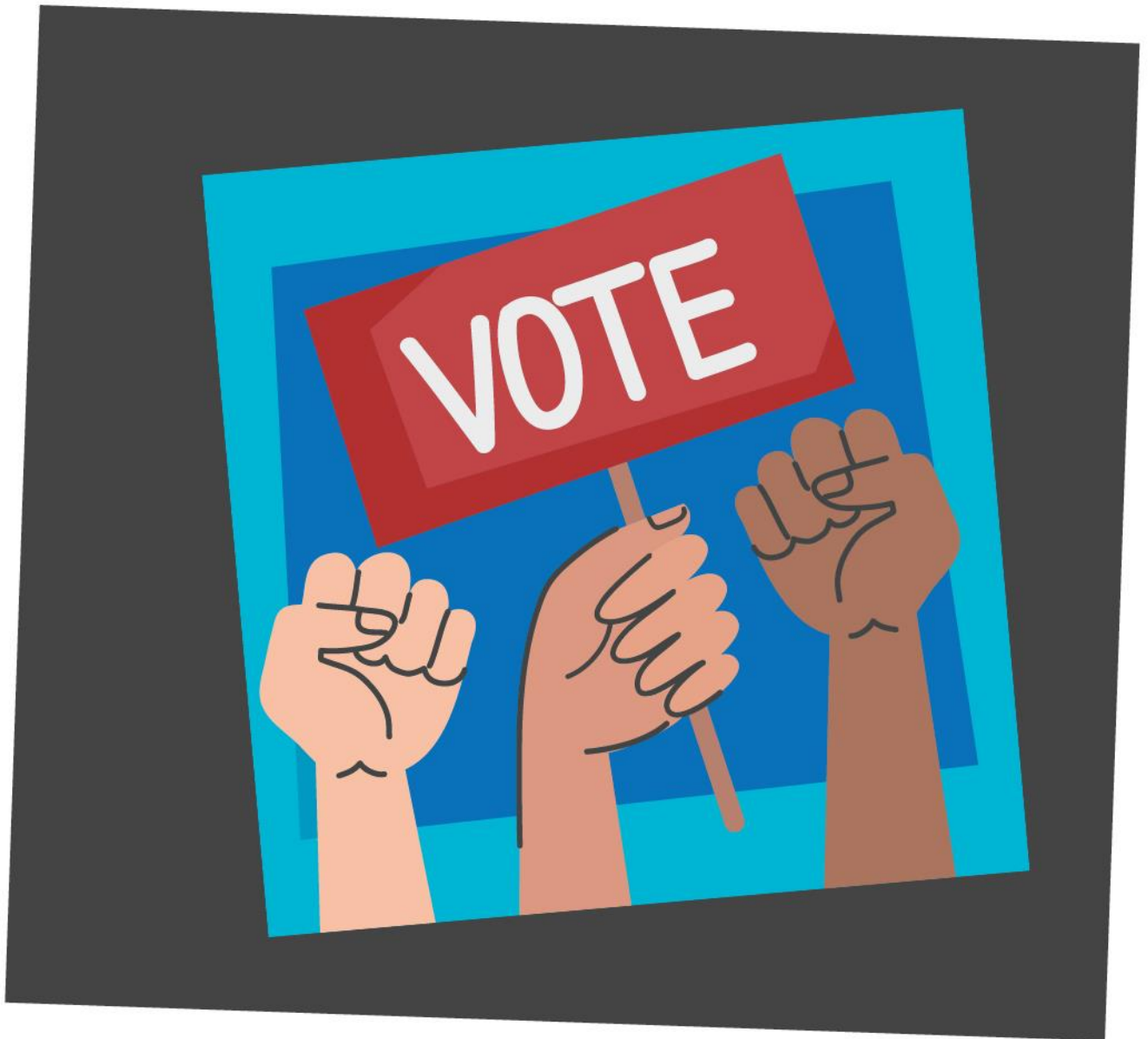


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

TEXAS



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 the 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: Texas' elections are overseen by the Secretary of State's office. Their voter-facing information page is here: <https://www.votetexas.gov/>

The Secretary of State's office publishes some materials that you can use with your constituents like posters and information fact sheets. They also provide code that you can embed on your website to link to their official informational resources: <https://www.votetexas.gov/resources/voter-id-education-materials.html>

County Elections Administrators: Each county has its own Elections Administrator. In many counties the Elections Administrator is the County Clerk or the Tax Assessor-Collector (or Sheriff/Tax Assessor-Collector). You can find contact information here: <https://www.sos.state.tx.us/elections/voter/votregduties.shtml> and links to the county official's website here: <https://www.sos.state.tx.us/elections/voter/links.shtml#County>

