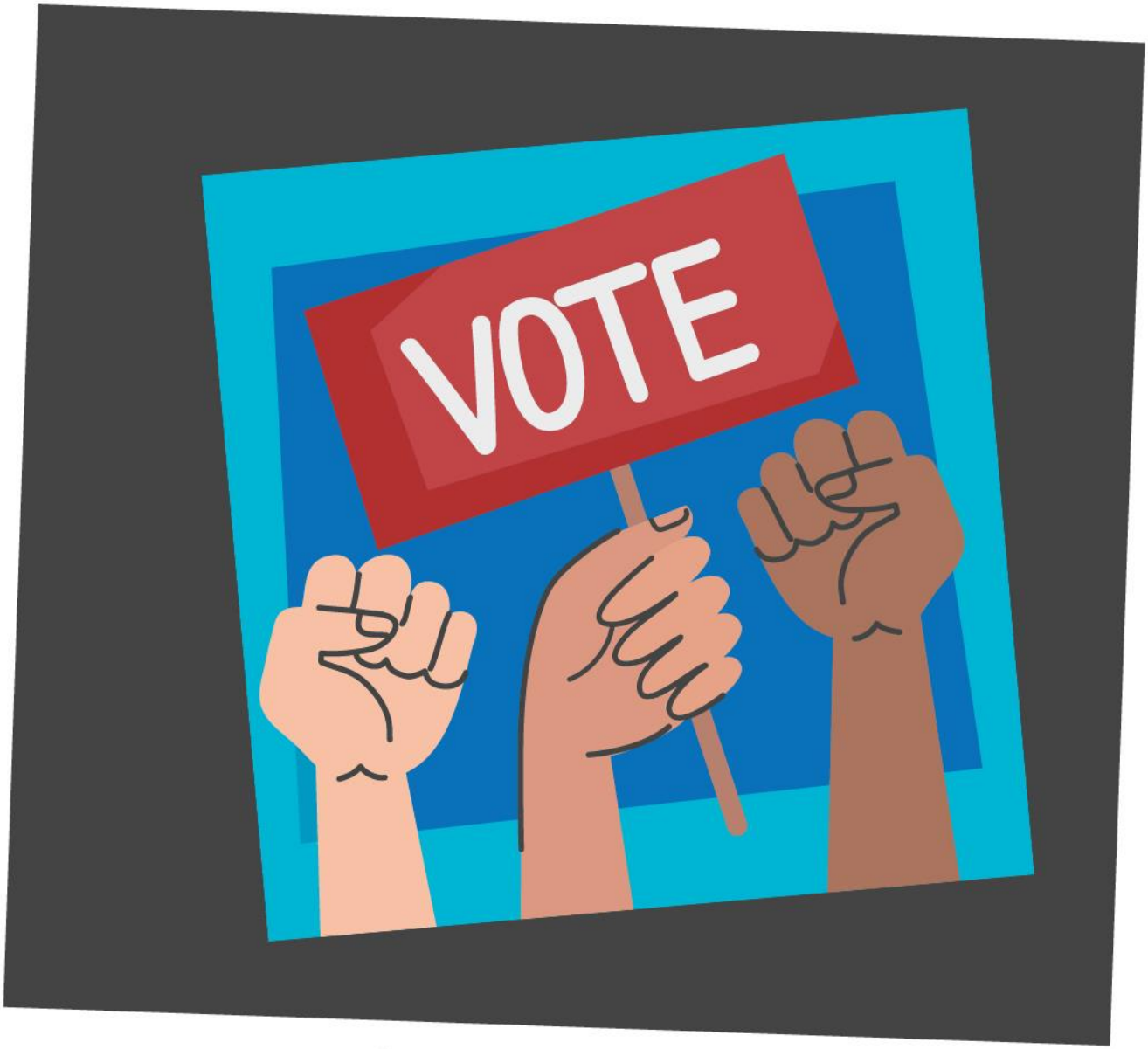
PRACTICAL GUIDANCE

Nonprofit Voter Assistance

PENNSYLVANIA



Democracy Capacity

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A program of Alliance for Justice

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USING THIS GUIDE

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.

