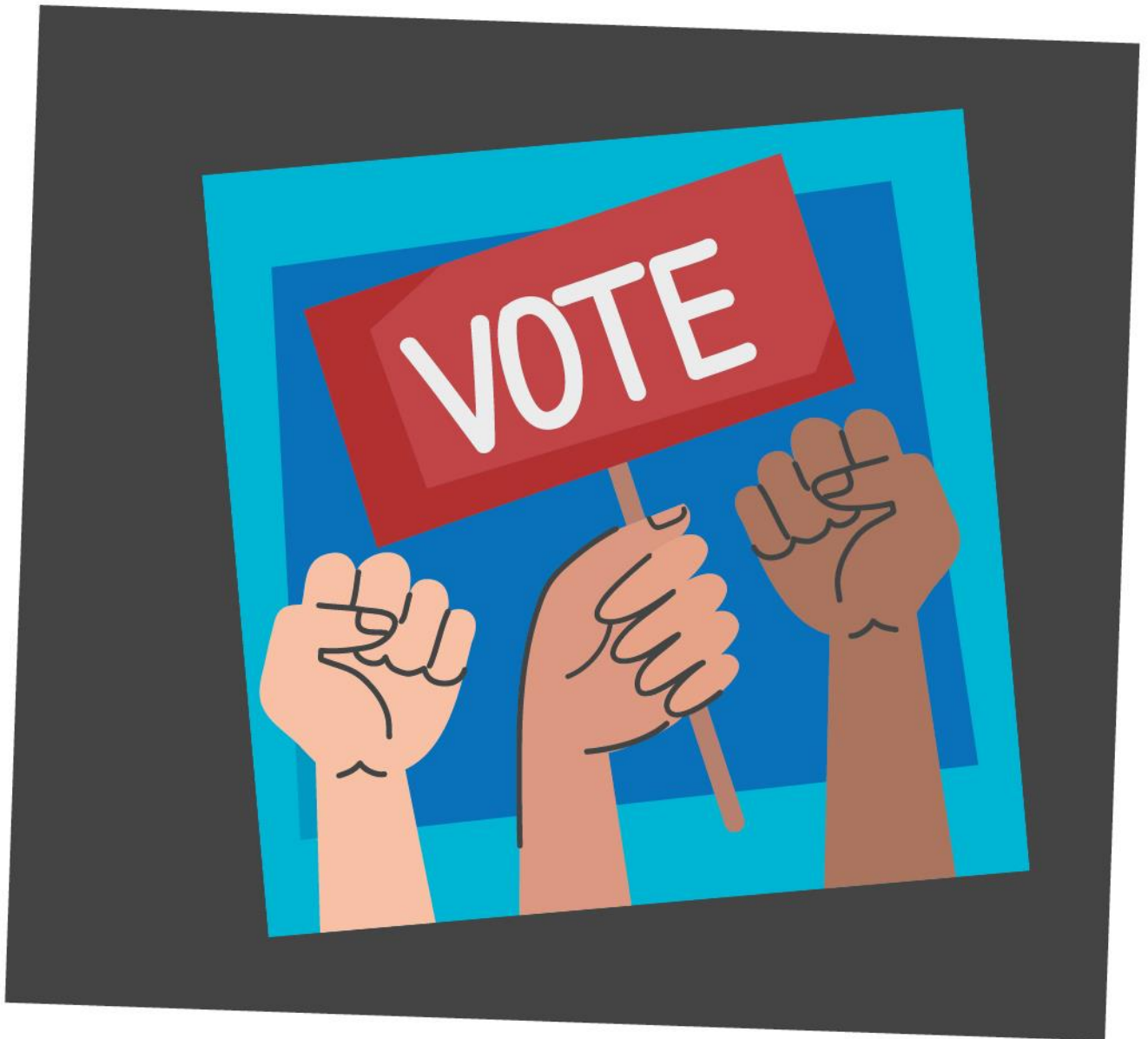


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

COLORADO



Democracy  **Capacity**


 **BOLDERADVOCACY**
A program of Alliance for Justice



Q: How should we think about using this Practical Guidance resource?

