

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

UTAH

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	Being paid to communicate directly with a public official for the purpose of influencing legislative action.
State Executive Branch Officials	Yes	Same as above, with respect to executive action.
Local Legislators or Local Executive Branch Officials	Yes	Same as above, with respect to local legislative, local executive branch, or local boards of education action.

Grassroots Lobbying: Grassroots lobbying (calling on members of the public to take action on their own to contact public officials) is not regulated as lobbying in Utah.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN UTAH:

- Utah recently updated its Lobbyist Disclosure and Regulation Act:** In 2022 Utah updated its Lobbyist Disclosure and Regulation Act (Utah Code 36-11-101 through 36-11-501) and worked into the amended Act the laws relating to local and boards of education lobbying that had previously been codified under Utah Code 36-11a in the Local Government and Board of Education Lobbyist Disclosure and Regulation Act.

Some of the material on the State website still confusingly refers to the old Utah Code 36-11a and its separate registration and reporting procedures, but local and board of education lobbying registration and reporting have now been wrapped into the standard lobbyist registration and reporting procedure.
- Utah’s lobbying law covers most public officials except for the judiciary:** The state’s lobby disclosure law covers a wide range of public officials, including state legislative and executive public officials and local public officials (including boards of education). However, the law does not apply to judges or the judicial branch.
- Lobbyist registration and reporting in Utah is easily manageable!** Only expenditures made for the benefit of public officials (taking them out for meals or drinks, for example) are reportable in Utah. In addition, if you have not made any reportable expenditures in a calendar quarter, you do not need to submit a report. Organizations not making any expenditures on public officials need only submit a very simple year-end report that states that no expenditures were made during the year.

This resource is current as of February 2023. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.org 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.

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

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas that would allow your program to be in compliance with the regulations but not require registration and reporting.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in Bolder Advocacy’s resource library at <https://bolderadvocacy.org/>

Q: What activities count as lobbying?

Lobbying is any direct communication with a **public official** that is made for the purpose of influencing a **legislative action, executive action, local action, or education action**.

- **Public official** means:

- A member of the Legislature
- An elected state-level executive branch official
- An appointed or employed state-level executive branch official, if they occupy a policymaking position, make purchasing or contracting decisions, draft legislation or make rules, determine rates or fees, or make adjudicative decisions
- A **local official**
- An **education official**
- An immediate family member of a public official

- **Local official** means an elected member of local government, an individual appointed to or employed by a local government in a purchasing or contracting, policymaking, rulemaking, rate or fee setting, or adjudicative position. Local officials also include an immediate family member of one of the above.

- **Education official** means a member of a board of education, an individual appointed to or employed by a board of education in a policymaking, purchasing or contracting, rulemaking, rate or fee setting, budget decision-making, or adjudicative decision-making position. Education officials also include an immediate family member of one of the above.

- **Legislative action** means a bill, resolution, amendment, nomination, veto override, or other matter pending or proposed in either house of the Legislature or its committees or requested by a legislator, or the action of the governor in approving or vetoing legislation.

FAQS

- **Executive action** means a nomination or appointment by the governor, consideration of a rule by a state agency, agency ratemaking proceedings, or an adjudicative proceeding of a state agency.
- **Local action** means an ordinance or resolution for consideration, a nomination or appointment made by a local official or government, a vote or an administrative action taken by a vote of a local government's legislative body, an adjudicative proceeding over which a local official has direct or indirect control, a purchasing or contracting decision, drafting of policies, resolutions, and rules, determining fees and rates, or making an adjudicative decision.
- **Education action** means a resolution, policy, or other official action, nomination, or appointment considered or made by an education official or a board of education, a vote on an administrative action taken by a vote of a board of education, an adjudicative proceeding over which a local official has direct or indirect control, a purchasing or contracting decision, drafting of policies, resolutions, or rules, determining fees and rates, or making an adjudicative decision.

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

Being paid to communicate directly with a public official for the purpose of influencing legislative, executive, local, or education action.

There is no compensation or expenditure threshold before registration is triggered in Utah, although certain categories of direct communications with public officials are exceptions to the definition of lobbying, as described below.

