

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

NEVADA

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	Any person who communicates directly with a Member or Members of the Legislative Branch (as defined below) during a regular or special session on behalf of an organization or another person, on a regular or recurring basis, to influence legislative action. It does not matter whether any compensation is received for the lobbying communications.
State Executive Branch Officials	No	Nevada does not regulate lobbying of executive branch officials, unless it also involves lobbying of legislators.
Local Legislators or Local Executive Branch Officials	Maybe	The state lobbying law does not apply to lobbying of local legislators or local executive branch officials, but some local jurisdictions, like the cities of Las Vegas and Reno, and Clark County, have adopted their own lobbying ordinances that may apply if you lobby local public officials in those jurisdictions. Check with each local jurisdiction before lobbying any local public officials.

Grassroots Lobbying: Grassroots lobbying (calling on members of the public to take action to influence the decisions of public officials) is not regulated at the state level in Nevada. If your organization only does grassroots lobbying, you will not need to register or report those activities to the state. Remember, however, that federal IRS rules regarding grassroots legislative lobbying will still apply (see our FAQ below re federal versus state lobbying).

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN NEVADA:

- **Recent changes in Nevada Lobbying law:** In 2021 Nevada amended its lobbying law to clarify that:
 - Direct communications with Members of the Legislative Branch (which includes staff and employees as defined below) during regular or special sessions does not need to be in person in the legislative buildings to count as lobbying
 - Persons who directly communicate with one or more Members of the Legislative Branch on only an infrequent or irregular basis are not considered lobbyists and do not need to register and report
- **Timing of Registration:** The lobbyist registration portal is only open during regular or special sessions of the legislature. If you first start lobbying members of the legislative branch during the interim period between sessions, the potential obligation to register will only kick in once a new session begins. If you first begin lobbying and trigger register during a session, then you will remain a registered lobbying throughout the interim period until the next session.

This resource is current of September 2022. 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.com or at 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 where registration might not be triggered. It is often possible to design effective advocacy programming that is in full compliance with all state and local rules but does not require you to register and report.

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 and the Additional Resources page at the end of this Guide.

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 the Bolder Advocacy resource library at: <https://bolderadvocacy.org/>

Q: What activities count as lobbying in Nevada?

Lobbying that triggers registration and reporting occurs when any person **communicates directly** with a **Member of the Legislative Branch** during a regular or special session on behalf of an organization or another person to influence legislative action. It does not matter whether any compensation is received for the lobbying communication, but some important exceptions may apply (see the exceptions FAQ below).

- In 2021 the Nevada legislature amended the state lobbying statute to clarify that **communicating directly** is not limited to communications made in person in the legislative buildings.
- **“Member of the Legislative Branch”** means any legislator, legislative staff person, or officer, employee, assistant, intern or volunteer of the legislature of either house, any legislative committee, any legislative office or caucus, any division of the Legislative Counsel Bureau, or any other agency, body, office, organization, or unit of the legislative branch.
- The term **“legislative action”** means the introduction, sponsorship, debate, voting, or any other official action on:
 - Any bill, resolution, amendment, nomination, appointment, report, or other matter pending or proposed before any Member of the Legislative Branch, a legislative committee or either house of the legislature
 - Any other matter which may be the subject of action by any Member of the Legislative Branch, a legislative committee or either house of the legislature

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

A person triggers the lobbying registration and reporting requirements if that person is attempting to influence a Member of the Legislative Branch on behalf of another organization or person during a regular or special session and no exception applies to

those communications (see the FAQ below). There is no compensation or expenditure threshold in Nevada like there is in many other states.

Q: Are there exceptions to what counts as lobbying?

YES! Certain types of lobbying activities do not require state-level lobbyist registration or reporting.

The exceptions most relevant to nonprofit organizations are:

- **Infrequent lobbying:**

- In 2021 Nevada amended its lobbying regulations to clarify that persons who “confine their lobbying activities to communicating directly with one or more Members of the Legislative Branch only on an infrequent or irregular basis and who do not otherwise engage in any lobbying activities, unless those persons engage in a pattern of conduct that is substantially similar to engaging in lobbying activities on a recurrent or regular basis” are not lobbyists who would need to register and report with the State.
- As of the publication date of this Guide the state has not put out more detailed guidance on the infrequent lobbying exception. You may want to check in with the Legislative Counsel Bureau or your own legal counsel on this point, but we have taken the position that a once every other year regular session Lobby Day trip, as described in our Case Study in this Guide, is an activity that **does not** require lobbyist registration and reporting even for your paid staff persons organizing the trip, as long as the Lobby Day is not part of a series of conversations with the legislators about the same subject.
- For example, you could send thank you notes to the legislators who met with you during your Lobby Day and still not trigger registration but reaching back out to them again via phone or e-mail several weeks later to follow up on your lobbying requests would potentially trigger registration.

