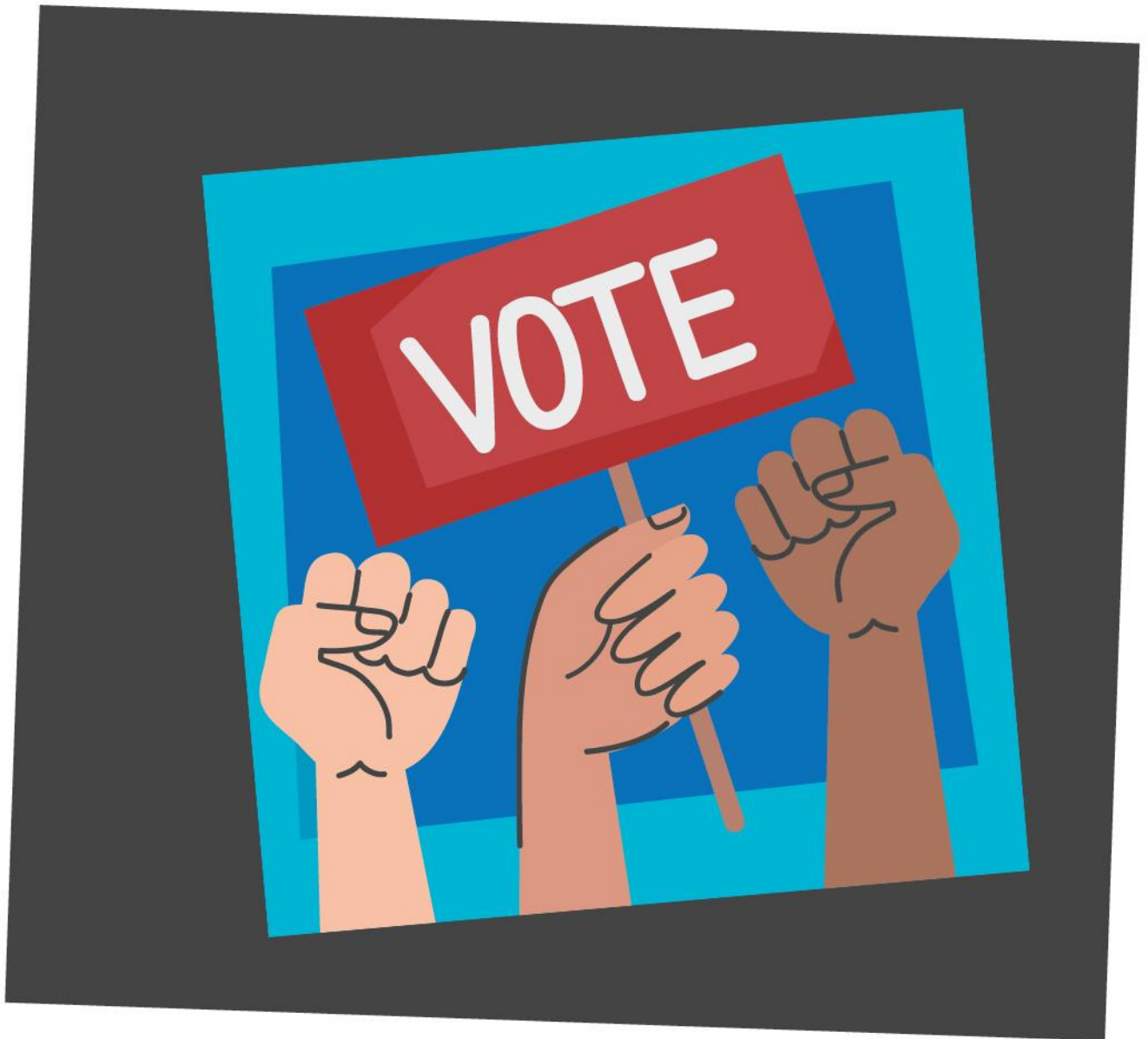


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

OHIO

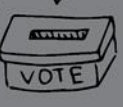
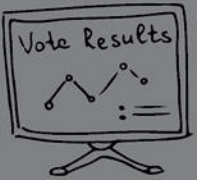


Democracy **Capacity**

 **BOLDERADVOCACY**
A program of Alliance for Justice

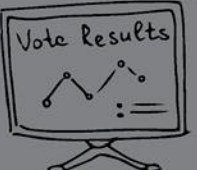


ELECTION



ELECTION

ELECTION



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

This Practical Guidance – Nonprofit Voter Assistance resource is designed to help your organization determine how state or local regulations might apply (or not!) to your existing or proposed voter engagement and Get Out the Vote (GOTV) work in your state.