This Practical Guidance – Nonprofit Voter Assistance resource is designed to help your organization determine how state or local regulations might apply (or not!) to your existing or proposed voter engagement and Get Out the Vote (GOTV) work in your state.

For each FAQ in this Practical Guidance, we have provided links where you can find additional information to familiarize yourself with the applicable rules.

We've also provided links to some helpful fact sheets and best practices toolkits that other organizations have created, to help you save time and avoid repeating work.



Practical Tip

- Where appropriate, we make practical suggestions about how you might make the operational task of complying with these state rules easier.



Watch Out

- Some voter engagement activities involve some measure of risk for nonprofit organizations doing the work. There are certain actions you will need to avoid, but as long as you read up on the rules before you begin, you should be able to successfully navigate these voter engagement and GOTV activities in your state.



Danger Zone

- Some activities are much more dangerous for nonprofits because the relevant rules are vague, in rapid flux, unpredictably enforced, or all of the above. It may be best to avoid including these activities in your programming, unless you have a good lawyer on speed dial to help you!
- There are also some activities that are prohibited under current law. We highlight where nonprofits are advised to steer clear.

In giving you concise and accessible information about relevant laws in your state we hope that this Practical Guidance will help you choose activities that make the most sense for your civic engagement and GOTV programming. Knowing about the details of the rules can also help you make your programs bolder, more effective, and operationally easier to carry out.

We wish you every success in your work!



Q: What federal rules do we need to remember to think about?

In addition to any state and local rules that might apply to your organization's civic engagement and GOTV work, you also always need to keep in mind the federal tax law that applies to nonprofit organizations, federal election laws that are applicable when federal candidates are on the ballot, and federal telecom rules relating to calling or texting.

IRS regulations for 501(c)(3) public charities: If you are a 501(c)(3) organization, you must always remain nonpartisan, and never do or fund work that could be deemed to support or oppose candidates for public office (electioneering activities).

IRS regulations for 501(c)(4) social welfare organizations: You can support or oppose candidates for public office, but this work cannot be your primary purpose. This generally means that more than half of your work must be nonpartisan and be designed exclusively to promote social welfare.

Federal elections and voting laws: In elections where there is a federal contest on the ballot, it is a crime to knowingly or willfully pay, offer to pay, or accept payment for registering to vote or for voting. Any type of incentive can be considered a "payment" (e.g., something as seemingly innocent as giving out cupcakes) if they are tied to registering or voting. Federal law also prohibits making or offering to make an expenditure to any person, either to vote or withhold their vote, or to vote for or against any candidate. For more details see: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>

Federal communications laws: There are many federal laws relating to how you may communicate via landline or mobile phones. We give some practical tips on how to deal with these laws in the FAQ on other GOTV activities in this Practical Guidance.



Practical Tip: Read up on how 501(c)(3)s stay nonpartisan

- **Comparison of 501(c)(3) and 501(c)(4) permissible activities:** <https://bolderadvocacy.org/resource/comparison-of-501c3-and-501c4-permissible-activities/>
- **Keeping nonpartisan during election season:** <https://bolderadvocacy.org/resource/keeping-nonpartisan-during-election-season/>
- **How to stay nonpartisan while conducting a voter registration drive:** <https://bolderadvocacy.org/resource/want-to-conduct-or-fund-a-voter-registration-drive/>
- **Social media:** It is sometimes particularly hard to recognize when social media postings might cross the line into supporting or opposing a candidate for public office. This is especially true if you are a 501(c)(3) organization affiliated with, or working in a coalition with, a 501(c)(4) organization. See: <https://bolderadvocacy.org/resource/influencing-public-policy-in-the-digital-age>



Watch Out

- **No exceptions for 501(c)(3)s:** There are no exceptions and no minimum amount of electioneering that you can do without jeopardizing your tax-exempt status if you are a 501(c)(3) public charity or private foundation!



Q: Can we put out information about how to register and vote?



Sure! Just be careful how you do it.