Pennsylvania Department of State: Pennsylvania's elections are overseen by the Bureau of Commissions, Elections, and Legislation (the "Bureau") of the Department of State.

- Their voter-facing information page is here: https://www.vote.pa.gov/Pages/default.aspx
- The Bureau also has a helpful Voter Education Toolkit geared towards groups assisting their constituents to vote which is available here: https://www.vote.pa.gov/readytovote/Pages/ReadytoVoteToolkit.aspx

County Boards of Elections: Each county has its own Board of Elections. You can find their contact information and links to their websites here: https://www.vote.pa.gov/Resources/Pages/Contact-Your-Election-Officials.aspx

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 Board of Election offices sometimes apply laws differently:** In Pennsylvania the county Boards of Elections offices sometimes have their own ways of doing things. It is worth taking the time to check the websites of the Boards of Elections in the county or counties where you will be working.

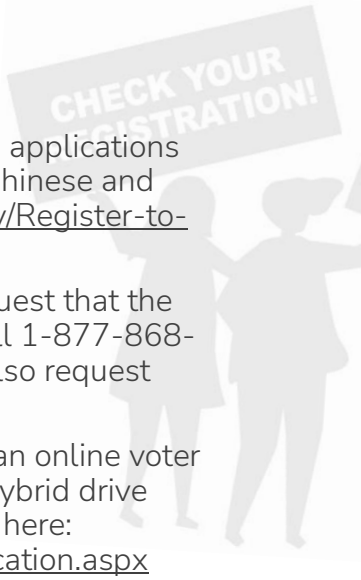
Q: What rules do we need to follow to run a voter registration drive?

Pennsylvania allows third party groups, including nonprofit organizations, to run voter registration drives.

You should be sure to read carefully the information available in the links below before starting your voter registration drive programming in Pennsylvania.

State's Voter Registration Drive Guide: As of the publication date of this Practical Guidance, the State's current guide for running voter registration drives is their Version 4 March 2020 Guide available here: https://www.vote.pa.gov/Resources/Documents/PA-Voter-Registration-Guide.pdf

Fair Elections Fact Sheet: The Fair Elections Center also has a good summary fact sheet called Conducting a Voter Registration Drive in Pennsylvania that you can access here: https://www.fairelectionscenter.org/voter-registration-drive-guides



Practical Tips

- **Printing paper registration applications:** Paper voter registration applications can be printed in English, Spanish, Simplified Chinese, Traditional Chinese and Vietnamese from the State's website here: https://www.vote.pa.gov/Register-to-Vote/Pages/How-to-Register-to-Vote.aspx
- **Requesting paper applications from the State:** You can also request that the State send you applications if you e-mail ra-voterreg@pa.gov or call 1-877-868-3772 and advise them how many applications you need. You can also request them from your county Board of Elections.
- **Online voter registration system:** You can also consider running an online voter registration table using volunteers with tablets or computers, or a hybrid drive with both options available using the State online system available here: https://www.pavoterservices.pa.gov/Pages/VoterRegistrationApplication.aspx
- **Web API:** If you have the resources to code a portion of your website, you can request to use the State's voter registration Web API to have voters register on the State online system through your organization. You can get more information about the Web API here: https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/PA-Online-Voter-Registration-Web-API---RFC.aspx
- **Submitting applications:** The State recommends submitting applications as soon are they are received by your group. They should be submitted to the appropriate county Board of Elections.

Watch Out

- **Applications are not complete until the county has a copy of the applicant's signature:** Pay attention to the nuance of how such signatures may be submitted.
- **Don't pay your drive workers by the piece:** It's illegal in Pennsylvania to pay someone to solicit registrations based on the number of registrations obtained. Pay by the shift or by the 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?

Clear and easy access to voting by mail and early voting empower more voters to exercise their right to vote, and many nonprofit organizations are eager to help voters understand and exercise their right to vote through these mechanisms.

Many states have rules and regulations about what third parties – whether individuals or organizations – can or cannot do to assist voters with this task. These rules are constantly changing and come up in many different activities related to voting by mail.