For each FAQ in this Practical Guidance, we have provided links where you can find additional information to familiarize yourself with the applicable rules.

We've also provided links to some helpful fact sheets and best practices toolkits that other organizations have created, to help you save time and avoid repeating work.

Practical Tip

- Where appropriate, we make practical suggestions about how you might make the operational task of complying with these state rules easier.

Watch Out

- Some voter engagement activities involve some measure of risk for nonprofit organizations doing the work. There are certain actions you will need to avoid, but as long as you read up on the rules before you begin, you should be able to successfully navigate these voter engagement and GOTV activities in your state.

Danger Zone

- Some activities are much more dangerous for nonprofits because the relevant rules are vague, in rapid flux, unpredictably enforced, or all of the above. It may be best to avoid including these activities in your programming, unless you have a good lawyer on speed dial to help you!
- There are also some activities that are prohibited under current law. We highlight where nonprofits are advised to steer clear.

In giving you concise and accessible information about relevant laws in your state we hope that this Practical Guidance will help you choose activities that make the most sense for your civic engagement and GOTV programming. Knowing about the details of the rules can also help you make your programs bolder, more effective, and operationally easier to carry out.

We wish you every success in your work!



Q: What federal rules do we need to remember to think about?

In addition to any state and local rules that might apply to your organization's civic engagement and GOTV work, you also always need to keep in mind the federal tax law that applies to nonprofit organizations, federal election laws that are applicable when federal candidates are on the ballot, and federal telecom rules relating to calling or texting.

IRS regulations for 501(c)(3) public charities: If you are a 501(c)(3) organization, you must always remain nonpartisan and never do or fund work that could be deemed to support or oppose candidates for public office (electioneering activities).

IRS regulations for 501(c)(4) social welfare organizations: You can support or oppose candidates for public office, but this work cannot be your primary purpose. This generally means that more than half of your work must be nonpartisan and be designed exclusively to promote social welfare.

Federal elections and voting laws: In elections where there is a federal contest on the ballot, it is a crime to knowingly or willfully pay, offer to pay, or accept payment for registering to vote or for voting. Any type of incentive can be considered a "payment" (e.g., something as seemingly innocent as giving out cupcakes) if they are tied to registering or voting. Federal law also prohibits making or offering to make an expenditure to any person, either to vote or withhold their vote, or to vote for or against any candidate. For more details see: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>

Federal communications laws: There are many federal laws relating to how you may communicate via landline or mobile phones. We give some practical tips on how to deal with these laws in the FAQ on other GOTV activities in this Practical Guidance.



Practical Tip: Read up on how 501(c)(3)s stay nonpartisan

- **Comparison of 501(c)(3) and 501(c)(4) permissible activities:** <https://bolderadvocacy.org/resource/comparison-of-501c3-and-501c4-permissible-activities/>
- **Keeping nonpartisan during election season:** <https://bolderadvocacy.org/resource/keeping-nonpartisan-during-election-season/>
- **How to stay nonpartisan while conducting a voter registration drive:** <https://bolderadvocacy.org/resource/want-to-conduct-or-fund-a-voter-registration-drive/>
- **Social media:** It is sometimes particularly hard to recognize when social media postings might cross the line into supporting or opposing a candidate for public office. This is especially true if you are a 501(c)(3) organization affiliated with, or working in a coalition with, a 501(c)(4) organization. See: <https://bolderadvocacy.org/resource/influencing-public-policy-in-the-digital-age>



Watch Out

- **No exceptions for 501(c)(3)s:** There are no exceptions and no minimum amount of electioneering that you can do without jeopardizing your tax-exempt status if you are a 501(c)(3) public charity or private foundation!



Q: Can we put out information about how to register and vote?

Sure! Just be careful how you do it.

✓ **Practical Tip: Use official sources**

- Generally, it's best to link to either the official voting authority sources in your state or city, or to a trusted aggregator of voting-related information with dedicated legal staff working to confirm the information is always current and accurate.
- It's just too easy to include a typo or an accidental miscommunication if you try to reproduce the information yourself.