- **Direct communications with home district legislators:** Persons whose communications are with the legislators elected from the district in which they reside are not required to register and report as lobbyists.

- **Legislative committee testimony:** Persons whose only lobbying activities are formal appearances before legislative committees and who clearly identify themselves and the interests they are representing also do not need to register and report.

Q: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (as interpreted and administered by the IRS) **and** any state and local lobbying laws that apply to their work.

The federal and state rules have different purposes. 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 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 require the reporting of 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 Bolder

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Advocacy's guide here: <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 Bolder Advocacy's guide here: <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 sustained lobbying activities and expenses to register. For more information see Bolder Advocacy's guide here: 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?

For any direct communications lobbying a Member of the Legislative Branch to take legislative actions needed to get a ballot measure on the ballot the state lobbying laws will apply.

Once a ballot measure has already been placed on the ballot, then the support or opposition of the measure is regulated under the state's campaign finance laws (even though the IRS still considers activities at this stage to be lobbying).

Nonprofit organizations considering working on ballot measures in Nevada 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?

If all of your advocacy work can fit into one of the exceptions to lobbyist registration, then none of your staff members (nor your organization) will need to register or report your state lobbying activities.

Only if you are doing direct lobbying work that does not fit into one of the exceptions will one or more of your staff members need to register as a lobbyist.

Since the lobbyist registration only applies to communications during a regular or special legislative session, the lobbyist registration portal is not open in between sessions. The registration statement can be completed and submitted online when the legislature is in session at <https://www.leg.state.nv.us/lobbyist/>. Registration must occur within two days of the beginning of the lobbying activity that triggers the registration requirement.

In addition to general information about your staff lobbyist(s) and your organization (for which you should use only office contact information since the registration information will be made public) you will also be required to disclose the items listed below.

- Any for-profit direct business relationships your staff lobbyist(s) or your organization has with any current legislator.
- The name of any current legislator that your lobbyist(s) or your organization has provided consulting, advertising, or other professional services to in connection with a political campaign of the legislator since the beginning of the preceding legislative session. For example, if one of your lobbyists was in the past a paid political consultant for a current member of the legislature, that may have to be reported here.

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- A description of the subject matters you are going to be lobbying on.

The registration fee for nonprofit staff who are paid is \$100, and \$20 for any nonprofit staff lobbyists who are unpaid.

Lobbyists must attend a training offered by the Legislative Counsel Bureau before registration is complete. Recently, this training requirement has been met by lobbyists certifying that they have read a training slide deck put out by the State.

Note that Nevada's lobbyist regulations actually require lobbyists to give notice that they are no longer lobbying within 30 days of completing their lobbying work if the lobbyist terminates lobbying work during the legislative session, but this does not relieve otherwise applicable reporting requirements. If you know that your organization will not do any additional lobbying work for the remainder of the term, then you should have your staff terminate registration. Registration for all lobbyists terminate automatically at the end of each term, and lobbyists must re-register if they trigger registration requirements again in the next term.

Q: When are periodic lobbying reports due?

If any of your staff are required to register as lobbyists, then a report is due between the 1st and 10th day of the month following each month the legislature is in regular or special session. A final report is also due within 30 days after the close of a regular or special session. Reports are due regardless of whether any expenditures were made in a given month.

There is a \$10 per day fine for late reports, which can potentially be waived or reduced upon a finding by the Legislative Counsel Bureau of just cause.

Q: What information do the periodic lobbying reports include?

The Nevada periodic lobbyist reports are designed to disclose certain lobbying expenditures made **for the benefit of a Member of the Legislative Branch or their families**.

The Nevada periodic lobbyist reports **do not include** any expenses of your organization on things like your own staff compensation, advertising or print mailings, internal office expenses, or even the cost of things like transportation of your staff and volunteers to a Lobby Day.

Q: What is considered a reportable "expenditure"?

Each lobbyist's periodic report must contain the following items:

- Total amount of all expenditures made **for the benefit of Member of the Legislative Branch or their families**. Things like travel, meals, beverages, or anything else of value given to such persons are reportable expenditures.
- The name of each legislator on whose behalf expenditures have been made (unless all legislators were invited and then no listing of the legislators who attended is needed). An itemization (detailed listing of the expenditure, the amount, and the recipient) of all expenditures is required if the total amount of all expenditures exceed \$50 in a given month.

A lobbyist's personal expenditures for their own food, beverages, lodging, travel expenses, or other organizational expenses related to lobbying are **not** reportable expenditures.