Practical Tip: Use official sources

- Generally, it's best to link to either the official voting authority sources in your state or city, or to a trusted aggregator of voting-related information with dedicated legal staff working to confirm the information is always current and accurate.
- It's just too easy to include a typo or an accidental miscommunication if you try to reproduce the information yourself.

Secretary of State: Colorado's elections are overseen by the Secretary of State. Their voter-facing information page is here:

<https://www.coloradosos.gov/voter/pages/pub/home.xhtml>

County Clerks and Recorders: Each county has its own elections official, which is the Office of the County Clerk and Recorder. You can find the contact information and links to each county's website here:

<https://www.sos.state.co.us/pubs/elections/Resources/CountyElectionOffices.html>

Many smaller counties have little more than contact information on their websites, but some counties do have quite good information on their sites and may include things like well-produced voter guides or posters that you can link to. For instance, Denver County has a complete listing of voter information, how to register to vote, ballot tracking, maps, and election security, along with multiple links for voter resources and election results.

<https://www.denvergov.org/Government/Agencies-Departments-Offices/Agencies-Departments-Offices-Directory/Office-of-the-Clerk-and-Recorder/Elections-Division>

Election Protection: Election Protection's website <https://866ourvote.org/states/> is regularly updated and reviewed by lawyers, and lawyers staff the Election Protection Hotline available by both phone and text at 1-800-OUR VOTE (1-866-687-8683). There are also multiple assistance hotlines for non-English speakers. See the additional options available here: <https://866ourvote.org/about/>



Watch Out

- **TYPOS! TYPOS! TYPOS!** Do you really want your group to be the one that accidentally tells voters that the polls close an hour later than they do? Don't try to reproduce the information yourself. Use links to official information and established websites instead!
- **County Clerks sometimes apply laws differently:** In Colorado, county Clerk and Recorders may have their own ways of doing things. It is worth taking the time to check the websites of the Clerk and Recorder offices in the county or counties where you are doing your work.

Q: What rules do we need to follow to run a voter registration drive?

In Colorado voter registration drives that both hand out registration applications **and** collect them to submit to the county Clerk and Recorder's office are called **Voter Registration Drives (VRDs)** and are governed by special state rules.

- **VRD organizer:** If your organization runs a VRD you must assign a Colorado resident to be the official **organizer** of the drive. You also need an official **agent**, but it can be the same person as the organizer.
- **Organizer training:** The organizer must complete a VRD organizer training, score 100% on a post-training test, and then submit a Statement of Intent and Training Acknowledgement Form requesting approval to lead a VRD.
- **Organizers must train the drive workers and assign them circulator ID numbers:** Organizers are responsible for training the drive workers or volunteers, which are called **circulators** by the state, using a state provided training. Organizers are also responsible for assigning the circulators special ID numbers.
- **Drive work cannot start before the VRD is approved:** Once your VRD is approved you'll be assigned a VRD number, which is noted on each registration application you submit, along with the special ID number of the circulator who collected the application. You need to renew the registration every year.
- **The VRD registration deadline is earlier than other deadlines!** Note that registration applications collected through a VRD must be submitted or postmarked at least 22 days before an election, even though other methods of registration are available through election day!
- **All forms must be returned to the right county office:** Your organization is responsible for getting the forms back to the right office under strict deadlines.

Read the information available in the links below carefully before starting a VRD.

Colorado voter registration drive rules:

<https://www.coloradosos.gov/pubs/elections/VoterRegDrive/VRDhome.html>

Fair Elections fact sheet: A good summary fact sheet on Conducting a Voter Registration Drive in Colorado is here:

<https://www.fairelectionscenter.org/voter-registration-drive-guides>



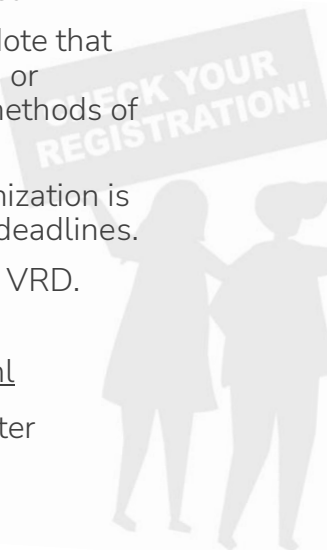
Practical Tip: VDR rules don't apply if you don't collect the forms!

