

# PRACTICAL GUIDANCE

What Nonprofits Need to  
Know About Lobbying in

# DELAWARE

## Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
<b>State Legislators</b>	Yes	<p>Your individual employees must register if they communicate directly with public officials to promote, advocate, influence, or oppose a matter pending before the General Assembly <b>and</b> at least one of the following is true:</p> <ul style="list-style-type: none"> <li>• They receive compensation for doing so</li> <li>• They are specifically authorized by you to represent your organization in its lobbying efforts (whether for compensation or not) <b>or</b></li> <li>• They make any expenditures for the benefit of a public official</li> </ul>
<b>State Executive Branch Officials</b>	Yes	<p>The same triggers as for legislative lobbying apply to communicating directly with the executive branch to influence any matter pending before a state agency.</p>
<b>Local Legislators or Local Executive Branch Officials</b>	Maybe	<p>Delaware lobbying laws do not cover lobbying of local government officials, but check if the local jurisdiction you will lobby has its own lobbying ordinance.</p>

**Grassroots lobbying:** Grassroots lobbying (calling on members of the public, or other organizations, to take action) is not regulated in Delaware.

### KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN DELAWARE:

- **Registration is easy and free, and the reporting burden is minimal:** Delaware’s lobbying rules are focused on the disclosure of who is lobbying, the subject of the lobbying, and any expenditures made for the benefit of public officials. It is easy to register, there is no registration fee, and organizations that don’t make expenditures on public officials will simply need to report zero spending four times a year.
- **Volunteers can be required to register:** Generally, uncompensated volunteers won’t trigger registration, but lack of compensation is not a blanket exemption – if an unpaid board member or volunteer is specifically authorized to represent your organization, or makes certain expenditures, they could trigger registration. You should be able to manage this issue, however, by being thoughtful about whether, and how, you rely on volunteers.
- **Be aware of the five-day deadline for new lobbying activity:** Any time your lobbyist starts to lobby a new or different matter, they will need to file a new or updated lobbyist activity report within five business days.

This resource is current as of May 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](mailto:advocacy@afj.org) or at [info@democracycapacity.org](mailto: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?

In Delaware, **lobbying** (which is regulated by the Public Integrity Commission (“PIC”)) occurs any time an individual communicates directly with members of the **General Assembly** with the goal of influencing any **matter pending** before the General Assembly, or communicates directly with a **state agency** with the goal of influencing any matter **pending** before that agency, and at least one of the following circumstances is true:

- The individual receives compensation for influencing such state action from anyone (whether an organization or individual)
- The individual is specifically authorized by an organization to lobby on their behalf (whether or not the individual is compensated to do so)
- The individual makes any **expenditure** for the benefit of any public official

The key terms in the lobbying definition have the following meanings in Delaware:

- **General Assembly** means any member, committee, or subcommittee of either the Senate or the House of Representatives.
- **State agency** means any office, department, board, commission, committee, school district, board of education and all public bodies existing by virtue of an act of the General Assembly or of the Constitution of the State, excepting only political subdivisions of the State, or their agencies.
- **Matter** should be interpreted very broadly – it means any bill, resolution, regulation, administrative action, application, petition, request, business dealing, transaction, or decision of any type.
- **Expenditure** means anything an individual gives to members of the General Assembly or employees of a state agency. It includes food, drink, travel expenses, or gifts for a public official’s benefit. It does **not** include a lobbyist’s own lobbying expenses, staff compensation, or organizational overhead.

Note that the lobbying definition only covers matters that are **pending** before the General Assembly or a state agency. Communicating with public officials about **potential** or **proposed** matters does not count as lobbying, and does not trigger registration.

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

### Registration triggers

An individual employee of your organization will trigger an obligation to register as a lobbyist if they attempt to influence pending state legislative action or pending administrative action, **and** at least one of the three circumstances discussed in the previous FAQ are true (the individual is compensated for lobbying, is specifically authorized to represent your organization when lobbying, or makes an expenditure for the benefit of a public official).

For the first test, whether the individual is compensated to lobby, keep in mind that the definition of “compensation” is very broad – don’t inadvertently turn a volunteer into a compensated lobbyist by giving them a stipend, or something else of value, as a reward for volunteering!

For the second test – whether an uncompensated individual has been “authorized” to lobby on your behalf – the PIC will look to the importance of the role of the volunteers (are they an occasional volunteer or a board member?), how often they engage in lobbying (once a year or frequently?), and whether your organization has formalized your relationship with the volunteer (again, a board member or an unpaid officer or leader would have a formal role, whereas an occasional volunteer would not).

