

# PRACTICAL GUIDANCE

What Nonprofits Need to  
Know About Lobbying in

# NEW JERSEY

## Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	<p><b>Individuals (registration and reporting):</b></p> <ul style="list-style-type: none"> <li>A person receiving any compensation (or more than \$100 in reimbursed expenditures in a 3-month period) to lobby for 20 or more hours in a calendar year.</li> <li>A person who makes any expenditure benefiting a state public official.</li> </ul> <p><b>Organizations (reporting only, not registering):</b></p> <ul style="list-style-type: none"> <li>Organizations represented by an individual lobbyist <b>and</b> that expend more than \$2,500 to lobby are not required to register, <b>but</b> are required to file an annual report.</li> <li>Organizations <b>not</b> represented by a registered lobbyist, <b>but</b> that expend more than \$2,500 on grassroots lobbying only, are also required to file an annual report.</li> </ul>
State Executive Branch Officials	Yes	Same as above, with legislative and executive branch trigger thresholds combined.
Local Legislators or Local Executive Branch Officials	Maybe	While New Jersey does not regulate lobbying at the local level, you should check if the local jurisdiction you are considering lobbying has its own lobbying ordinance.

**Grassroots lobbying:** Grassroots lobbying (calling on members of the public, or other organizations, to take action) can trigger lobbyist registration and reporting in New Jersey. In addition, organizations with no registered lobbyists may need to submit an annual report on their grassroots lobbying activities, if they spend more than \$2,500 on the grassroots activities.

### KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN NEW JERSEY:

- Nonprofits that employ lobbyists do not register, but usually file an annual report:** A lobbyist's employer is not required to register or authorize the lobbyist's registration, but if your organization's lobbying expenditures exceed \$2,500, you must file an Annual Report.
- Nonprofit lobbyists may not have to pay the \$575 registration fee:** The registration fee is waived for lobbyists who work for a tax-exempt organization that has received an exemption from New Jersey sales and use tax.
- New Jersey lobbying nomenclature is somewhat unusual:** In New Jersey an individual who needs to register as a lobbyist is called a "governmental affairs agent," an organization that employs or engages a registered lobbyist is called a "lobbyist" or a "represented entity," and giving anything of value to a public official is called "benefit passing."

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?

Lobbying is direct or indirect communication with certain **state officials** intended to **influence legislation**, to **influence regulation**, or to **influence governmental processes**.

Grassroots lobbying is defined as any activity where your organization is **communicating with the general public** in a manner intended to influence legislation, regulation, or governmental process (executive action).

- **State official** means a member of the Legislature, legislative staff, the Governor, the Governor's staff, or any officer or staff member of the executive branch.
- **Influence legislation** means to make any attempt, whether successful or not, to secure or prevent the initiation of any legislation or to secure or prevent the passage, defeat, amendment or modification by the Legislature, including efforts to influence the preparation, drafting, content, introduction and consideration of any bill, resolution, amendment, report or nomination or the approval, amendment or disapproval thereof by the Governor in accordance with his constitutional authority.
- **Influence regulation** means to make any attempt, whether successful or not, to secure or prevent the proposal of any regulation or to secure or prevent the consideration, amendment, issuance, promulgation, adoption or rejection by an officer or any authority, board, commission or other agency or instrumentality in or of a principal department of the executive branch empowered by law to issue, promulgate or adopt administrative rules and regulations.
- **Influence governmental process (executive action)** means to engage in communication with, or to secure information from, an officer or staff member of the executive branch or any authority, board, commission or other instrumentality in or of a principal department of the executive branch, empowered by law to administer a governmental process which includes executive orders, rate setting, the development, negotiation, modification, procedures for bidding, or award of public contracts, grants, loans, financial assistance, permits, licenses, or waivers.

# FAQS

- **Communicating with the general public** means any communication that is disseminated to the general public through direct mail or paid advertising (both print and digital), and which explicitly takes a position on legislation, regulations, or governmental process, or can reasonably be understood to be doing so. Communication made only to an organization's members is not grassroots lobbying.

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

**Individuals:** Any individual who is compensated any amount (or who receives \$100 or more in lobbying related reimbursements over a 3-month period) for lobbying, **and** has spent 20 or more hours doing lobbying during a calendar year (including prep and travel time), must register and file quarterly reports on their lobbying activities with the New Jersey Election Law Enforcement Commission ("ELEC"), unless an exception applies.