Some counties have great information on their sites and may include well-produced voter guides or posters that you can link to. For example, Harris County's Elections website has well laid out voter facing information and FAQs, as well as sections that may be useful to your organization about voter registration rules etc.: <https://www.harrisvotes.com>

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!
- **Elections Administrators sometimes apply laws differently:** In Texas the county Elections Administrators are given discretion in the law to create their own rules and regulations (so long as they do not conflict with state or federal law) and they sometimes have their own ways of doing things. It is worth taking the time to check the websites of the Elections Administrators in the county or counties where you will be focusing your work.

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

Texas requires any person who **collects and returns** completed voter registration forms to be appointed a **Volunteer Deputy Registrar (VDR)** by each county in which they will be acting. Registration as a VDR includes completing a training, receiving an official state-issued receipt book, and being issued a VDR appointment certificate. VDRs can only register voters in the county in which they were appointed; there is no such thing as a statewide VDR. Collecting voter registrations without authorization is a crime in Texas, punishable by up to a year in jail.

VDRs must follow certain rules when collecting registrations. For example, a VDR must review each registration form for completeness in the voter's presence and return it to the voter if incomplete. A VDR must also provide the voter with a form receipt from the official book, a duplicate copy of which must also be handed in along with the completed registration form. VDRs may **not** make photocopies of registration forms. The Secretary of State recommends keeping the receipt books for 22 months following an election.

These rules do not apply if you **only hand out** application forms and don't collect them. They also don't apply if your organization runs a drive where people can fill out the online request form themselves. You should be sure to carefully read the information available in the links below before starting a voter registration drive in Texas.

Texas VDR Rules:

<https://www.votetexas.gov/get-involved/volunteer-deputy-registrars.html>

Fair Elections Fact Sheet: The Fair Elections Center also has a good summary fact sheet called Conducting a Voter Registration Drive in Texas that you can access here:

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



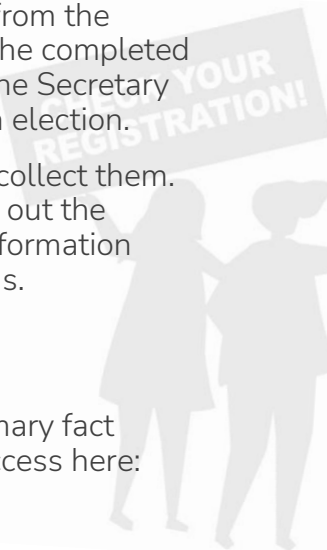
Practical Tip: VDR rules don't apply if you don't collect the forms!

- If your drive can be effective using tablets or computers to have registrants complete the process, the VDR rules will not apply to your drive. It is best practice to allow the registrant to fill in the online information themselves. See: <https://vrapp.sos.state.tx.us/index.asp>. Note that using this program fills in a pdf of the paper registration form that will be sent to the voter to sign and return in order to complete the registration.



Watch Out

- **Late submission of forms is a crime:** If you host a drive where you are returning forms, VDRs must return completed voter registrations in person – not by mail – in a timely manner established by law (by 5pm on the 5th day after receipt if more than 34 days before election – or before the statewide voter registration deadline if within the 34 day period). Failure to timely submit voter registrations is a misdemeanor.
- **Don't pay your drive workers by the piece:** It is illegal to pay drive workers based on how many registrations they collect, present them with a quota of registrations to collect, or use a fixed quota as the sole basis for determining compensation or employment. 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 rights 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.

Note that Texas currently requires those who wish to vote by mail to have a valid excuse. Lack of immunity or fear of contracting COVID-19 has been determined through litigation to not be within one of the valid excuse categories (age 65 or over, being out of county during available voting period, being confined to jail, expecting to give birth within three weeks before or after an election, or having a disability that prevents a person from voting independently or without harm to their health).

If you are contemplating doing programming that assists voters with vote by mail, Texas does not impose many restrictions on simply **handing out** vote by mail applications or providing factual correct information on how to vote by mail. The law does, however, make it difficult to provide much further assistance with **returning** a vote by mail application or **actually voting by mail**.

Practical Tip: Add value by providing information and forms

- Voter-facing Information about eligibility to apply to vote by mail is here: <https://www.votetexas.gov/voting-by-mail/index.html>
- You can then hand out application forms for voters who have determined that they are eligible to apply: <https://www.sos.texas.gov/elections/voter/reqabbm.shtml>

Watch Out

- **Pre-filling application forms is risky:** While the law doesn't explicitly state that your organization cannot pre-fill application forms, it is a crime to provide false information on an application and it would be easy to accidentally pre-fill with outdated information.

