

# PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

# FLORIDA

## **New in This Update:**

This Practical Guidance resource updates the previous May 24, 2022 version. Updates include:

- A new FAQ about lobbying as a fiscally sponsored project
- Information about grassroots advertising disclaimers
- Updated links to State resources

## **Inside This Guide:**

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Florida 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 in Florida?

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
<b>State Legislators</b>	Yes	An individual must register if they are paid any amount to attempt to influence the passage or defeat of any legislative action, or to create goodwill with any member or employee of the Legislature, on behalf of your organization, <b>and</b> if overseeing your relationships with state governmental officials is one of their most significant job responsibilities.
<b>State Executive Branch Officials</b>	Yes	Same as above regarding a policy or procurement decision by an agency, or the creation of goodwill with any agency official.
<b>Local Legislators or Local Executive Branch Officials</b>	Quite possibly!	The Florida state lobbying statute does not regulate lobbying at the local level, but <b>hundreds</b> of municipalities and counties in Florida do have their own lobbying ordinances that may require registration.

- **Grassroots lobbying:** Grassroots lobbying (calling on members of the public, or other organizations, to take action) is not regulated under Florida state lobbying law and will not trigger registration or reporting.
- **Procurement lobbying:** Attempting to influence a government contract of \$20,000 or more, including attempts to shape the content or specifications of an RFP or contract terms, counts as executive branch lobbying. Simply responding to an RFP does not trigger lobbying registration.

## KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN FLORIDA:

- **Paid employees who only lobby sometimes will usually not trigger registration:** For any of your employees to trigger lobbyist registration under Florida state law, one of their most significant job responsibilities must be overseeing your relationships with state governmental officials. Note however, that if your lobbyist is a consultant (as opposed to as an employee), registration is required for any amount of paid lobbying.
- **Even if your employees are required to register, there is no reporting requirement:** Only lobbyist firms need to do any periodic reporting.
- **Hundreds of local Florida jurisdictions have separate lobbying ordinances:** Seek additional advice if you are lobbying local public officials at the city or county level as local rules can be stricter than the state rules.
- **Grassroots advertising disclaimers:** While grassroots lobbying does not trigger registration, Florida requires a statement of sponsorship on grassroots communications intended to influence public policy or the vote of a public official. See the FAQ “Are there exceptions to what counts as lobbying” below for more information.

This resource is current as of December 2023. 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.org](mailto:advocacy@afj.org) or at [info@democracycapacity.org](mailto: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.

# FAQS

## 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.

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 the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in Bolder Advocacy's resource library at <https://bolderadvocacy.org/>

## Q: What activities count as lobbying?

There are two types of lobbying in Florida – legislative and executive branch lobbying.

In general, Florida defines lobbying as influencing or attempting to influence **legislative** or **executive action** or an attempt to obtain the goodwill of a legislator, **agency** official, or a legislative or executive employee.

- **Legislative action** means the introduction, testimony, sponsorship or any other official action on any resolution, amendment, appointment, or any matter that falls under the purview of either house of the legislature or any committee.
- **Executive action** means any action of an agency of the executive branch of state government with respect to a policy or procurement decision.
- **Agency** means the Governor, Cabinet, any department, division, bureau, board, commission, or authority of the executive branch, and the Constitution Revision Commission.

## Q: What triggers lobbyist registration and reporting with the state?

If the person doing the lobbying activities is your employee, the activities **do not** trigger lobbyist registration unless the employee is principally employed for governmental affairs, which means that one of the **most significant responsibilities** of the employee is overseeing your nonprofit's relationships with state governmental officials.

If you hire a lobbyist firm or a contractor to lobby on your behalf, then paying that firm or person any amount of compensation to lobby for you triggers their need to register (and report), even if you also hire them to do other activities. Reimbursement for travel, meals, and lodging expenses are not considered pay or compensation.

## Q: How does the trigger threshold work if we are a fiscally sponsored project?

You will need to be sure you are communicating transparently and in a timely fashion with your fiscal sponsor if you plan to undertake activities that might potentially count as lobbying activities!

# FAQS

Each fiscal sponsor will have its own ways of working with projects who wish to take on lobbying activities.

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project's independent contractors or employees, the lobbyist registration trigger must be analyzed together with all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how they track the registration threshold.

**IMPORTANT NOTE:** In states where registration is required prior to lobbying, or very shortly after the registration threshold is reached, or periodic lobbyist disclosure is due shortly after the end of a reporting period, special procedures may need to be worked out in order to process your project's registration or reporting on time. You should connect with your account manager as soon as you begin planning any potential lobbying strategy!

## Q: Are there exceptions to what counts as lobbying?

**Yes!** The exceptions most likely to be relevant to nonprofit organizations are outlined below.

**Grassroots lobbying:** While grassroots lobbying does not trigger lobbyist registration, grassroots advertising can trigger a disclaimer requirement if the advertising is intended to influence public policy or the vote of a public official.

**Grassroots advertising disclaimers:** Grassroots advertisements, when placed on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, need to clearly designate the sponsor of such advertisement by including a clearly readable statement of sponsorship. If the advertisement is broadcast on television, the advertisement shall also contain a verbal statement of sponsorship. This means you will need to identify your organization on these advertisements. You **do not** need to identify any of your donors on the disclaimer.