**Organizations:** Your organization will not need to register – in most cases, however, you will need to file an annual report detailing your organization's expenditures.

- **Annual report on Form L1-L:** Your organization must file a report on Form L1-L annually, if your organization employs a registered lobbyist and expends more than \$2,500 on lobbying in the calendar year. Form L1-L is intended to report both direct and grassroots lobbying work.
- **Annual report on Form L1-G:** On the other hand, if your organization does **not** employ a registered lobbyist, if the only lobbying activity you do is grassroots lobbying, and if you spend more than \$2,500 on grassroots lobbying in a calendar year, you will need to file a report on Form L1-G annually on behalf of the organization.

## 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. The exceptions most relevant to nonprofit organizations are:

- **Isolated, exceptional, or infrequent activity:** Your employee will not need to register if they engage only in lobbying activities that are "isolated, exceptional or infrequent," which is defined as activity that they spend fewer than 20 hours in total doing during a calendar year.
- **Support personnel:** Employees who support the work of lobbyists do not have to register. Note, however, that your organization will need to report the prorated

lobbying compensation of any support personnel that spend 450 or more hours in a calendar year **supporting** lobbying activity, so you will need to track their lobbying support time.

- **Technical or expert advice in the company of a registered lobbyist:** The “support personnel” exception also includes any individual who communicates with state officials **in the company of** a registered lobbyist for the **sole** purpose of providing technical or expert advice (e.g., an expert).
- **Routine or ministerial contacts:** Communications with public officials about routine or ministerial matters will not trigger registration. These communications do not seek preferential treatment or the alteration of a decision, including communications that coordinate meetings, request forms, inquire into administrative matters, respond to audits, provide a response to requests for specific information, and inquire about compliance with existing laws and regulations.

## 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?

New Jersey state law does not have a process for citizen-initiated ballot measures, but the Legislature can vote to place proposed state constitutional amendments and bond questions on the ballot for a public vote.

The state lobbying rules described in this Guide apply if you are interacting with legislative officials to influence a vote by the state legislature to refer an amendment or bond question to the ballot. Note that **local** lobbying rules, if any, may apply if you are advocating for or against **local** ballot measures.

Once an amendment or bond question has been placed on the state ballot, then interaction with the public to support or oppose the ballot measure would be regulated under state campaign finance rules (although note that the IRS still regulates such activity under its lobbying rules). Advocacy about local ballot measures may also implicate local campaign finance rules. Organizations contemplating working on ballot measures in New Jersey should seek additional advice on how to comply with any applicable state or local campaign finance rules.

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

A lobbyist must file Form REG with the ELEC prior to communicating with a state official or within 30 days of being employed, retained, or engaged as a lobbyist, whichever is earlier. If your organization only does limited lobbying, you should be aware that any employee who does some lobbying may start the year within the 20-hour incidental lobbying threshold, but then at some point cross it and trigger registration. At that point, however, the registration will be untimely. For that reason, you should carefully track the hours your employee spends lobbying – if it is clear that they will do more than 20 hours in the year, you should have them register **before** crossing the threshold.

The first step is to apply for a registration number and a PIN, which can be done here: [https://wwwnet-elec.state.nj.us/elec\\_sforms/SFORM\\_reg\\_pin.aspx](https://wwwnet-elec.state.nj.us/elec_sforms/SFORM_reg_pin.aspx). Your employee lobbyist should use their business contact information on this form. They will receive their registration number and PIN by e-mail within the next business day, so they should be sure to use a business e-mail that they have access to, and check it regularly.

They will then be able to complete their registration form using Form REG available here: [https://www3-elec.mwg.state.nj.us/ELEC\\_AGAA/lobby\\_reg.aspx](https://www3-elec.mwg.state.nj.us/ELEC_AGAA/lobby_reg.aspx)

Instructions for filling out Form REG can be found here: [https://www.elec.nj.gov/pdffiles/forms/lobbyforms/lobby\\_extended\\_forms/reg\\_instr.pdf](https://www.elec.nj.gov/pdffiles/forms/lobbyforms/lobby_extended_forms/reg_instr.pdf)

Remember that in New Jersey the individual lobbyist is called a “Governmental Affairs Agent” or “GAA” on the forms, and your organization is called the “Represented Entity.”