Pennsylvania has two similar (and easily confused!) processes for voting by mail: https://www.vote.pa.gov/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx

- **Absentee ballots:** Voters must have an excuse to use an absentee ballot, which can be voted early at a county clerk's office or returned by mail.
- **Mail ballots:** A separate system also exists where a voter may request to vote by mail without needing an excuse. This option has been the subject of litigation, some of which is still in process, but the current law allows all Pennsylvania voters to request the mail ballot option.

The remainder of this FAQ will discuss potentially assisting voters with the **mail ballot** application process.

Practical Tip

- **Focus on information and access to applications:** With the laws surrounding mail ballots in flux, and the restrictions on assistance with mail ballots outlined below, it may be wiser to focus on getting your constituents trustworthy official information about the mail ballot process and access to applications, instead of running a full assistance program. Information and applications are available here: https://www.vote.pa.gov/Voting-in-PA/Pages/Mail-and-Absentee-Ballot.aspx

Watch Out

- **Postage:** Pennsylvania generally prohibits offering anything of value to a voter to induce the voter to vote, or to vote for a particular candidate, and a violation of this law is a felony. It is best practice to avoid giving voters postage for returning the mail ballot applications, or for returning the mail ballots themselves.

Danger Zone

- **Only voters should return mail ballot applications or the ballots themselves:** Pennsylvania law requires that the voter return their own mail ballot application and ballot.

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

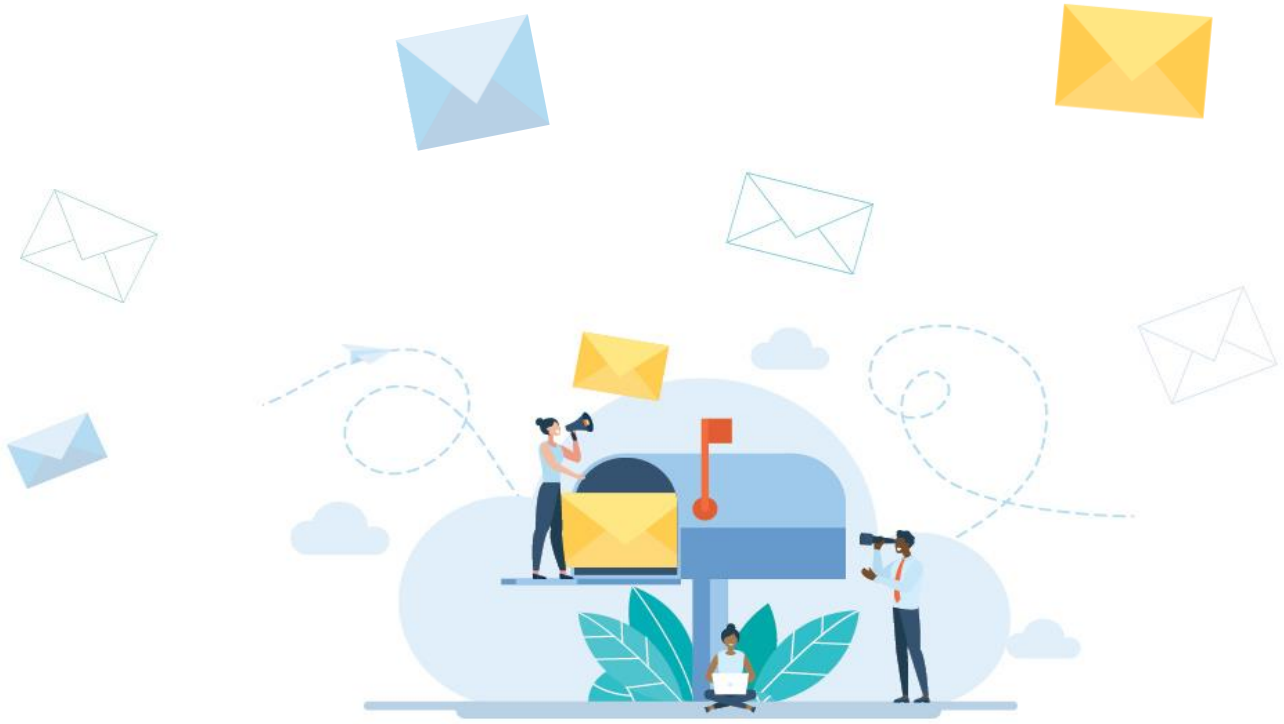
Pennsylvania has made it difficult for nonprofit organizations to effectively assist voters in obtaining a mail ballot or returning the completed mail ballots – other than by getting voters the information and access to the applications they need to do it themselves, as we discussed in our prior FAQ.