Danger Zone

- The laws in Texas for assisting voters to apply for and return vote by mail ballots are complicated, and there are many ways to accidentally cross a line with potential criminal consequences for your staff. It is best to steer clear of this sort of programming and stick with simply handing out forms or providing links to official information.
 - There is potential criminal liability for pre-paid postage on a vote by mail application or giving postage for the ballot itself
 - It is a crime to assist **more than one person per calendar year** return a vote by mail application
 - It is a crime to receive compensation for assisting voters with their mail in ballots
 - Completed ballots may not be collected and stored somewhere prior to delivery to the early voting clerk

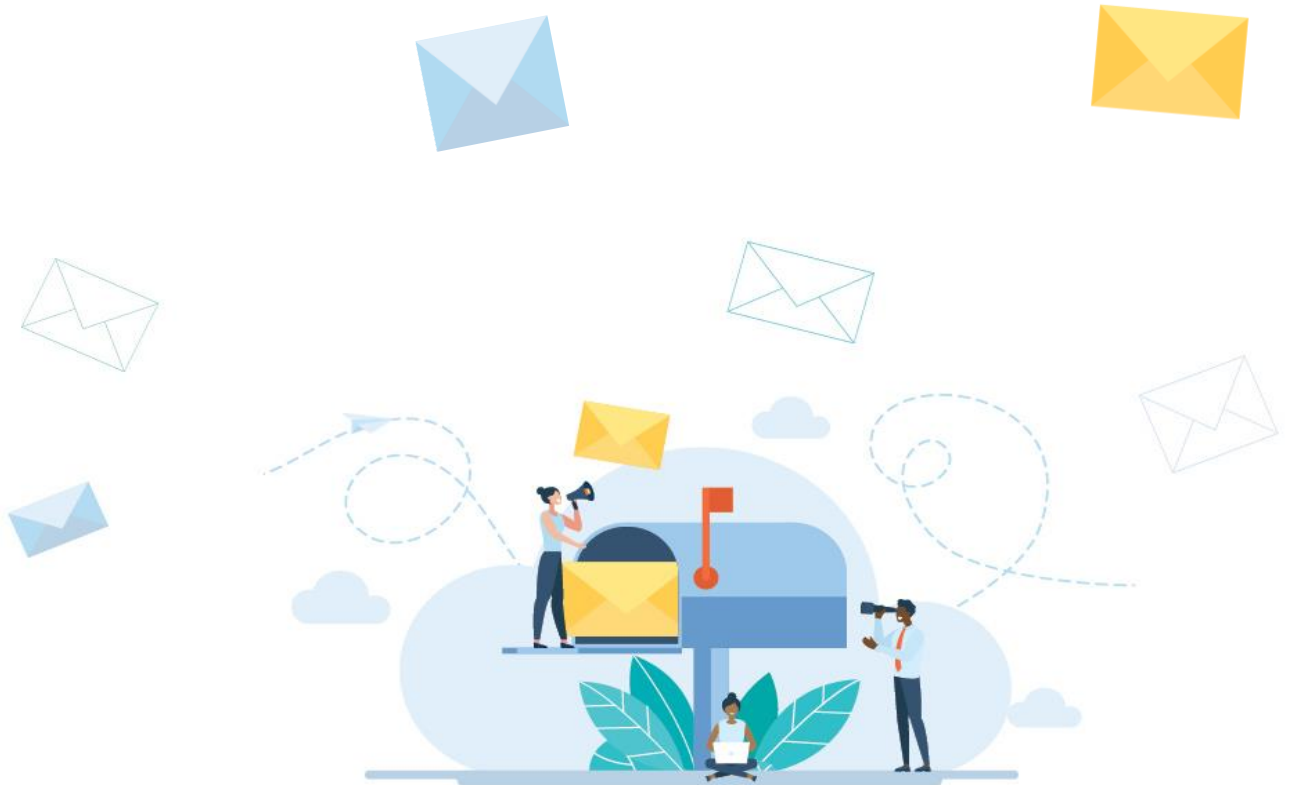
Q: Can we help voters fix problems with their vote-by-mail ballots?

Texas does not prohibit third parties from helping voters navigate through the process to fix problems with their vote by mail ballots. However, only the voter is authorized to hand deliver their corrected ballot or to complete the “Corrective Action Form for Defective Carrier Envelope.” Both of these tasks must be performed in person at the early voting clerk’s office.