- You do not need to register as a VRD or follow the special VRD rules if you use tablets or computers to have people complete the registration process themselves using the state's online system, or if you have registrants return their registration applications themselves (perhaps by setting up near a USPS mailbox).



Watch Out

- **Don't pay your drive workers by the piece:** Colorado prohibits paying circulators on a per registrations basis. Pay by the shift or hour instead.
- **Potential funder restrictions:** Some funders do not allow the use of their funds for voter registration drives. You will need to check your grant paperwork to make sure that you are using funds that are available for this work.



Q: How can our organization help people vote by mail?

Colorado automatically mails a ballot to every active registered voter, so there is not a need for nonprofit assistance in applying for a mail ballot, as in other states.

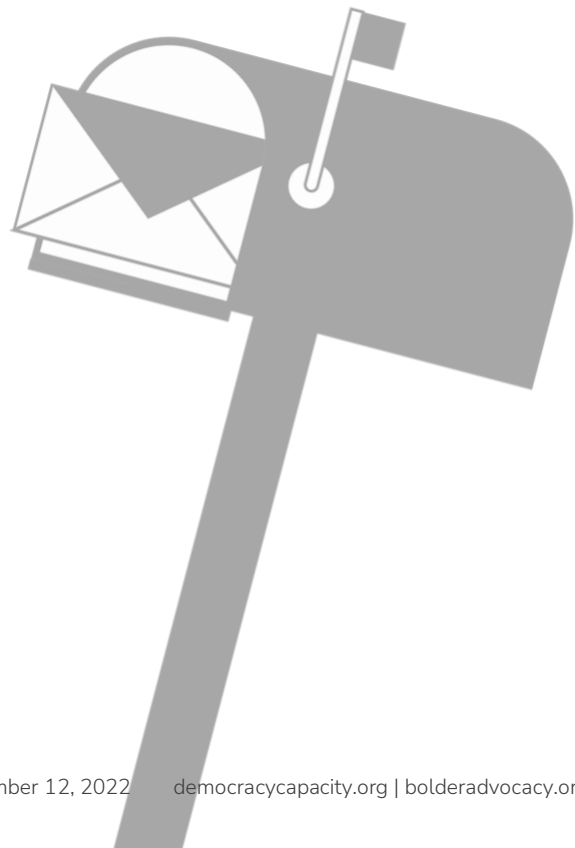
Colorado law makes it very difficult for third parties to assist voters in voting their mail ballots. Only an authorized agent of a county clerk or recorder can collect and return more than 10 mail ballots for any given election, which makes it impractical for nonprofits to collect and return ballots at any kind of scale.

Colorado law requires voters to provide their own postage for returning ballots through the mail. Moreover, under Colorado law it is a misdemeanor to pay or offer to pay “any money or other valuable consideration” to induce anyone to vote or to vote for a particular candidate.

Rules creating potential liability for individuals assisting voters also make it perilous to run a ballot voting or return assistance program.

✓ **Practical Tip: Focus on information instead of action**

- Because Colorado law places restrictions the collection of ballots, and on providing assistance on filling them out, it is wiser to focus on getting your constituents trustworthy official information about the mail ballot process instead of running a full assistance program.
- **State voting information page:**
<https://www.sos.state.co.us/pubs/elections/Resources/CountyElectionOffices.html>



Q: Can we help voters fix problems with their mail ballots?

Running a full mail ballot “cure program” (where organizations help track down voters whose ballots have been rejected and help them “cure” the ballots) can be complicated and is usually beyond the capacity of smaller organizations. That said, it can be enormously helpful for you to educate your constituents about how to track their own ballots, and how to contact their official County Clerk and Recorder office if they need to cure their ballot.