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

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

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

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

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

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

Q: Are there exceptions to what counts as lobbying?

Yes! Certain types of lobbying activities do not require state-level lobbyist registration or reporting. The exceptions most relevant to nonprofit organizations are:

- **Testimony appearances:** Any person participating in or appearing before an advisory or study task force, commission, board, or committee constituted by the Legislature, a local government, a board of education, or any agency or department of state government, except legislative standing, appropriation, or interim committees.
- **Public hearings:** Providing written comments to, or oral testimony at, an official public agency hearing.

- **Lobbying in the presence of your organization's registered lobbyist:** Interacting with a public official while accompanied by a registered lobbyist who is lobbying on behalf of your organization is exempt, as long as you don't make any expenditures for the benefit of the public official during the period of interaction. The practical result of this rule is that a registered lobbyist can bring another staff member with them to meetings if helpful without triggering an additional registration.

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

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

The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not count as lobbying advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to “register” with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test.

See <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities.

Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with substantial lobbying activities and expenses to file. For more information see https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

Q: Does supporting or opposing a ballot measure count as lobbying?

Utah has both state and local initiatives (where citizens work to get an initiative in front of the legislature or voters on the ballot) and referenda (where citizens work to get an enacted law put to the voters to affirm or reject).

Advocating for such initiatives and referenda can at times during the process count as lobbying under Utah law, and at other times fall under state and local campaign finance laws.

FAQS

If your organization is considering working on initiatives or referenda in Utah should seek additional legal advice on how and when you will need to comply with any applicable state or local campaign finance reporting requirements.

Q: If we are required to register, how does the process work?

To begin the lobbyist registration process, start at the Utah online lobbyist portal here: <https://lobbyist.utah.gov/>

Steps for initial registration:

- **Create a “New User”:** Before your actual lobbyist registration, you must create an account to allow you access to the lobbyist portal. Once you have created a user name, the portal will create a “My Folder” tab that has a To Do list in it that should help you step through the rest of the registration process. The key steps are outlined below.
- **“Create Entity”:** This step is your actual registration, where you will complete a simple online form that asks for your contact information (use your business contact information since it will be public) and some information about your organization (called the “Principal”). You should receive a confirmation email that your registration was approved.
- **Pay the registration fee:** You should now be able to click a link in your To Do list in your My Folder that will allow you to pay your \$60 annual registration fee.
- **Complete your two required trainings:** Once you have paid your fee, you will need to complete two mandatory trainings – one on Ethics, and one on Workplace Discrimination and Harassment. The 2019 version of each of the courses are posted online as Study Guides, and are available here: <https://lobbyist.utah.gov/>
- **Complete your lobbyist certification form:** This form certifies that you understand your periodic reporting requirements.

The portal is a bit opaque to use, but if you get stuck at any of the steps, you can contact the Lieutenant Governor’s office (which administers the lobbyist registrations) for assistance by calling 801-538-1041 or e-mailing lobbyists@utah.gov

Lobbying licenses (registrations) are valid for one calendar year. If you stop lobbying for the year, you can terminate your license by completing and submitting this form: <https://lobbyist.utah.gov/File/159>

Q: When are periodic lobbying reports due?

- **April 10th:** Quarter 1 report due if you made any expenditures January 1 – March 31
- **July 10th:** Quarter 2 report due if you made any expenditures April 1 –June 30
- **October 10th:** Quarter 3 report due if you made any expenditures July 1 –September 30
- **January 10th:** Quarter 4 report due for all lobbyists **even if you made no expenditures during the year**

To file a quarterly expenditure report, log in to the lobbyist portal here: <https://lobbyist.utah.gov/>

Q: What information do the periodic lobbying reports include?

Periodic disclosure reports in Utah only require disclosure about expenditures made for the benefit of public officials. Unlike in other states, you will **not** need to disclose information about your staff compensation or any of your other internal expenses related to lobbying.

FAQS

Q: What is considered a reportable “expenditure”?

In Utah, the only reportable expenditures are expenditures made for the benefit of public officials.