Gift ban: Lobbyists in Nevada are prohibited from giving gifts to legislative officials or employees. There are some specific minor exceptions, but best practice is to treat all gifts as prohibited. Even information about your organization could be considered a gift if you gave it in a form that could have another use (such as a thumb drive or a calendar). It is safe to give regular printed fact sheets about your organization.

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Gift laws generally: 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.

In general, it is easier for small nonprofit organizations to simply refrain from making any expenditures on Members of the Legislative Branch or their families. In this case any periodic lobbyist reports would disclose zero expenditures.

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

No.

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

Upon registering, a lobbyist will be given an identification badge that must be worn by the lobbyist whenever the lobbyist is in the Legislative Building or in other public spaces where legislative meetings are being held. For lobbyists representing nonprofit organizations, the badge will include either the phrase “PAID LOBBYIST – Nonprofit” or “NONPAID LOBBYIST – Nonprofit.”

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

Lobbyists, even in their personal capacities, are prohibited from making political contributions to legislators, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor, and the Governor-elect around and during sessions of the legislature.

Paying lobbyists contingency fees based on securing passage or defeat of legislation is prohibited.





Lobbyists are prohibited from making any false statements or misrepresentation of facts to legislators while attempting to influence their decisions or in a registration statement or lobby report.

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 Nevada Assembly

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 Assemblyperson 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 Nevada Assembly regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Las Vegas about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying is not regulated in Nevada, and hence these activities do not trigger any registration or reporting requirements.</p>
 <p>Lobby Day</p>	<p>The Students Vote Now Lobby Day includes direct communications with legislators by paid staff and student volunteers. While the State has not put out detailed guidance about the 2021 changes in its lobbyist registration rules, we believe that the Lobby Day activities would fall under the infrequent lobbying exception and not on their own require registration or reporting, so long as there is no additional lobbying follow up on the subject.</p> <p>Students Vote Now should avoid giving any small swag gifts to legislators.</p> <p>Even if Students Vote Now determined that it should register some of its staff because they have had or will have more regular or frequent lobbying communications with legislators, the expenses of Lobby Day do not need to get reported on any periodic disclosure reports, since only expenditures made on Members of the Legislative Branch or their families are reportable.</p>
 <p>Committee Testimony</p>	<p>Testifying before a legislative committee is not considered lobbying in Nevada so long as the Students Vote Now representative clearly identifies themselves and that they are testifying in the interest of Students Vote Now. This activity will not trigger lobbyist registration and reporting.</p>
 <p>Mayor</p>	<p>Las Vegas has a local lobbying ordinance which requires local registration for anyone who lobbies the City Council and is compensated for it but does not require registration for executive branch decisions.¹ If the communications with the Mayor are not trying to influence a City Council decision the communications would not require local registration. Clark County² and Reno³ also have local lobbying ordinances and groups should always check with each local jurisdiction before lobbying any local public officials.</p>
<p>Bottom Line</p>	<p>If Students Vote Now is not planning to do any legislative lobbying other than those activities described, it likely does not need to register any of its staff as lobbyists. Even if the organization decides that it would like its staff to carry out more regular and recurring direct communications with Members of the Legislative Branch during the regular or special sessions, if no expenditures are made on the Members of the Legislative Branch or their families then any period reports required will be very simple and have no expenditures to report (though they will still need to be made until registration expires or is terminated). No internal staff or office expenses are reportable.</p>

¹ <https://files.lasvegasnevada.gov/city-clerk/Lobbyist-Information-Sheet-And-Form-Combined.pdf>

² <https://lobbyistreg.clarkcountynv.gov/>

³ <https://www.reno.gov/government/departments/city-clerk/lobbyist-registration>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL ASSISTANCE 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 emailing Bolder Advocacy at advocacy@afj.org or calling during standard business hours at 866-NP-LOBBY (866-675-6229).

NEVADA STATE RESOURCES:

- **Nevada Legislative Counsel Bureau**

The Legislative Counsel Bureau is responsible for overseeing lobbyist registration and reporting for Nevada. The Nevada legislature meets in regular session during the late winter and spring of each odd-numbered year. When the legislature is not in session, the Legislative Counsel Bureau is responsible for the day-to-day business of the legislative branch.

<https://www.leg.state.nv.us/division/lcb/index.html>

- **Nevada Lobbying Statute**

The full text of the Nevada state lobbying statute (NRS Chapter 218H) can be found at:

<https://www.leg.state.nv.us/Division/Legal/LawLibrary/NRS/NRS-218H.html>

- **Additional Questions**

Any additional questions about lobbyist registration and reporting can also be directed to lobbyistregistrar@lcb.state.nv.us or by calling (775) 684-1380.

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 our federal law resources to ensure all IRS compliance obligations are being met. See Bolder Advocacy's *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*: <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



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