✓ **Practical Tip: Use official sources of information!**

- In Colorado, voters can check the status of their mail ballots here: <https://www.coloradosos.gov/voter/pages/pub/olvr/findVoterReg.xhtml>
- The contact information for the Clerk and Recorder office for each county if additional information is required can be found here: <https://www.coloradosos.gov/pubs/elections/Resources/CountyElectionOffices.html>
- **TXT2Cure program:** Colorado also runs a program called TXT2Cure, where voters can submit information needed to cure their mail ballots via text: <https://www.coloradosos.gov/pubs/elections/FAQs/TXT2Cure.html>



Q: Can we help with a rides to the polls program?

It is currently legal to give voters rides to the polls in Colorado.

While all voters can return their ballots via mail in Colorado, it is still permissible to return them in person to polling locations on or before Election Day. You may find that despite being a vote-by-mail state, some voters might want rides to the polls.



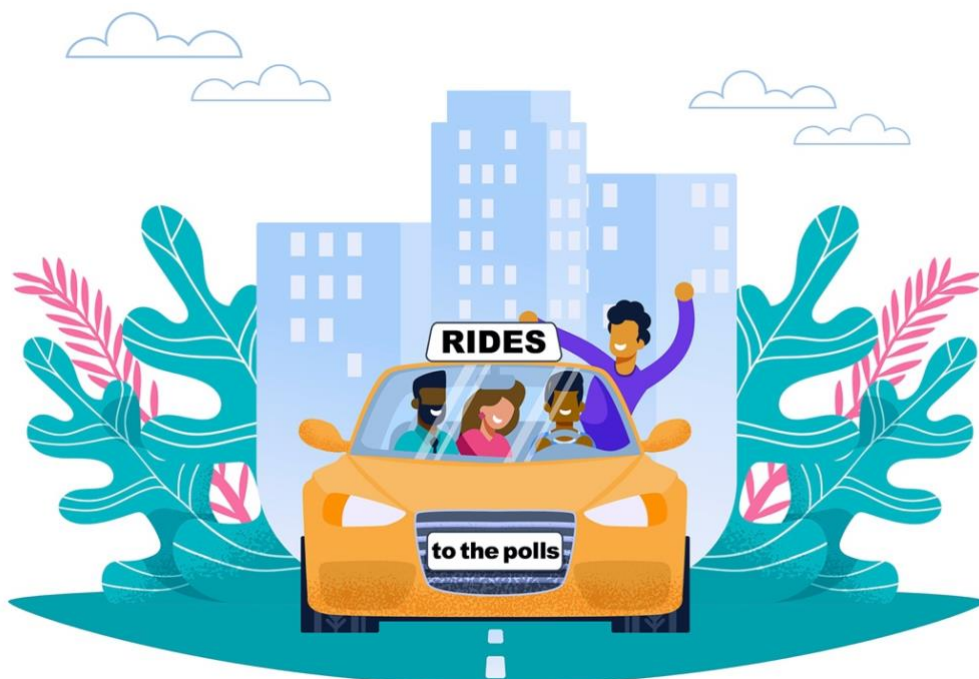
Practical Tip: Consider partnering with existing programs

- You don't necessarily need to organize a rides to the polls program on your own. You might consider partnering with another organization that is already doing this work. Many of the major rideshare companies offer free or discounted ride codes to help facilitate voting. Other organizations also help coordinate carpools to the polls.



Watch Out

- **Staying nonpartisan:** If your organization is a 501(c)(3) public charity, all of your work must remain strictly nonpartisan. In the context of a rides to the polls program, this means you must offer rides in a nonpartisan way. You should not turn away voters because you think they are likely to vote for a particular party or candidate. You should also avoid targeting your services to local communities based on partisan criteria.
- **Auto insurance and driver's licenses:** If you do decide to put together your own rides to the polls program you should contact your organization's insurance broker to make sure that your insurance program covers the use of staff cars or volunteers' cars for this purpose! You should of course also ensure that all of your drivers (both employees and volunteers) are themselves licensed and insured in accordance with the rules of your state before they participate in your program.



Q: How can we help voters who are already at the polls?