If you are registering a staff lobbyist who does not lobby for you full time, you should answer Part 1, Question 3 with a brief general description of the other roles the staff person carries out in their work. For example, “Executive Director for Students Vote Now, a nonprofit organization working to help students aged 16-24 participate in civic life and voting.”

If your employee is the first individual to register as a lobbyist (called a GAA on the form) on behalf of your organization, then they will need to list your organization as a new Represented Entity in response to Question b of Part II.

Your organization will need to separately file Form NR – Notice of Representation once your employee lobbyist has obtained their badge number. Form NR can be found here: [https://www3-elec.mwg.state.nj.us/ELEC\\_AGAA/lobby\\_nr.aspx](https://www3-elec.mwg.state.nj.us/ELEC_AGAA/lobby_nr.aspx)

If your organization is not registered to do business in New Jersey, then you will also need to file Form L-3, which gives the state a name and address where someone can “accept service” (receive legal papers) on behalf of your organization – you can use your

# FAQS

out of state business address. Form L-3 can be found here: [https://www3-elec.mwg.state.nj.us/ELEC\\_AGAA/lobby\\_L3.aspx](https://www3-elec.mwg.state.nj.us/ELEC_AGAA/lobby_L3.aspx)

A lobbyist who is registering for the first time must then also appear **in person** at ELEC's office in Trenton to present a valid government-issued identification, two color photographs, and the annual registration fee of \$575.

If your organization has a New Jersey sales and use tax exemption, your employee lobbyist can show the organization's ST-5 tax exemption form and the state will waive the registration fee. You can find the application for ST-5 status here:

[https://www.state.nj.us/treasury/taxation/pdf/other\\_forms/sales/reg1e.pdf](https://www.state.nj.us/treasury/taxation/pdf/other_forms/sales/reg1e.pdf)

## Q: When are periodic lobbying reports due?

### Individual lobbyist reports

Your employee lobbyist (called a "Governmental Affairs Agent") must file quarterly reports on Form Q-4, which list the subjects about which they lobbied. The schedule for these quarterly filings is:

- First Quarter (January 1-March 31): April 10
- Second Quarter (April 1-June 30): July 10
- Third Quarter (July 1-September 30): October 10
- Fourth Quarter (October 1-December 31): January 10

These reports must be filed each quarter, even if the individual lobbyist was not involved in any lobbying activity during that quarter.

### Organizational reports

If your organization makes more than \$2,500 in lobbying expenditures in a calendar year, it must file **one** of two annual reports. If your organization must file one of these reports, it is due no later than February 15.

The two reports are:

- **Form L1-L report:** Your organization must file a L1-L report if it makes more than \$2,500 in reportable lobbying expenditures in a year **and** it is represented by a registered lobbyist (whether an employee, contractor, or lobbying firm). For more on what kind of expenditures count towards this \$2,500 threshold, see the next FAQ below.
- **Form L1-G report:** Your organization must file a L1-G report if, in a year, it makes more than \$2,500 in **grassroots lobbying expenditures only**, and does **no** direct lobbying. If your organization has **both** direct and grassroots expenditures, it must use Form L1-L instead.

Late reports are subject to a \$1,000 fine.

ELEC randomly audits lobbyist filings, so make sure you have a process to collect and maintain all records related to your organization's lobbying activities for at least **three years** after filing.

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

### Quarterly Reports on Form Q-4 (filed by your employee lobbyists)

Your employee lobbyist's quarterly reports do not include information on expenditures – they only report what topics the employee lobbied about during the quarter.

Form Q-4 can be found here: [https://www3-elec.mwg.state.nj.us/ELEC\\_AGAA/lobby\\_q4\\_efiling.aspx](https://www3-elec.mwg.state.nj.us/ELEC_AGAA/lobby_q4_efiling.aspx)

ELEC also provides a helpful Lobbying Activity Excel Template, which can be used to upload lobbying activity into Form Q-4. You can find the template at <https://www.elec.nj.gov/download/lobby/LobbyingActivity.xlsm>

**NOTE:** Often, ELEC's fillable forms are not viewable through a web browser – in order to view them, or input information, you will need to download them to your computer and open them in Excel or another program. Instructions for this workaround are available here: [https://www.elec.nj.gov/pdffiles/Lobbying/Lobby\\_FormFilingInstructions.pdf](https://www.elec.nj.gov/pdffiles/Lobbying/Lobby_FormFilingInstructions.pdf)

## Annual Reports on Form L1-L or L1-G (filed by your organization)

As previously noted, if your organization spends more than \$2,500 in the calendar year on reportable lobbying expenditures, you will need to report all such expenditures on one of two forms: Form L1-L, if you employ a registered lobbyist, or Form L1-G, if you do **not** employ a registered lobbyist **and** only do grassroots lobbying.