That said, there are some relatively complicated rules about what kinds of expenditures lobbyists are allowed to make on public officials and how large these expenditures can be.

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. Utah has several different “gift ban” regimes depending on the source of, and the recipient of, the gift.

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 all of these various rules before giving any gifts to, or paying expenses for, any public officials at the state or local level.

Many smaller nonprofit organizations prefer to avoid making any expenditures for the benefit of public officials, which also makes your lobbyist reporting much easier!

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?

Your lobbyists must wear a name tag supplied by the Lieutenant Governor’s office after they register. They must also inform the public officials that they are lobbying on your behalf at the beginning of any lobbying conversation.

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

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

There are prohibitions on lobbyists making political contributions, even in their own personal capacity, during the legislative session or during the time the Governor can approve or veto bills.





A lobbyist must also not intentionally communicate to a public official any false information materially related to a matter within the responsibility of the official.

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 Utah House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their state house representative about the bill.
- Doing an in-person Lobby Day at the state capital about Bill 101 to meet with legislators, or alternatively arranging a virtual Zoom lobby event. The Lobby Day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from the organization to the legislators, or if done by Zoom, the purchase of an upgraded Zoom account.
- Testifying before a committee of the House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Salt Lake City about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>The proposed student engagement activities are grassroots lobbying activities, which are not regulated in Utah.</p>
 <p>Lobby Day</p>	<p>The Lobby Day activities involve direct communication with public officials, which will require registration of at least one paid staff member attending meetings with public officials.</p> <p>Registration and reporting in Utah is very simple if expenditures are not made on any public officials, so Students Vote Now can minimize its reporting burden by giving out only information about its organization and not swag. None of the costs of staff time or the trip to the Lobby Day are reportable.</p> <p>Volunteers, and additional staff members present in the same room as a registered lobbyist will not have to register.</p>
 <p>Committee Testimony</p>	<p>There is a lobbying exception for testimony in front of a legislative committee, so this activity on its own would not trigger lobbyist registration.</p>
 <p>Mayor</p>	<p>Utah's lobbying law covers local officials and local action, and paid staff of Students Vote Now meeting with the Mayor will trigger state registration.</p> <p>If Students Vote Now does not bring swag to the meeting (or take the Mayor or his staff out to drinks or a meal) it will not generate a reportable expenditure.</p>
<p>Bottom Line</p>	<p>The compliance burden of registering and reporting in Utah is very low, especially if no expenditures are made for the benefit of public officials.</p> <p>It is easiest for Students Vote Now to go ahead and register, avoid giving out swag or taking officials out for meals, and the only report they will then need to file for all of the proposed advocacy activities is the Q4 year-end report!</p>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

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

UTAH STATE RESOURCES:

- **Utah Lieutenant Governor's Office**

The Utah Lieutenant Governor's Office has the responsibility for overseeing and administering the Utah lobbyist registration and reporting system. The office's lobbyist website is available at:

<https://lobbyist.utah.gov/>

- **Full Text of Utah Lobbying Statutes**

The full text of the Utah state lobbying statute can be found at:

https://le.utah.gov/xcode/Title36/Chapter11/36-11.html?v=C36-11_1800010118000101

- **Utah Training Resources**

Lobbyists must complete two mandatory trainings, one on Ethics and one on Workplace Discrimination and Harassment. The 2019 version of the courses are posted online as Study Guides here: <https://lobbyist.utah.gov/>

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be submitted by email to lobbyists@utah.gov or by calling (801) 538-1041.

BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review Bolder Advocacy's federal law resources to ensure all IRS compliance obligations are being met. See:

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



This work is licensed under a Creative Commons Attribution-Non Commercial-No Derivatives 4.0 International License, which means that you can share it widely, so long as you share it in this format and do not sell it.

The information contained in this fact sheet and any referenced links are being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.

This resource was created by the Democracy Capacity Project, a special project of NEO Philanthropy, Inc., with the support of Alliance for Justice, the assistance of Nielsen Merksamer Parrinello Gross & Leoni, LLP, and with thanks to the many, many advocates and activists who do this critical work every day.