



EVERYTHING MATTERS

Advocacy Rules Beyond the IRC: *Federal and State Lobbying and Ethics Compliance*



UT LAW CLE

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Objectives



- To provide an overview of the laws and regulations that govern lobbying by nonprofits other than those imposed by the Internal Revenue Code, using the federal rules as a primary example; and
- To provide tools and recommendations for considering and analyzing the application of state and local lobbying rules and requirements to the advocacy activities of a nonprofit.

Key Takeaways



- Under the federal lobbying law and almost all state and local laws, “lobbying” is defined more broadly than under the IRC.
- Virtually no lobbying statutes provide exceptions specifically for nonprofits, which are generally treated the same as other entities engaged in advocacy.
- Registration and reporting obligations are not typically onerous and should not discourage advocacy – but note that there can be other implications for both the organization and the individual lobbyist(s).

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Key Takeaways (cont.)



- Lobbying regulators generally provide comprehensive and helpful guidance for filers and should be consulted before registering.
- Formal enforcement and significant penalties are rare; public attention and reputational harm are the greater risk.
- Organizations engaged in advocacy are well advised to have in place policies, procedures, and training re: lobbying issues and compliance.

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Recent Trends



- **More expansive regulation of lobbying**
- **Broader definitions of “lobbying”**
- **More frequent and more detailed reporting**
- **Enhanced enforcement and criminal penalties for violations of lobbying laws**
- **More restrictive gift and ethics rules for government officials (before, during, and after government service)**
- **More strict ethics requirements when gifts, invitations, etc. are from lobbyists**

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- 1) **Lobbying Disclosure**
- 2) **Government Ethics Rules**
- 3) **Other Provisions**

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