Running a full vote by mail “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 still be enormously helpful for you to educate your constituents about how to track their own ballots, and how to contact their official county Elections Administrator office if they need to cure their ballot.

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

- In Texas, voters can check the status of their vote-by-mail ballot here: <https://www.votetexas.gov/voting-by-mail/track-my-ballot.html>
- The contact information for the Elections Administrator office for each county if additional information is required can be found here: <https://www.sos.state.tx.us/elections/voter/votregduties.shtml>



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

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



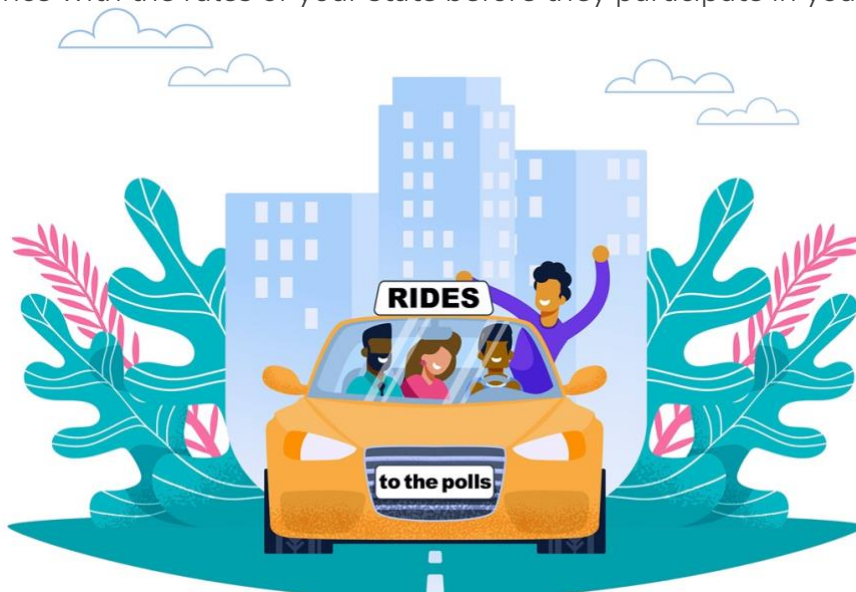
Practical Tip: Consider partnering with existing programs

- 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.
- **Special rule if driving voters who intend to vote curbside:** Texas allows voters who are disabled or who cannot safely enter the polling place to vote curbside, but has a rule that any person assisting seven or more non-relatives to vote curbside by driving them to the polls will be required to complete a form that discloses the name and address of the person driving and whether the voters are voting curbside because of disability or because they cannot safely enter the polling place. See TX Election Code § 64.009: <https://statutes.capitol.texas.gov/Docs/EL/htm/EL.64.htm>
- **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.

In Texas, your organization is free to assist voters waiting in line to vote as long as you are not electioneering, or posting, using, or distributing political signs or literature within 100 feet of any entrance of a building that a voter may use to access a polling place. Texas also prohibits the use of any wireless communication device (such as a smartphone) inside a polling place. The electioneering perimeter extends to 1,000 feet from the entrance to a polling place if a sound amplification device is used. However, that only applies to electioneering, not music designed to entertain voters waiting in line.

✓ Practical Tips

- It is best practice to stay well outside the 100-foot electioneering perimeter with all of your line warming activities. Even though you can probably give out food and water within the 100-foot perimeter, a local official might think you are electioneering. It’s better to stay on the good side of the poll workers.
- 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/>
- **State bribery rules apply too:** While it is not illegal in Texas to offer food and water to voters waiting in line to vote, it is illegal to use food and water to try to influence how someone will vote. For instance, giving water only to those voting for a certain candidate is considered bribery in Texas, which is a felony.
- **Do not use or encourage the use of mobile phones inside the polling place:** Wireless communication devices (including mobile phones) are prohibited inside polling places. Do not encourage voters to use their phones inside of the polling place and warn them not to post pictures from inside the polling place on social media.

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

Observers inside the polling area: Texas law does not allow for nonpartisan election observers – it only allows for “Watchers,” who observe on behalf of campaigns, and “Inspectors,” who observe on behalf of the Secretary of State. Any person trying to observe voting inside a polling place may be charged with loitering.