The final test, making expenditures for the benefit of public officials, can be managed by simply not giving gifts or otherwise making expenditures for the benefit of public officials, which most nonprofits find the best practice anyway. (See the “What is considered a reportable ‘expenditure?’” FAQ, below.)

### Timing of registration

Once an individual has become obligated to register as a lobbyist, they must do so **before** lobbying communication begins. The one exception is individuals who become obligated to register because they made a triggering expenditure. Those individuals must register **within five business days** after making the relevant expenditure.

In Delaware, failing to register as a lobbyist once a person has become obligated to do so is punishable as a misdemeanor.

## 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 in Delaware do not require anyone to register as a lobbyist or do any reporting. The exceptions most relevant to nonprofit organizations are:

- **Non-pending matters:** The definition of lobbying only includes matters pending before the General Assembly or a state agency. Discussing potential or proposed matters with public officials is not lobbying. (But confirm they are not yet pending!)
- **Testimony:** Individuals who testify at public hearings conducted by the General Assembly or a state agency, but are not otherwise obligated to register as a lobbyist, are not lobbying and won't be required to register based solely on their testimony.
- **Communications that are isolated, exceptional, or infrequent:** Individuals whose communications with public officials on behalf of their employer are isolated, exceptional, or infrequent in relation to the usual duties of their employment are not considered to be lobbying. There is no bright line as to when this exception applies, but since registration and reporting are very easy to do in Delaware, most nonprofit organizations will find it prudent to have their employee register if they are doing any more than one or two lobbying communications.
- **Certain volunteers:** Unpaid volunteers who are not authorized to represent your organization, and not given extra rewards for volunteering, are not considered to be lobbying. Keep in mind, however, that unpaid status is not a blanket exemption from registration, and you should take care not to inadvertently cause a volunteer to trigger registration by implicitly "authorizing" them, or compensating them for their efforts.
- **Communicating as personal expression:** Individuals who communicate with public officials to influence government action **as a personal expression** are not lobbying, even if the communication was requested by another. This exception applies **so long as** others do not direct the communication, and the individuals don't get any extra compensation or reward for the communications, nor make any lobbying expenditures for the benefit of public officials.

In other words, if your organization asked volunteers to contact public officials to tell their stories as a matter of personal expression, the volunteers would not be lobbying – as long as your organization doesn't control what they say (e.g., by giving them a script) or give them anything of value as a reward (e.g., by giving them a stipend or gifts), and the volunteers don't make expenditures on public officials (e.g., by giving small gifts to public officials).

- **"Lobbyist shield":** If your organization already has a registered employee lobbyist, a second employee who accompanies the registered employee in a lobbying communication with public officials will not trigger registration based solely on that communication. Note that the normal considerations for determining whether an employee will need to register apply if they communicate by themselves.
- **RFP responses:** RFP responses, other routine sales activity, or grant applications do not count as lobbying, but business dealings and decisions of any sort that involve an effort to influence legislation, regulation, or a rule are considered procurement (contract) lobbying and are subject to the lobbyist registration and reporting rules described in this Guide.

**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](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?**

Delaware is the only state in the country that has no ballot measure process – neither citizen initiatives nor legislatively referred measures or amendments to the state constitution. It does, however, have a provision for (non-binding) advisory votes that in the past has occasionally been used to solicit voters’ approval or disapproval of gambling-related issues.

Any attempt to influence a government official in connection with the legislature’s vote on a pending advisory vote is likely to be considered lobbying. However, once an advisory vote is on the ballot, supporting or opposing it is not regulated as a lobbying activity under Delaware law (even though the IRS does count it as a lobbying activity). Instead, Delaware regulates activity to support or oppose an advisory question under the state’s campaign finance laws.

Thus, nonprofit organizations considering working on persuading the General Assembly to put an advisory question on the ballot should treat that activity as lobbying for purposes of their (and their employees’) registration and reporting obligations. In contrast, those advocating for a “yes” or “no” vote on an advisory question that is already on the ballot 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?

Every lobbyist must register with the PIC **before** they engage in lobbying communications with public officials. If an individual triggers lobbyist registration by making an expenditure for the benefit of a public official, that person must register within **five** business days after the expenditure.

Your organization itself does not need to register, but you must verify your lobbyist's representation within 15 business days after your lobbyist registers.