These annual reports are very detailed, and you will need to have systems in place to carefully track all reportable expenditures, as well as staff time spent on lobbying, all throughout the year.

The report's categories include registered lobbyist compensation, support staff compensation for staff who spent significant time supporting lobbying activities, lobbying-related dues your organization paid, communication expenses (including certain expenses related to events that public officials attend), travel expenditures on your registered lobbyists, and expenditures made for the benefit of public officials.

**Potential reporting of donors and donations:** If your organization collects dues from other organizations to lobby **on their behalf**, then your organization may be required to report any donor contributions that were earmarked for that lobbying activity. This requirement does not implicate donations to your organization to lobby **on your own behalf**. For more details, see the “Do our organization’s donors need to be disclosed on any lobbying reports?” FAQ, below.

**Annual Report Form L1-L:** The form itself (and detailed instructions) is available here: [https://www.elec.nj.gov/forcandidates/gaa\\_file\\_forms.htm](https://www.elec.nj.gov/forcandidates/gaa_file_forms.htm)

**Annual Report Form L1-G:** As previously noted, this form is only required for organizations that do **not** employ a registered lobbyist, **and** in a calendar year make more than \$2,500 in grassroots lobbying expenditures only. If your organization has done any direct lobbying, you should use Form L1-L above. The form (and detailed instructions) is available here: [https://www.elec.nj.gov/forcandidates/gaa\\_file\\_forms.htm](https://www.elec.nj.gov/forcandidates/gaa_file_forms.htm)

**Slide Deck on Annual Reporting:** A useful ELEC resource that also explains how to complete the Annual Report and the Grassroots Lobbying Report is available here: [https://www.elec.nj.gov/download/lobby/Annual\\_Lobbying.pdf](https://www.elec.nj.gov/download/lobby/Annual_Lobbying.pdf)

Instructions for downloading the fillable pdf forms, if you cannot view them in a browser window, are available here:

[https://www.elec.nj.gov/pdffiles/Lobbying/Lobby\\_FormFilingInstructions.pdf](https://www.elec.nj.gov/pdffiles/Lobbying/Lobby_FormFilingInstructions.pdf)

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

Your organization must report on Form L1-L certain expenditures, which are described below. The form seeks information about various types of expenditures (and, in some circumstances, contributions) on various schedules. The form should automatically compute subtotals for each of the schedules.

Form L1-G, for organizations who do not have a registered lobbyist and who make more than \$2,500 in annual expenditures on grassroots lobbying only, will need to report expenditures only on Schedules C, D, E and F.

- **Salary and compensation (Schedule B):** Prorated compensation and reimbursements paid to your registered lobbyists (Governmental Affairs Agents) for their lobbying activity, including preparation and travel time. See the form instructions for what kinds of staff benefits need to be included in this calculation.
- **Costs of support personnel (Schedule C):** Two kinds of support personnel costs are reported in this schedule.