If there is an issue with a voter's mail ballot, the voter must "cure" the issue with the county Board of Elections by the sixth calendar day following the election or else the ballot will not be counted.

Running a full mail ballot "cure program" (where organizations help track down voters whose ballots have been challenged 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 elections office if they need to try to cure any issues with their mail ballot.

Practical Tip: Use official sources of information!

- In Pennsylvania, voters can check the status of their absentee or mail ballots here: https://www.pavoterservices.pa.gov/Pages/BallotTracking.aspx
- The contact information for the Board of Elections office for each county if additional information is required can be found here: https://www.vote.pa.gov/Resources/Pages/Contact-Your-Election-Officials.aspx



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

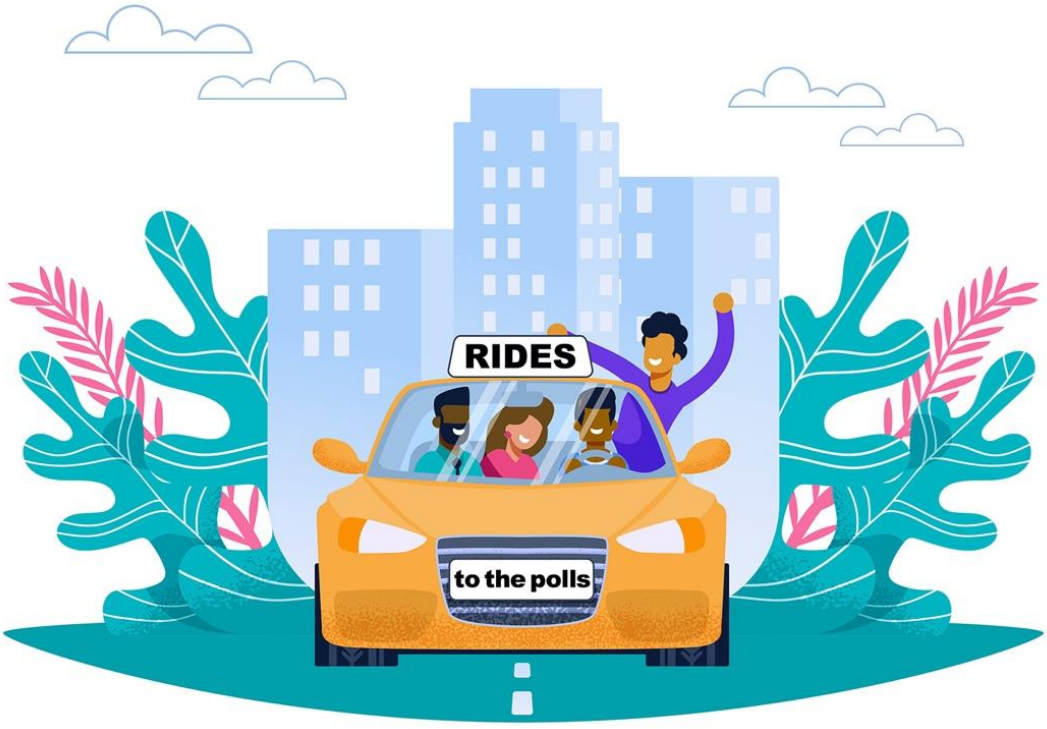
It is currently legal to give voters a ride to the polls in Pennsylvania.

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 political 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.

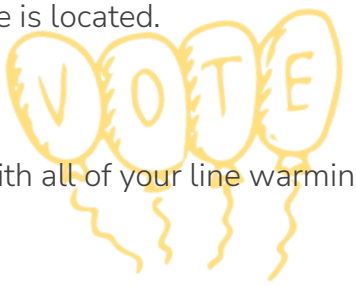


Q: How can we help voters who are already at the polls?

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 them. 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.