State rules about lawn signs and road signs: Generally, Texas law prohibits the placement of any road signs within the right of way for state or county roads without a permit. Lawn signs, including political signs, may be placed on private property with permission of the property owner. Municipal governments and property owners’ associations generally cannot prohibit the display of signs but are permitted to make some regulations about their display, including requirements that signs not be placed more than 90 days before an election and must be removed within 10 days of the election. You should check the local rules for any jurisdiction in which you may be operating. See also the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: Texas law currently prohibits voters from wearing clothing or buttons, or “other similar communicative device[s]” that relate to a “candidate, measure, or political party appearing on the ballot” for that specific election. More general GOTV messages may be permissible, but you may want to consult with counsel before giving any more permissive guidance to your constituents.

Selfies in or near the polling place: Although Texas does not specifically prohibit photos in a polling place, it does prohibit the use of wireless communication devices (including mobile phones) in a polling place. If your staff or constituents want to post pictures to social media to encourage others to vote, consider instead suggesting they take selfies with the “I Voted” sticker after they leave 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!** For example, don't offer to collect and return a voter registration form if you are not a VDR.



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 Texas, Title 15 of the Texas Election Code outlines the state-level campaign finance regulations that might apply to your work:

<https://www.ethics.state.tx.us/statutes/title15.php>



✓ 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:** In Texas, these state campaign finance rules cover, among other things, how disclaimers must be added to political ads, rules relating to when physical political advertisements must be taken down after an election, and rules that are relevant to text and phone banking. If you are doing partisan GOTV work, you will need to carefully examine the Texas campaign finance regulations 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 by each county's Elections Administrator in Texas.

Each poll worker must be a U.S. citizen and a qualified voter in the county to which they are applying to be a poll worker and complete an online training for their position at least once each election cycle.

You can find your county Elections Administrator website here:
<https://www.sos.state.tx.us/elections/voter/votregduties.shtml>



Practical Tip

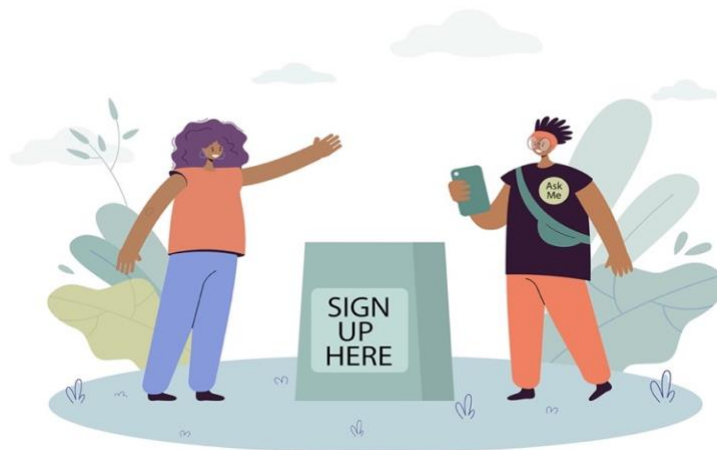
- While more poll workers are often urgently needed, it can sometimes be frustratingly slow to get through to the county offices to get started. You may need to start this process early and have some patience with your poll worker recruitment plan.
- If your organization is considering doing a poll worker recruitment drive and has trouble reaching the right person at your county's Election Administrator's 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. Texas has local lobbyist registration ordinances in many large cities, 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 Texas for further information: <https://www.democracycapacity.org/tx-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 emailing 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 Texas Laws:

- **Electioneering Rules:** TX Stat. § 60.001 et seq. – Rules regarding electioneering within 100 feet of a polling place:
<https://statutes.capitol.texas.gov/Docs/EL/htm/EL.61.htm>
- **Assistance with Vote-By-Mail Ballots:** TX Stat. § 86.001 et seq. – Vote by mail ballots and voting; violations:
<https://statutes.capitol.texas.gov/Docs/EL/htm/EL.86.htm>
- **Line Warning:** TX Stat. § 36.02 – Unlawful solicitation of voters:
<https://statutes.capitol.texas.gov/Docs/PE/htm/PE.36.htm>
- **State Rules on Lawn and Road Signs:** TX Stat. § 259.001 et seq. – Signs erected or maintained without required permit; removal:
<https://statutes.capitol.texas.gov/Docs/EL/htm/EL.259.htm>
- **Campaign Finance:** TX Stat. § 251.001 et seq. – Campaign Finance:
<https://www.ethics.state.tx.us/statutes/title15.php>

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.

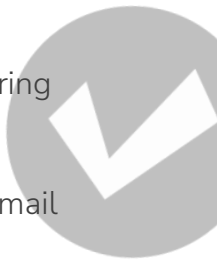
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The Democracy Capacity Project and Alliance for Justice are strictly nonpartisan, and nothing in this Practical Guidance or any of the resources linked herein is intended as a partisan or electioneering communication.

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



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