Secretary of State: Ohio's elections are overseen by the Secretary of State. Their voter-facing information page is comprehensive, very helpful, and includes several social media toolkits as well: <https://www.ohiosos.gov/elections/voters/>

County Boards of Elections: Each county has its own Board of Elections. County websites may also have some useful tools. You can find contact information for the county Boards of Elections and links to their websites here: <https://www.ohiosos.gov/elections/elections-officials/county-boards-of-elections-directory/>

Election Protection: Election Protection's website <https://866ourvote.org/states/> is regularly updated and reviewed by lawyers, and lawyers staff the Election Protection Hotline available by both phone and text at 1-800-OUR VOTE (1-866-687-8683). There are also multiple assistance hotlines for non-English speakers. See the additional options available here: <https://866ourvote.org/about/>

👁️ **Watch Out**

- **TYPOS! TYPOS! TYPOS!** Do you really want your group to be the one that accidentally tells voters that the polls close an hour later than they do? Don't try to reproduce the information yourself. Use links to official information and established websites instead!
- **County Boards of Election sometimes apply laws differently:** In Ohio each county Board of Elections office may have its own way of doing things. It is worth taking the time to check the websites of the Board of Elections in the county or counties where you will be working.

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

Ohio laws give considerable leeway in designing a voter registration drive program.

Voters can register electronically at <https://olvr.ohiosos.gov>, but they will need an Ohio driver's license **or** an Ohio identification card number, **and** the last four numbers of their social security number. Without the required numbers, the voter will need to submit a paper registration application.

You can download paper applications from the Secretary of State's website at the link below or call the request line at (614) 466-3613. Voters who cannot provide an Ohio driver's license number or partial social security number will need to include with their application a copy of an acceptable forms of current photo identification. As of 2023, acceptable identification includes an unexpired Ohio driver's license, state ID card or interim state ID, U.S. passport or passport card, or certain forms of military photo identification.

You are allowed to help voters complete the registration application form, but you may not fill in any missing information without the express permission of the voter. Organizations are also permitted to return registration applications on behalf of voters, but you must submit them within 10 days of when the forms were completed or by the registration deadline, whichever is earlier. **Failure to comply with this deadline is a criminal offence in Ohio**, so if you plan to collect and return registration applications as part of your programming, make sure your organization creates strong processes and controls to ensure compliance.



Practical Tips

- The key page for finding information about registering to vote in Ohio is here: <https://www.ohiosos.gov/elections/voters/>
- The Fair Elections Center has a good summary fact sheet called Conducting a Voter Registration Drive in Ohio that you can access here: <https://www.fairelectionscenter.org/voter-registration-drive-guides>



Watch Out

- **Completed applications:** Applications collected during a drive must be returned to the Secretary of State's office or county Board of Elections within 10 days of when the forms were completed, or by the registration deadline, whichever is earlier. Failure to follow these deadlines is a criminal offense.
- **Don't pay your drive workers by the piece:** Do not pay someone to solicit registrations based on the number of registrations obtained. Pay by the shift or by the hour instead.
- **Potential funder restrictions:** Some funders do not allow the use of their funds for voter registration drives. You will need to check your grant paperwork to make sure that you are using funds that are available for this work.

Q: How can our organization help people vote by mail?

Ohio allows any voter to vote by absentee ballot without an excuse. Absentee voting is the vote-by-mail process for Ohio. The absentee voting page for voters at the Ohio Division of Elections is here: <https://www.ohiosos.gov/elections/voters/how-to-request-your-absentee-ballot/>

You can download absentee ballot applications from the website linked above and make copies. The law is unclear as to whether a nonprofit (or any third party) can pre-fill part of the applications or provide postage – you should consult with legal counsel if you are interested in doing either.

You may collect and forward completed absentee ballot applications, but you must forward each application to the appropriate county Board of Elections within ten days of the voter completing the application, or in time for the voter not to be disenfranchised by the delay if closer to the election. **Failure to comply with this deadline is a criminal offense in Ohio**, so if you plan to collect and return absentee ballot applications as part of your programming, you should have strong controls to ensure compliance with the deadlines.

Nonprofits may not collect and return the actual absentee ballots – doing so is a crime in Ohio.



Practical Tip: Focus on applications and information

- Given the strict requirements and limitations on helping voters with voting or returning the actual absentee ballots, it is easier and more efficient to focus on getting your constituents absentee ballot applications and trustworthy official information about the absentee voting by mail process.