### Responding to inquiries:

Responding to an inquiry for information from legislative or executive branch officials or their staff, including appearing at hearings on such requests is not considered lobbying and does not trigger registration.

Note that any person who appears before a legislative committee will be required to submit a Committee Appearance Record. **This requirement applies whether or not the appearance counts as lobbying or if one is a registered lobbyist.**

- The form for the Senate appearance can be found here: <https://www.flsenate.gov/Committees/Show/RC?pref=full>
- On the House side, the form -- which is only available once a committee hearing is scheduled -- can be found via the page here: <https://www.myfloridahouse.gov/>
- The Florida House of Representatives also has a special rule (called Rule 17) that requires **registered** lobbyists to file a version of the House Committee Appearance Record that identifies the specific reason for which the lobbyist is appearing, and that the lobbyist is appearing on behalf of your organization. Registered lobbyists can log in here to file this notice of appearance: <https://www.myfloridahouse.gov/LD/default.aspx>

**Grant and small contract procurement:** Submitting grant or service contract proposals under an official request for proposal, attempting to influence government contracts under \$20,000, or performing services under an existing contract between your organization and a governmental body or agency does not count as lobbying. Attempting to influence larger state contracts does count as executive branch lobbying.

**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 from 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 <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 <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 substantial lobbying activities and expenses to file. For more information see [https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding\\_the\\_Lobbying\\_Disclosure\\_Act.pdf](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?**

Florida allows both legislatively-referred and citizen-initiated proposed state constitutional amendments to be placed on the ballot. Attempting to influence legislative officials’ decisions to refer such a proposed constitutional amendment to the ballot is considered lobbying.

Activities to support or oppose efforts to qualify a citizen initiative for the ballot, or to support or oppose a measure that is already on the ballot, are regulated under state campaign finance rules (although note that the IRS considers such activities to be lobbying).

Nonprofit organizations considering working on ballot measures in Florida 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?**

Lobbyists that are required to register under state lobbyist regulations can register through the Lobbyist Registration and Compensation Reporting System (LRCRS), available at <https://floridalobbyist.gov/>

Lobbyists can use this portal to register for both legislative and executive branch lobbying. More detailed instructions are available at: [https://floridalobbyist.gov/reports/LRCR\\_User\\_Guide.pdf?cp=0.3510907525376763](https://floridalobbyist.gov/reports/LRCR_User_Guide.pdf?cp=0.3510907525376763)

There is an important difference in the timing of the registration depending on whether one is lobbying the legislative branch or the executive branch. Legislative branch lobbyists must register **before engaging in lobbying**. Executive branch lobbyists must register **upon initially being retained by the organization to lobby**.

The fee to register one of your employees is \$50 to lobby both houses of the Legislature, or \$25 for executive branch lobbyist registration. The fees cover the calendar year only.

Lobbyists that lobby the Florida State Senate are subject to the Florida Senate Administrative Policies and Procedures Policy 1.60 – “Workplace Harassment Prohibited” available here: [https://www.flsenate.gov/PublishedContent/Reference/PublicRecords/Links/FloridaSenateAdministrativePolicy1\\_60.pdf](https://www.flsenate.gov/PublishedContent/Reference/PublicRecords/Links/FloridaSenateAdministrativePolicy1_60.pdf).

Lobbyists must receive a copy and must sign an acknowledgment that the lobbyist has read the policy **prior to registration**.

**Q: When are periodic lobbying reports due?**

If your nonprofit has paid employees whose **most significant responsibilities** include governmental affairs and lobbying public officials, then such employees will need to register as lobbyists, but neither your organization, nor your lobbyist employees will need to file periodic reports.

If your organization uses a lobbyist firm to lobby on your behalf, then the lobbyist firm is responsible for filing quarterly Compensation Reports.

**Q: What information do the periodic lobbying reports include?**

Under state lobbying regulations, only lobbying firms – businesses (or solo practice independent contractors) that receive compensation for lobbying – are required to file periodic Compensation Reports. Neither your organization, nor your individual lobbyists, will need to file any periodic reports.

**Q: What is considered a reportable “expenditure”?**

Under state law, the only lobbying expense that lobbyists need to report is the compensation received by a lobbying firm. The lobbying firm (including any independent contractor, or solo practitioner) makes the filing.

**Gift Ban:** Note that lobbyists, and nonprofit organizations employing lobbyists, are prohibited from directly or indirectly giving gifts of any value to an official, except for celebratory items of minor value such as flowers or a plaque commemorating service.

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.

**Q: Do our organization’s donors need to be disclosed on any lobbying reports?**

No.

# FAQS

**Q: How are our lobbyists required to identify themselves while lobbying?**

There are no identification requirements in Florida, but the best practice is to identify oneself as a lobbyist when engaging in lobbying.

**Q: Are there any other restrictions on lobbyists that we should be aware of?**

A lobbyist's compensation may not be contingent upon the outcome of the legislation or executive agency decision they are advocating for or against.