Registration is free.

All registered lobbyists must file with the PIC and keep current a Lobbying Activity Report that lists which matters they are currently working on. If your organization intends to work on more than one pending bill or pending executive agency matter, you should have good processes in place to make sure that your registered lobbyist staff update their Activity Reports within the five business day window, as discussed below.

### The Public Integrity Reporting System (PIRS)

If your employee is registering as a lobbyist for the first time, they will need to set up an account on Public Integrity Reporting System ("PIRS"). The PIC has provided some general instructions for a "New Lobbyist" which are available here:

<https://depic.delaware.gov/lobbying/new-lobbyist/>

More detailed instructions are available in the Lobbyist First Time Login Instructions, here: <https://depic.delaware.gov/wp-content/uploads/sites/48/2023/03/Lobbyist-First-Time-Login-Instructions.pdf>

**Note:** In the instructions for the online registration system, your organization is the "employer," and your employee (or contractor) is the "lobbyist." Your organization can also be an "employer" if you authorize an unpaid volunteer to lobby on your behalf, or if a volunteer or board member is attempting to influence government action on your organization's behalf and makes a reportable expenditure that requires them to register as a lobbyist.

To set up their PIRS account, your employee will complete some security steps, including verifying their e-mail address, receiving a phone call with a security code to enter into the computer, and creating security questions. Your employee will also need to provide information about your organization (their employer).

As a new lobbyist, they will need to give the following information:

- Their name, phone number, occupation, and address (this information will be made public so they should use business contact information, not personal)
- The date on which they qualified as a lobbyist

This date is generally the day your organization and employee decided that they would make a direct communication with a public official to influence state action on behalf of your organization. Keep in mind that your employee must register before making their first lobbying communication. If your employee lobbyist is registering because they made a covered expenditure, however, then they should list the actual date of the covered expenditure for this field.

- The length of time the employee expects to represent your organization as a lobbyist (they can answer "indefinite" if appropriate).

Since your employee lobbyist will most often register based on a clear intent to begin lobbying activity, they will usually need to file their first Lobbying Activity Report promptly after registering. See the next FAQ for more details.

Once a lobbyist is registered, if at some point they no longer intend to do any additional lobbying they can end their registration by going to the "Employer Authorization" section of their profile screen and clicking on "End all Employer Authorizations," which

will automatically make their account inactive. The system will ask if they want to file their remaining expense report early.

See Lobbyist Frequently Asked Questions, <https://depic.delaware.gov/lobbying/faqs/> for additional information.

**Q: When are periodic lobbying reports due?**

Registered lobbyists in Delaware file **two** different kinds of reports: **Expenditure Reports**, which are submitted quarterly and **Lobbyist Activity Reports**, which are submitted as needed to keep current the list of matters that the lobbyist is working on.

**Expenditure reports** are filed quarterly, on or before the 20th day of the month following each calendar quarter.

Quarter	Months	First Day of Filing Period	Final Due Date
1st	Jan., Feb., Mar.	April 1st	April 20th
2nd	April, May, June	July 1st	July 20th
3rd	July, Aug., Sept.	October 1st	Oct. 20th
4th	Oct., Nov., Dec.	January 1st (following year)	Jan. 20th

**Activity reports** are not filed on any particular schedule. Once the initial report has been filed, if anything changes about which matters your lobbyist is working on, they are obligated to update it within **five** business days.

Note that for all reports, deadlines that fall on weekends or holidays do not get extended to the next business day – the lobbyist is expected to meet that deadline using the online system.

If your employee lobbyist doesn't file either kind of report by the day after it is due, the PIC will start to impose late fees. The late fee for the first day is \$25 and increases by \$10 per day after that, up to a maximum of \$100.

**Q: What information do the periodic lobbying reports include?**

**Expense Reports**

Each expense report includes the total of all expenditures the lobbyist made for the benefit of public officials during the reporting period. Unlike in many other states, in Delaware your employee lobbyist does not need to report their compensation, their own lobbying-related expenses (such as travel), or any office overhead expenses.

For detailed instructions, see Lobbyist Expense Report Filing Instructions, here: <https://depic.delaware.gov/wp-content/uploads/sites/48/2023/03/Lobbyist-Expense-Report-Filing-Instructions.pdf>.