# FAQS

- Prorated compensation paid to any non-registered lobbyist personnel who individually provided 450 or more hours of support to lobbyists during the calendar year
- Costs related to any communications made to public officials by an expert or employee, **if** that the communication was made in the company of a registered lobbyist **and** was made for the sole purpose of providing technical and expert advice, **provided that** the expert individually provided 450 or more hours of support to lobbyists during the calendar year
- Note that compensation paid to any staff who personally lobbied a small amount during the year, but did not reach the 20 hour trigger threshold, will not be included on either Schedule B or Schedule C
- **Lobbying assessments from associations or coalitions (Schedule D):** This schedule requires you to report fees or assessments that you may have paid to another organization to lobby on your behalf as a member of a group. Most nonprofit organizations will have nothing to report in this category.
  - **“Specific Intent” (Schedule D-1):** If your organization pays another organization **specifically to lobby on your behalf** as a member of a group, you will report the full amount of any dues, member fee, or assessments over \$100 in the aggregate in a calendar year.
  - **“Major Purpose” (Schedule D-2):** On this schedule your organization should report any dues, member fees, or assessments (that were not reportable under Schedule D-1) that your organization made to another organization whose major purpose (defined as more than 50% of its work) is to lobby on its members’ behalf. If your organization has anything to report here, it should report the prorated percentage of your dues or assessment that went to lobbying, if the amount was over \$100.
- **Communication expenses (Schedule E):**
  - **Preparation and distribution of materials:** On this schedule, your organization will report any expenditures on communications for both direct lobbying communications and grassroots communications to the public. The form has sub-categories for expenditures on printed materials, postage, film/slides/video/audio, network TV, cable TV, radio, any other broadcast medium, internet, and telephone/fax.
  - **Prorated overhead for certain events:** On this schedule, your organization must also report any expenditures on events you host that public officials attend, **if** the costs are not reportable as a benefit to the public official on one of the other schedules of the report. For details, see the form instructions.
- **Travel and lodging (Schedule F):** On this schedule, your organization will report any expenditures on travel and lodging for lobbyists who are employed by your organization. (Note that travel costs on behalf of state officials are listed in Schedules G-1 and G-2.)
- **Itemization of benefits to state officials and their families (Schedule G):** On this schedule, your organization will report any expenditures made for the benefit of public officials and their families. Note that New Jersey calls spending on public officials “benefits passing.”
  - **Benefits of over \$25 per day or \$200 per year (Schedule G-1):** This category includes itemized expenditures made to benefit public officials and which exceeded \$25 per day or \$200 per calendar year. Note that any item you need to report on Schedule G-1 must also be reported to the public official to which the benefit was given. Such reporting must be made no later than February 1 (i.e., 15 days in advance of the due date of the annual report). **The state requires that proof of notice given to the official shall be obtained and kept for at least three years.** Most organizations find it simpler not to make any expenditures on public officials.

- **Benefits under \$25 per day or \$200 per year (Schedule G-2):** This schedule contains a summary of benefits to state officials and their families for expenditures that did not exceed \$25 per day or \$200 per calendar year.

**Gift ban:** It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and “gift ban” laws. Those state and local rules often apply even if your organization has not triggered lobbyist registration, and may apply to a broader range of officials. You should be certain that you understand the intricacies of both sets of rules before giving any gifts to, or paying expenses for, any state officials at the state or local level.

In general, New Jersey prohibits public officials from accepting gifts if there is any potential connection between the gift and the work the official does. The lobbying rules specifically say that lobbyists and lobbyist’s employers are prohibited from giving gifts totaling more than \$250 per year to a state official (or their immediate family or household). While this rule might imply that gifts by lobbyists that fall under that threshold could be acceptable, the state has provided guidance against relying on that limit, since in many cases the general prohibition will apply more broadly.

The state’s Conflict of Interests Law, which deals with gifts to state officials (in particular see N.J. Stat. Ann. 52:13D-24 and 52:13D-24.1), can be found here:

<https://www.state.nj.us/ethics/statutes/conflicts/>

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

### **Probably Not**

The forms are a bit confusing, but there are only two very specific circumstances where your organization might potentially need to report some of its donations. Both cases are for organizations that are collecting fees or assessments from other organizations in order to lobby on the group’s behalf, such as a trade association or an organization whose sole or major purpose is to lobby for other related or member organizations. **If your organization is lobbying on your own behalf, then this donor disclosure requirement will not apply to you, and you should not list any of your donors on your annual report.**

- **“Specific Intent” Organizations:** Organizations whose sole purpose is to lobby for legislation or regulations that will be good for the members of the organization (for example, a trade association) need to report all of their members’ donations that are more than \$100.
- **“Major Purpose” Organizations:** Organizations whose “major purpose” (defined as over 50% of their activity) is to lobby for legislation or regulations that will be good for the organization’s members must report the prorated percentage of all of their member donations over \$100 that were spent on lobbying.

Note that since IRS regulations only allow 501(c)(3) to do limited amounts of lobbying, neither of these two specific categories should ever apply to 501(c)(3) organizations.

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

ELEC will issue the lobbyist an identification badge, which must be worn while engaged in lobbying activity in the State House, State House Annex, or any other building where official legislative business is being conducted.

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





A lobbyist may not enter into an agreement whereby their compensation is based upon the success of any attempt to influence any legislation, regulation, or governmental process.