Pennsylvania does not explicitly prohibit line warming activities such as providing food and drink to voters, but you will still need to be careful not to treat voters differently than non-voters so as not to "induce" anyone to vote.

Electioneering, or political persuasion, is prohibited within the polling place or within 10 (ten) feet of an entrance to a building in which a polling place is located.



Practical Tips

- Stay well outside the 10-foot 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, including Pennsylvania, 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: Generally, Pennsylvania law prohibits placement of any partisan road signs along state or county roads. Rules regarding lawn signs are made by local jurisdictions, and many of those rules have not survived constitutional court challenges. See the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: It is generally permissible for voters to vote while wearing partisan clothing or accessories so long as they are not electioneering inside the polling place or within the no electioneering perimeter.

Selfies in or near the polling place? There is a law currently on the books in Pennsylvania prohibiting a voter from showing other people their ballot. While some State guidance expresses some leniency on this point, while the law is still in effect you should not encourage ballot selfies and consider having constituents show their "I Voted" sticker instead.

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.

A summary of the campaign finance law that may apply to your work is available here: https://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/FAQ/CampaignFinanceFAQ.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:** If you are doing partisan GOTV work, you will need to carefully examine the Pennsylvania campaign finance statute and consider seeking additional legal advice to determine which rules apply to your work.
- **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 facilitated by the State through this site: https://www.vote.pa.gov/resources/pages/be-a-poll-worker.aspx, but ultimately handled by each county's Board of Elections.

You can find your county Board of Elections website here: https://www.vote.pa.gov/Resources/Pages/Contact-Your-Election-Officials.aspx

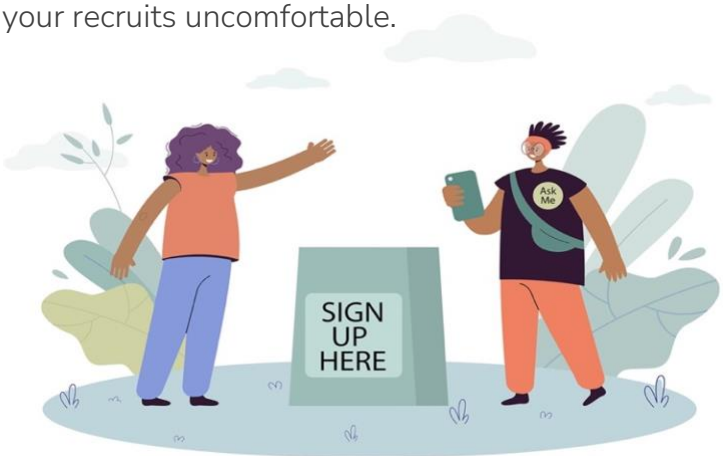
In general, poll workers must be registered to vote in the county where they wish to work. Exceptions exist for 17-year-old high school students, who must meet additional requirements. Additionally, government officials and government employees are not allowed to serve as poll workers. Exceptions exist for district judges, notaries public, and members of the Pennsylvania National Guard. Poll works are also generally not allowed to serve if their name appears on the ballot.

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 Supervisor of Elections 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 work advocating for a new polling place might count as lobbying under state or local lobbyist registration rules. Pennsylvania has some local lobbyist registration ordinances in place, including the cities of Philadelphia and Pittsburgh, so you will 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 Pennsylvania for further information: https://www.democracycapacity.org/pa-lobbying

ADDITIONAL HELP

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 Pennsylvania Materials

- **Pennsylvania Election Law:** https://www.legis.state.pa.us/cfdocs/legis/LI/consCheck.cfm?txtType=HTM&ttl=25
- **Voter Registration Drives:** Guide to Running a Voter Registration Drive in Pennsylvania: https://www.vote.pa.gov/Resources/Documents/PA-Voter-Registration-Guide.pdf
- **Line Warming, Ballot Selfies and GOTV Clothing in the Polling Place:** Guidance on Rules in Effect at Polling Place on Election Day: https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Directive-and-Guidance.aspx
- **Campaign Finance:** The State has pulled together this summary FAQs pdf on its campaign finance law: https://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/FAQ/CampaignFinanceFAQ.pdf

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

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