**Lobbying Activity Reports**

Before your employee lobbyist begins their initial lobbying communications, they should file a “Lobbying Activity Report” in PIRS. As discussed above, the purpose of this report is to disclose the fact that they are lobbying and the “matter” about which they will be lobbying. The employee lobbyist should identify the pending “matter” (whether legislation or a regulation) they will try to influence, and use a drop-down menu to find it. If they have difficulty locating the matter, they should contact the PIC for assistance.

Your employee lobbyist will also identify your organization as their “client,” and provide certain information about the organization. They do not report whether they will lobby for or against the matter.

If your employee lobbyist is discussing proposed (as opposed to actually pending) government action with public officials, they won't need to file a Lobbyist Activity Report

yet, but once a bill or proposed rule is formally introduced or initiated, they must file an activity report within) **five** business days.

For detailed information, see Lobbyist Activity Report Instructions, available here: <https://depic.delaware.gov/wp-content/uploads/sites/48/2023/03/Lobbyist-Activity-Report-Filing-Instructions.pdf>.

## Q: What is considered a reportable “expenditure”?

Expense reports capture the total dollar amount your employee lobbyist spent for the benefit of public officials during the relevant reporting period, broken into specific categories, including:

- Food, refreshments, entertainment, and recreation (for a public official, not your staff)
- Lodging expenses away from home (for a public official, not your staff)
- Fair value of travel over 100 miles (for a public official, not your staff)
- Gifts or contributions (except political contributions, which are instead reported under the state’s campaign finance rules)

If your lobbyist spends more than \$50 per day on expenditures for any single official, they will need to notify the official of the value of the expenditure and separately report which official received the expenditure. As part of their reporting, they will need to **affirm that they have disclosed the value of the expenditure to the official**. Be careful – it’s easy for an organization that gives gifts to public officials to overlook this notice requirement.

### How to file a report

To file a report, your employee will click on “Expense Reports” in the menu bar of their PIRS home page, then select “Start” in the row for the most recent reporting period (it is under “actions” in the right-hand column). That will bring up a dialog box with blanks for each of the reporting categories. They must enter a value for **each** expense type, even if it is zero. Once that’s done, they should click “go to next tab,” which will bring them to the “Expenditures Exceeding \$50 Per Public Official” screen. If they have no such expenditures to report, they can click the “None” button. (If they do have something to report, they click “Add Item,” which brings up a dialog box in which they will enter their client (your organization), the name of the public official, a description of the gift, the gift’s value, and the date.) The next step is to click the certification box, review the information one last time, and click “Submit.”

To calculate the dollar amount associated with any given expenditure, your employee lobbyist should use the greater of either the cost they paid for the expenditure, or the fair market value of the expenditure. Even low-cost expenditures count in computing the aggregate expenditure in any given category.

The PIC does not regularly audit lobby filings, but it will compare public officials’ gift reports and lobbyists’ expenditure reports. Records substantiating the expenditures should be kept for four years from the date of filing.

For more information about expenditures, see Section 5835 of the Code, <https://delcode.delaware.gov/title29/c058/sc04/index.html#5835>

**Gift ban/disclosure:** It is important to note that rules relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and “gift ban” rules. These state and local rules often apply even if your organization would not otherwise trigger lobbyist registration, and may apply to a broader range of officials. Your organization and your lobbyist 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.

Delaware has complicated restrictions on the ability of public officials to receive gifts, and certain officials connected to the Governor’s office are forbidden from accepting

# FAQS

any gifts at all. (See the Governor's Executive Order 1 (2009), available at [https://archivesfiles.delaware.gov/Executive-Orders/Markell/Markell\\_EO01.pdf](https://archivesfiles.delaware.gov/Executive-Orders/Markell/Markell_EO01.pdf).) Moreover, all gifts to public officials must be reported, disclosed to the public official (the state has gift notification requirements), and gift-giving can trigger lobbyist registration where it might otherwise be unnecessary. If your organization can refrain from giving gifts to public officials in Delaware, it will greatly simplify your compliance operations.

**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?**

Delaware provides registered lobbyists with an ID badge, but lobbyists are not required to wear the badge in the Legislative Hall. Wearing the badge does allow them skip signing in as a visitor when they enter (although they still have to go through security).

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

**Restrictions on contingency fees:** Delaware restricts the practice of paying a lobbyist a contingency fee to no more than half of a lobbyist's compensation. In general, however, it is best practice for nonprofit organizations not to use contingency fees for lobbyist compensation. Contingency fees are prohibited in most states.