# 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 New Jersey General Assembly

## STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their state 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 General Assembly regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Newark about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>These grassroots lobbying activities could potentially trigger individual lobbyist registration, <b>if</b> any paid staff member spends 20 hours or more on the activities, including preparation (counted together with time spent on Lobby Day and the committee testimony as outlined below). Even if no individual employee triggers individual lobbyist registration, Students Vote Now is likely to spend more than \$2,500 in the aggregate on all of its advocacy work in the calendar year and would still need to file an annual organizational expenditure report.</p>
 <p><b>Lobby Day</b></p>	<p>Any paid Students Vote Now staff who have exceeded the 20 hour a year lobbying limit (including prep and travel) prior to the event (or think they will in connection with the Lobby Day) should register as individual lobbyists.</p> <p>Neither staff supporting the Lobby Day efforts nor volunteers need to register, although their costs may need to be reported on the annual report if their work is significant enough over the course of the year. Travel, meals, and lodging costs of the event will need to be reported on the annual report, assuming total costs for the year are more than \$2,500.</p>
 <p><b>Committee Testimony</b></p>	<p>There is no specific exception in New Jersey for committee testimony, and this activity will be counted together with time spent on the other activities to determine if any staff need to register as individual lobbyists and if the organization will need to file an annual report.</p>
 <p><b>Mayor</b></p>	<p>Lobbying of local officials is not covered under the state lobbying rules, and Newark does not have a local lobbying ordinance. While most local jurisdictions in New Jersey do not have lobbying ordinances, Jersey City currently requires registration and issue reporting, but not expenditure reporting.<sup>1</sup></p>
<p><b>Bottom Line</b></p>	<p>If Students Vote Now wishes to pursue all of the proposed activities, at least one staff member will likely need to register as an individual lobbyist (because some staff will likely go over the 20 hours a year trigger threshold, since preparation time is included), and it will also likely need to file an annual report (since the costs of the lobbying activities, as outlined, will likely be more than \$2,500).</p> <p>Students Vote Now should make sure it either currently has, or can quickly upgrade to, staff time and financial tracking systems suitable for complying with the reporting required on the annual reports.</p>

<sup>1</sup> [https://library.municode.com/nj/jersey\\_city/codes/code\\_of\\_ordinances?nodeId=CH3ADGO\\_ARTIICO\\_S3-9.2REWRDILOREST](https://library.municode.com/nj/jersey_city/codes/code_of_ordinances?nodeId=CH3ADGO_ARTIICO_S3-9.2REWRDILOREST)

## 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.

### NEW JERSEY STATE RESOURCES:

- **New Jersey Election Law Enforcement Commission**

The Election Law Enforcement Commission (ELEC) administers and enforces the state's lobbying and campaign finance statutes, among other laws. <https://www.elec.nj.gov/>

- **Full Text of New Jersey Lobbying Statutes**

The full text of the New Jersey state lobbying statute can be found at <https://njlaw.rutgers.edu/collections/njstats/showsections.php?title=52&chapt=13C>

- **Full Text of New Jersey Lobbying Regulations**

The full text of the New Jersey state lobbying regulations can be found at <https://www.elec.nj.gov/pdf/files/regulations/regulations.pdf#page=232>

- **State Training Material References**

A useful "Guide to Forms" which explains the different registration and report forms can be found at [https://www.elec.nj.gov/pdf/files/Lobbying/guidetoforms\\_landscape.pdf](https://www.elec.nj.gov/pdf/files/Lobbying/guidetoforms_landscape.pdf)

The state's "Lobbying Overview," which outlines lobbying laws and regulations, can be found at [https://www.elec.nj.gov/pdf/files/Lobbying/Lobbying\\_Overview\\_May\\_2016.pdf](https://www.elec.nj.gov/pdf/files/Lobbying/Lobbying_Overview_May_2016.pdf)

The state's "Annual Report Presentation," which is a guide to lobbyist reporting, can be found at [https://www.elec.nj.gov/download/lobby/Annual\\_Lobbying.pdf](https://www.elec.nj.gov/download/lobby/Annual_Lobbying.pdf)

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to ELEC Deputy Director Joseph W. Donohue at (609) 292-8700 or [joseph.donohue@elec.nj.gov](mailto:joseph.donohue@elec.nj.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.