Many nonprofit organizations put on programming designed to provide support and encouragement for voters who may face long lines or tough weather conditions, and to make voting a fun and festive occasion. These activities are often referred to as **“line warming.”** Nonprofits participating in line warming activities need to carefully think through which state and local laws may apply to these activities. In today’s environment, these rules are also constantly changing, so it’s worth checking on the current status of the law before you begin planning any line warming program.

In general, line warming activities are permissible in Colorado. People who engage in line warming are referred to as “Comfort Teams.”

The state prohibits “electioneering” within 100 feet of a polling location. “Electioneering” includes advocating for or against a candidate, political party, or ballot initiative; circulating petitions; collecting signatures; or otherwise attempting to influence voters regarding how they vote. It also includes wearing clothing or accessories with partisan political messages. The electioneering rule applies to drop boxes as well as in-person polling locations.

✓ **Practical Tips**

- Stay well outside the 100-foot no-solicitation perimeter with all of your line warming activities!
- Allow both voters and nonvoters to participate.
- You can call Election Protection if you need assistance with what is happening at your polling place: 1-866-OUR-VOTE (1-866-687-8683). Election Protection also tries to staff volunteer lawyers on the ground on election day who can assist in person if needed.



👁️ **Watch Out**

- **Remember IRS rules still apply:** IRS rules for nonprofit organizations always apply – even to your state level work. 501(c)(3) organizations must remain strictly nonpartisan in all of their line warming activities.
- **Federal election and bribery rules may also apply:** In any election where federal candidates are also on the ballot, federal election rules also apply. See: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>



Q: What other state rules might apply to our GOTV work?

Observers inside the polling area: Most states have fairly strict rules for what kind of observers are allowed into the polling area while people are voting, and what they are allowed to do while inside. In general, nonprofit organizations usually find that running an observer program is complicated, and it may be more effective to focus on other civic engagement and GOTV work in their communities.

State rules about lawn signs and road signs: Colorado law prohibits the placement of any road signs, including political signs, in the rights of way of publicly maintained roads. Signs may be placed on private property with the permission of the owner. Colorado regulates the placement and removal of partisan signs, but state law is silent on nonpartisan signs. Before you plan any activity that involves placing signs, you should also check local zoning rules for the jurisdictions in which you plan to operate. For partisan signs, there are also explicit disclosure requirements. For more information about those requirements, please see this guide from the Secretary of State: <https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/DisclaimerStatementsGuidance.pdf>

Partisan or nonpartisan GOTV clothing and buttons: While inside a polling place, voters may **not** wear pins, T-shirts, hats, or other apparel that displays the name or likeness of any candidate who is on the ballot or bearing the number, title, subject or logo of a ballot issue or question that is on the ballot.

Selfies in or near the polling place? Colorado law does not prohibit photography inside a polling place, and even allows voters to photograph their ballots. That said, Colorado gives each County Clerk and Recorder the authority to place reasonable restrictions on the use of photography in the polling place to ensure the fair and efficient conduct of the election, so you should check with the clerk's offices for any county in which you plan to operate before you advise your constituents that they can take photographs at the polling place.

Phone and text banking: As we discussed earlier in this Practical Guidance, you will need to comply with federal telecom rules applicable to phone and text banking programs in all states. In general, these rules cover how you are allowed to reach out to landline or mobile phones depending on whether or not you have consent from the phone owner, and what rules apply if the communication is automated (e.g., robocalls, autotexting, etc.). In addition, partisan communications will likely have additional disclaimer requirements.

Practical Tips

- If a nonprofit organization is doing text or phone banking, it is often simplest from a practical perspective to have volunteers use a call list, or text banking interface, that is only partially (not fully) automated, so that federal robocall rules are not implicated.
- If your program is nonpartisan, so long as it is not fully automated, it is unlikely that you will implicate state-based telecom robocall rules.



Watch Out

- **Don't use the phone or text banking program to do something you can't do in person!**

Q: When might our work also trigger state campaign finance laws?

State-level campaign finance laws can apply not only to giving cash or in-kind contributions to candidates, but to other activities as well. For example, they also often apply to political-related advertising, political speech on signs and billboards, and to partisan phone or text banking programs.