The Florida House of Representatives also has a special rule (called Rule 17) that requires registered lobbyists to file a House Committee Appearance Record that identifies the specific reason for which the lobbyist is appearing, and that the lobbyist is appearing on behalf of your organization. Registered lobbyists can log in here to file this notice of appearance: <https://www.myfloridahouse.gov/LD/default.aspx>

Lobbyists are prohibited from communicating electronically with members while they are on the floor of the House (e-mail, text, social media, etc.)

As of December 31, 2022, the Florida Constitution prohibits most former public officials from lobbying for six years after their public service. Your organization will want to avoid engaging such former officials for this purpose during the prohibited period.

# Case Study STUDENTS VOTE NOW

**Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 101 currently pending in the Florida 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 101 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 Florida House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Jacksonville about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>The proposed student engagement activities are grassroots lobbying that does not trigger registration in Florida, but Students Vote Now should consider whether any grassroots advertising disclaimers will be required.</p>
 <p><b>Lobby Day</b></p>	<p>Paid Students Vote Now staff will only trigger registration if lobbying is one of their most significant job roles. Volunteers do not trigger registration.</p> <p>None of the expenses of the Lobby Day need to be reported because only lobbying firms are required to file periodic lobbying reports, and Students Vote Now is not a lobbying firm.</p> <p>It is best practice not to give legislators any gifts, even small swag items, and to give information about the organization instead.</p>
 <p><b>Committee Testimony</b></p>	<p>The only individuals required to register for testifying at a legislative hearing are paid staff whose principal job duty is lobbying, if any. Paid staff who only occasionally lobby, or volunteers, can testify on behalf of Students Vote Now without triggering registration.</p> <p>Note that any individual appearing before a legislative committee must submit a Committee Appearance Record, whether or not the appearance counts as lobbying, or the witness is a registered lobbyist. If the witness is a registered lobbyist, they must also file the special House lobbyist appearance form.</p>
 <p><b>Mayor</b></p>	<p>Jacksonville, like hundreds of local jurisdictions in Florida, has a separate lobbying ordinance<sup>1</sup> which requires most paid lobbyists to register prior to engaging in lobbying officers or employees of the city. However, Jacksonville's ordinance exempts in-house employee lobbyists from registration.</p> <p>If Students Vote Now sends a paid employee, or a volunteer (including a board member) to lobby, they will not need to register. If Students Vote Now were to use an external contractor lobbyist, that individual would need to register with the city.</p>
<p><b>Bottom Line</b></p>	<p>The proposed Students Vote Now activities both at the state and Jacksonville city level will likely not require any lobbyist registration or reporting unless an outside lobbying contractor is used. Only employees whose principal job duty is lobbying are required to register, and unpaid volunteers are also exempt.</p> <p>Students Vote Now should refrain from giving any swag to the legislators or the Mayor and give out only informational materials instead.</p>

<sup>1</sup><https://www.coj.net/city-council/lobbyist-information>

## ADDITIONAL RESOURCES

### BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Assistance Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact Bolder Advocacy's team of experts by e-mailing [advocacy@afj.org](mailto:advocacy@afj.org) or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

### FLORIDA STATE RESOURCES:

- **Lobbyist Registration Office**

While the Florida Legislature monitors legislative lobbying and the Florida Commission on Ethics monitors executive branch lobbying, the process of registration and reporting for both legislative and executive branch lobbying is handled jointly through the Lobbyist Registration Office:

<https://floridalobbyist.gov/>

- **Legislative Lobbying FAQs**

<https://www.floridalobbyist.gov/LobbyistInformation/FAQsLegislative>

- **Executive Branch Lobbying FAQs**

<https://www.floridalobbyist.gov/LobbyistInformation/FAQsExecutive>

- **Full Text of the Florida Lobbying Statutes and Rules**

Consolidated links for the relevant Florida statutes and rules covering legislative and executive branch lobbying can be found at: <https://www.floridalobbyist.gov/LobbyistInformation#l-rules>

The grassroots advertising disclaimer statute is in Section 106.1437 (Miscellaneous advertisements) of the Florida campaign finance statute available here:

[http://www.leg.state.fl.us/Statutes/index.cfm?App\\_mode=Display\\_Statute&Search\\_String=&URL=0100-0199/0106/Sections/0106.1437.html](http://www.leg.state.fl.us/Statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0100-0199/0106/Sections/0106.1437.html)

- **Florida Lobbying Registration and Compensation Reporting User Guide**

This user guide has detailed instructions about how to use the online registration and reporting system. A link to the user guide is available here: <https://floridalobbyist.gov/>

The pdf is also directly available here:

[https://floridalobbyist.gov/reports/LRCR\\_User\\_Guide.pdf?cp=0.3510907525376763](https://floridalobbyist.gov/reports/LRCR_User_Guide.pdf?cp=0.3510907525376763)

- **Additional Questions**

Additional questions about lobbyist registration and reporting can be directed to a representative at the Lobbying Registration Office: 850-922-4990 or by e-mail to [help@floridalobbyist.gov](mailto:help@floridalobbyist.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 Bolder Advocacy's federal law resources to ensure all IRS compliance obligations are being met. See:

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



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