**Obligation to be truthful:** It is a misdemeanor for a registered lobbyist to knowingly give false information in any registration, authorization, or report.

**Restrictions on the use of funds from grants-in-aid:** Grant-in-aid funds from the General Assembly may not be used to pay a lobbyist. If your organization receives funding that was approved by the Delaware Senate or House of Representatives (as opposed to a state agency), you should seek guidance to ensure you are segregating the funds appropriately.

**Revolving door restrictions:** Delaware has certain prohibitions against current or former state public officials serving as lobbyists. If a state employee or official had been directly involved in a certain state matter as part of their official role, they may not represent or assist any organization with that matter for two years after their employment or appointment ended, even as an unpaid volunteer. Former legislators are not allowed to receive compensation as a lobbyist for one year after the end of their term.

# Case Study STUDENTS VOTE NOW

**Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about HB 101 currently pending in the Delaware 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 HB 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 Delaware House of Representatives regarding the student perspective on HB 101.
- Having an employee engage with the Mayor of Wilmington about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>Grassroots lobbying activities do not trigger registration in Delaware, so paid staff and volunteers asking the general public to contact legislators and express support for a bill will not trigger registration, nor would expenses associated with the grassroots campaign be reportable if Students Vote Now has a registered lobbyist.</p>
 <p><b>Lobby Day</b></p>	<p>At least one paid employee of Students Vote Now that participates in Lobby Day and communicates directly with government officials will need to register, and others might as well. Employees who plan and organize the event, but do not interact with legislators, will not need to register based on that activity.</p> <p>Volunteers generally would not need to register, but Students Vote Now should take care to avoid circumstances that would suggest it has either compensated the volunteers by giving any stipends or other things of value as a reward for participating, or has “authorized” the volunteers to speak on its behalf. To avoid triggering registration, ask the volunteers to tell their personal stories rather than speak from a script.</p> <p>Students Vote Now should not give swag gifts to the legislators because gifts of any kind in connection with lobbying can trigger an obligation to register, or complicate reporting for any staff already required to register.</p>
 <p><b>Committee Testimony</b></p>	<p>Testifying before a committee of the House of Representatives will not trigger registration by any Students Vote Now employee or volunteer who is not otherwise obligated to register. If a registered lobbyist did testify, none of the expenses associated with the testimony would be reportable, unless expenditures for the benefit of public officials were made in connection with their trip to testify.</p>
 <p><b>Mayor</b></p>	<p>Delaware’s state lobbying laws do not cover lobbying municipal officials, and Wilmington does not have a local lobbying disclosure ordinance, so this activity would not trigger lobbying registration at either the state or local level.</p>
<p><b>Bottom Line</b></p>	<p>Students Vote Now can run a grassroots lobbying campaign, meet with the Mayor of Wilmington, and have an employee or volunteer testify before a legislative committee without triggering registration.</p> <p>Putting on the Lobby Day event will likely require at least one employee to register, but registration and reporting in Delaware is quite easy, especially if organizations do not make expenditures on behalf of public officials.</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](mailto:advocacy@afj.org), or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

### DELAWARE STATE RESOURCES:

- **Delaware's Public Integrity Commission (PIC)**

The agency responsible for administering the lobbyist registration and reporting system in Delaware is the Public Integrity Commission. You can find their website here:

<https://depic.delaware.gov/>

- **Full Text of Delaware Lobbying Statutes**

The Delaware state lobbying statutes are Title 29, Chapter 58, Sections 5831-5839 of the Delaware Code and can be found here: <https://delcode.delaware.gov/title29/c058/sc04/index.html>

- **Public Integrity Commission Lobbying Opinion Synopses**

The PIC does not publish the text of its advisory opinions but does publish summaries of them on its Lobbying Opinion Synopsis page <https://depic.delaware.gov/lobbying/lobbying-opinion-synopses/>

- **Public Integrity Commission Training Resources**

Resources and instructions are available on the PIC's Lobbying Forms and Instructions page:

<https://depic.delaware.gov/lobbying/lobbying-forms-and-instructions/>

There is a Frequently Asked Questions (FAQ) document available here:

<https://depic.delaware.gov/lobbying/faqs/>

- **Additional Questions**

Any questions about lobbyist registration and reporting can be directed to the Public Integrity Commission's legal counsel, Deborah Moreau, Esq. at (302) 739-2399 or

[deborah.moreau@delaware.gov](mailto:deborah.moreau@delaware.gov)

### 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.