tax under section 527(f) of the Internal Revenue Code and Federal Election Commission regulations may apply.
- If the state affiliate association engages in lobbying at the federal level, it must comply with federal lobbying registration and reporting requirements. The IRS and Congress have different definitions for lobbying and compliance requirements. A state affiliate association should become familiar with both sets of rules if it engages in lobbying at the federal level.

Permissible Activity

All lobbying activity must be related to the organization's tax-exempt purpose, i.e. supporting music education.

State Affiliate Associations May:

- Call, write or visit with a state legislator or a member of their staff to discuss issues and legislation;
- Encourage members to make similar calls or visits or write letters;
- Organize a letter writing, postcard or email campaign around an issue;
- Pay for an advertisement (print, radio, tv or online) that contains the organization's views on a particular bill;
- Hire a lobbyist to represent the organization before the state legislature; and
- Engage in nonpartisan activity such as hosting debates, publishing candidate guides in which all candidates were given an opportunity to answer specific questions, and hosting "get out the vote" events.

Resources

For links to your state's lobbying registration and reporting laws, go to the website for the National Conference of State Legislatures at <http://www.ncsl.org/default.aspx?tabid=15318>.

For information about the amount of permissible lobbying activity and lobbying expenditures, visit the IRS website at:

<http://www.irs.gov/Charities-&-Non-Profits/Measuring-Lobbying:-Substantial-Part-Test>

<http://www.irs.gov/Charities-&-Non-Profits/Measuring-Lobbying-Activity:-Expenditure-Test>

For information on permissible nonpartisan activities, go to one of these IRS websites:

[http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501\(c\)\(3\)-Tax-Exempt-Organizations](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/The-Restriction-of-Political-Campaign-Intervention-by-Section-501(c)(3)-Tax-Exempt-Organizations)

For additional information on your organization's right to lobby, see the materials available from the Alliance for Justice such as this article: <http://www.afj.org/assets/resources/nap/guidelines-for-501c3-public-charities-lobbying.pdf>.

Questions

Should you have questions about conducting advocacy activities, please e-mail NAFME advocacy staff directly at advocacy@nafme2.org. For all questions concerning state laws, please consult local legal counsel as NAFME is not able to answer inquiries regarding individual state lobbying registration or reporting requirements.