Nonprofits that are allowed to do partisan electioneering work need to be particularly aware that their support or opposition of candidates will likely trigger campaign finance related reporting to the state.

In Colorado, the Fair Campaign Practices Act, C.R.S. §§ 1-45-10, outlines the state level campaign finance regulations that might apply to your work. The State puts out this Campaign and Political Finance Manual:

<https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/CPFManual.pdf>

Additional information about political ad disclaimers is available here:

<https://www.sos.state.co.us/pubs/elections/CampaignFinance/files/DisclaimerStatementsGuidance.pdf>



✓ Practical Tip

- **Bolder Advocacy's Technical Assistance Hotline:** Bolder Advocacy's free Technical Assistance Hotline team can help lead you to some current state law resources on campaign finance for your state. You can e-mail advocacy@afj.org or call 866-NP-LOBBY (866-675-6229) during standard business hours.



Watch Out

- **Partisan GOTV work:** Colorado's campaign finance laws are particularly broad, covering not just attempts to support or oppose particular candidates, but also activity intended to "influence an election." If you are doing partisan GOTV work, you will need to carefully examine the Colorado campaign finance statute and consider seeking additional legal advice.
- **Working on ballot measure initiatives:** Ballot measure initiative work can also trigger state campaign finance rules, even for nonpartisan groups. 501(c)(3) organizations are allowed to work on ballot measure initiatives because the IRS considers such work legislative lobbying (as opposed to prohibited electioneering), but state law usually regulates this activity under campaign finance laws.



Q: How can we help recruit poll workers?

Poll worker recruitment is handled in Colorado by each county's office of the Clerk and Recorder.

Each poll worker – called election judges in Colorado – must be a U.S. citizen, registered to vote in Colorado, complete a background check, and complete an onboarding process and training. Election judges cannot have been convicted of any election offense or fraud and cannot have a family member (to the 2nd degree) on the ballot.

You can find your County Clerk and Recorder website here:

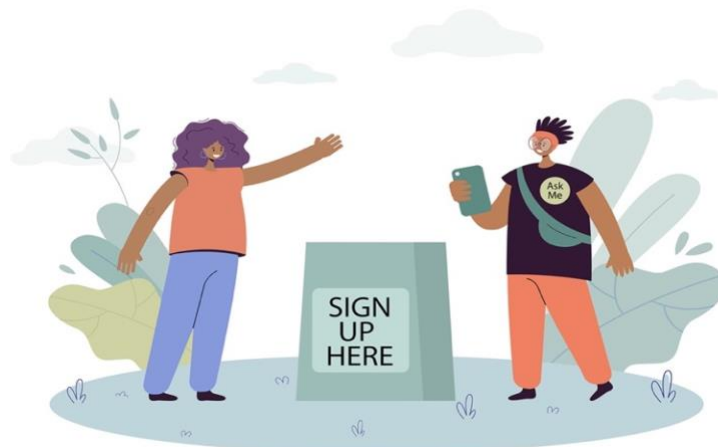
<https://www.coloradosos.gov/pubs/elections/Resources/CountyElectionOffices.html>

✓ Practical Tip

- While more poll workers are often urgently needed, it can sometimes be frustratingly slow to get through to the county offices to get started. You may need to start this process early and have some patience with your poll worker recruitment plan.
- If your organization is considering doing a poll worker recruitment drive and has trouble reaching the right person at your county's Clerk and Recorder office, it may be worth considering partnering with an organization that can help manage the initial intake and encourage your potential recruits to be persistent.
- We like the work of **Power the Polls**: <https://www.powerthepolls.org/faq> and you can e-mail them to discuss potential partnering opportunities here: partners@powerthepolls.org

👁 Watch Out

- **Managing volunteer expectations:** This kind of programming doesn't have too many legal compliance issues to deal with – but you'll need to manage the expectations of your volunteers.
 - It may take a bit of persistence to get set up as a poll worker with the county.
 - In particularly contested election districts, there is a possibility of tension at the polls and potential confrontation with members of the public that could make your recruits uncomfortable.



