

ALERT

Three Legal Considerations for Grassroots, Grassstops, and Public Affairs Campaigns

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Spending on federal and state lobbying continues to soar – a reality that has created new challenges for companies, trade associations, and other groups trying to advance their advocacy goals. To supplement their direct lobbying, many groups have turned to grassroots, grassstops, and public affairs campaigns to break through the noise. These efforts may include patch-through phone calls, letter-writing campaigns, peer-to-peer and other text messaging, rallies, digital ads, influencer marketing, placing op-eds and letters to the editor, coalition building, and more. While these tools may be helpful in effecting change in Washington and state capitals across the country, such tactics can also carry significant legal risks that are often overlooked.

Consideration 1 – Grassroots Activity Often Triggers Lobbying

Registration and Reporting Obligations

Put simply, grassroots activity may be considered lobbying in many states. For example, in New York, tactics aimed at influencing legislation – like letter-writing campaigns or rallies – may trigger registration and reporting obligations if more than \$5,000 is spent on these efforts. California similarly regulates these types of activities when they solicit others to take action. The state requires reporting of grassroots-type activity by registered lobbyists and separately requires non-lobbyist entities that engage solely in grassroots activity to report certain expenditures over \$5,000. In other states, the threshold for when a group must register is less clear, such as in Indiana where factors like the content of advertising will be determinative.

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At the federal level, the Lobbying Disclosure Act does not regulate grassroots lobbying. However, if an organization chooses to report using the Internal Revenue Code definition of lobbying (Method C), federal grassroots legislative lobbying must be reported as part of total lobbying expenditures even if it does not include an explicit call-to-action.

Groups engaging in these types of tactics should also consider campaign finance rules at the state and federal level, given some ostensibly grassroots legislative advertisements in election years may be considered electioneering communications subject to additional restrictions if they feature or mention lawmakers or other state officials who are also candidates.

Consideration 2 – Disclaimer Requirements

In addition to publicly reporting their activity, groups engaging in these types of campaigns also must comply with a patchwork of disclaimer obligations. In Pennsylvania, for instance, grassroots publications encouraging the public to take action on an issue must “clearly and conspicuously state the name of the person who made or financed the expenditure for the communication.” Florida requires “a clearly readable statement of sponsorship” on a range of advertisements, including billboards and radio ads. Other jurisdictions have requirements that groups disclose their top donors in disclaimers – an obligation that can be burdensome for those who do not have that information readily available, and that can also significantly alter the visual aspects of creative advertising.

Consideration 3 – Cities and Counties May Have Their Own Rules

With increasing frequency, cities and counties are creating their own lobbying regimes that may cover grassroots activity. In Los Angeles, for example, nonprofit organizations that otherwise need not register as lobbying organizations still must report their local lobbying expenditures if they exceed \$5,000 in a quarter, a threshold that includes grassroots activities like public outreach, studies, and advertising. Similarly, in Seattle, sponsors of indirect lobbying that meet certain expenditure thresholds must register with the Seattle Ethics and Elections Commission. And in Baltimore, the city imposes a registration and reporting obligation once a group spends more than \$1,000 on grassroots activities.

The multitude of state and local regulations on grassroots lobbying can be confusing to navigate. Wiley’s Election Law & Government Ethics Practice closely tracks these developments and is available to assist companies, trade associations, and others in understanding the applicable registration, reporting, and disclaimer requirements for grassroots lobbying at the federal, state, and local levels.

Ben Sutter, a Wiley 2025 summer associate, contributed to this alert.