Q: How can we advocate for a new polling place?

Asking for a new polling place is often a multi-step process, but some great materials exist that explain best practices for this kind of program!

✓ Practical Tip

- **+1 The Polls Toolkit:** We like the +1 The Polls Toolkit, created by a collaboration between MTV, the SLSV Coalition, Campus Vote Project, and the Alliance for Youth Organizing. It's geared towards student organizers, but its best practices are relevant even if your work is not on campus. <https://slsvcoalition.org/resource/1-the-polls-toolkit-bringing-a-voting-site-to-your-campus/>

👁 Watch Out

- **It's possible this work can trigger lobbyist registration requirements:** In some cases, your advocacy for a new polling place might count as lobbying under state or local lobbyist registration rules. Colorado has local lobbyist registration ordinances in place at the municipal level (e.g., in Denver), so you'll need to check your program plan against both state-level lobbying rules, and the rules of any local jurisdictions you'll be working in. See our Practical Guidance – What Nonprofits Need to Know About Lobbying in Colorado for further information: <https://www.democracycapacity.org/co-lobbying>



Q: Where can we get additional help?

Bolder Advocacy's Technical Assistance Hotline: Bolder Advocacy's free Technical Assistance Hotline team can help nonprofits and attorneys with questions about the content covered by this Practical Guidance. You can contact Bolder Advocacy's team of experts by e-mailing Bolder Advocacy at advocacy@afj.org or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

Your state or local nonprofit coordinating group: Most states have several nonprofit coordinating groups that you can seek advice from. Some of these groups coordinate programming with their members and offer free or reduced price access to canvassing tools, voter lists, and more. If you are having trouble locating such a group in your area, please reach out to the Democracy Capacity Project at info@democracycapacity.org for referrals.

Links to Some Key Colorado Laws

- **Voter Registration Drives:** 8 C.C.R. 1505-14:
<https://www.coloradosos.gov/pubs/elections/VoterRegDrive/VRDhome.html>
- **Line Warming, GOTV Clothing in Polling Places:** The Colorado Secretary of State's FAQs:
<https://www.sos.state.co.us/pubs/elections/FAQs/crimesRulesFAQ.html>
- **State Rules About Lawn and Road Signs:** CO DOT rules governing outdoor advertising:
https://www.codot.gov/programs/signs/assets/2-ccr-601-3_current-rules.pdf
- **Ballot Selfies; Disclosure of One's Vote:** C.R.S. § 1-13-712
https://www.sos.state.co.us/pubs/info_center/laws/Title1/Title1Article13.html#a1-13-712
- **Campaign Finance:** C.R.S Title 1, Art. 45
https://www.sos.state.co.us/pubs/info_center/laws/Title1/Title1Article45.html

While this Practical Guidance is designed to give you information about certain laws and rules, it is not legal advice, and does not create an attorney-client relationship. If you need additional advice about your specific situation, you should seek your own legal counsel.

We do our best to keep these Practical Guidance resources up to date, but new laws are put forward every day in this space, as are new lawsuits challenging those laws! Please refer to the "Last Updated" date for this Practical Guidance and seek further assistance if you believe you may need updated guidance.

We reference and link other organizations and other resources in this Practical Guidance because we believe they may be helpful to your work. These resources are publicly accessible to all users, and to the best of our knowledge the original host of the resources has all rights required to make them publicly accessible and usable by you. Your use of such resources is subject to any terms and conditions noted on those resources or in the terms of use or other policies of the host website. The Democracy Capacity Project, a special project of NEO Philanthropy, Inc., makes no representation or warranty regarding the accuracy and applicability of the substantive content of any such linked resources, their fitness for use in your situation, or the intellectual property rights of the works presented.

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The Democracy Capacity Project and Alliance for Justice are strictly nonpartisan, and nothing in this Practical Guidance or any of the resources linked herein is intended as a partisan or electioneering communication.

You can contact the Democracy Capacity Project at info@democracycapacity.org.

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A program of Alliance for Justice