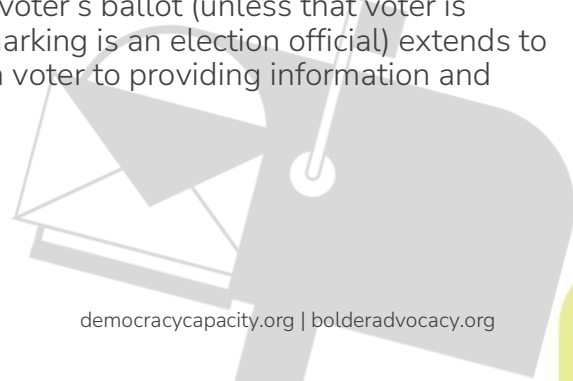
Watch Out

- **Make sure your organization is operationally prepared to meet all deadlines:** If your programming includes collecting and returning applications for absentee ballots, you must make sure you have a strong process and controls in place to comply with the strict return deadlines.



Danger Zone

- **Do not collect absentee ballots:** Third parties, including nonprofits, may not collect completed ballots in Ohio for any reason. It is a crime for a third party to possess a voter's ballot. There are exceptions only for certain relatives of the voter.
- **Do not place any mark on a ballot for the voter:** A state court has held that the criminal prohibition on placing a mark on a voter's ballot (unless that voter is disabled or blind or the person doing the marking is an election official) extends to voting by mail. Confine your assistance to a voter to providing information and never place a mark on an absentee ballot.



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

Running a full absentee ballot “cure program” (where organizations help track down voters whose ballots have been rejected and help them “cure” the ballots) can be complicated and is usually beyond the capacity of smaller organizations. That said, it can be enormously helpful for you to educate your constituents about how to track their own ballots, and how to contact their county Board of Elections office if they need to cure their ballot.

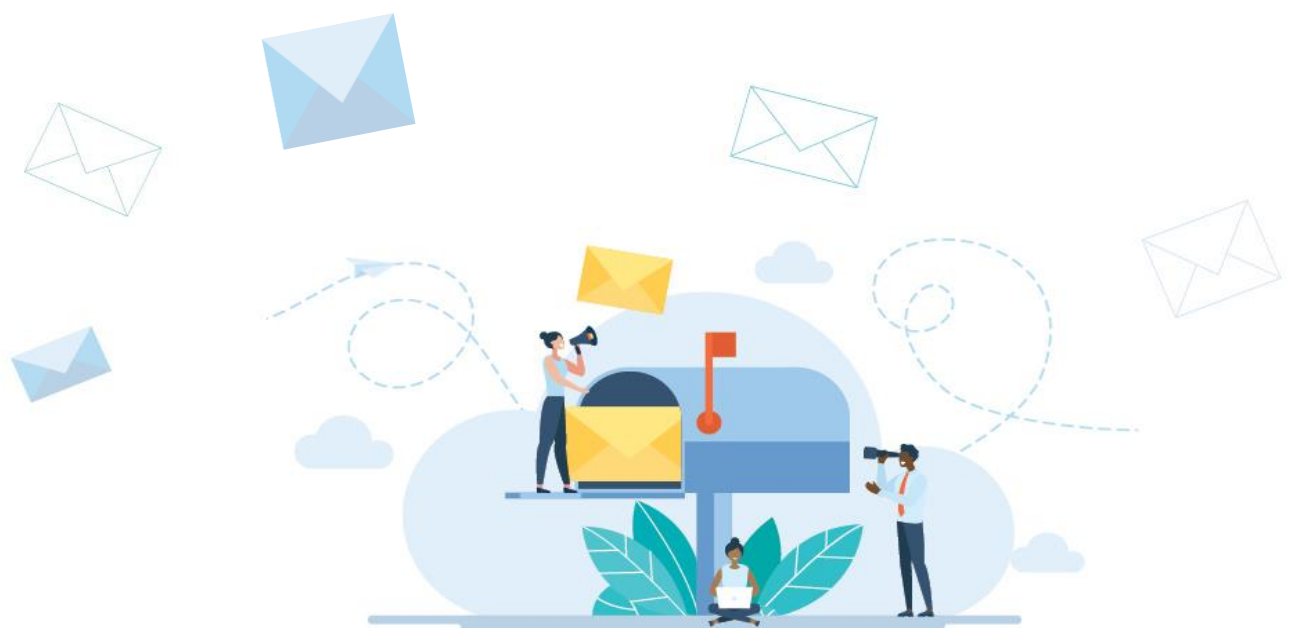
The Ohio Secretary of State has instructed the county Boards of Election to notify a voter if there is any problem accepting that voter’s absentee ballot. The county Boards will try to call or e-mail voters, but the Boards are also required to mail a form explaining the problem and how the voter can cure the problem. Ohio calls this document a “cure form” and treats this document like an absentee ballot, which means that nonprofits are not allowed to collect and deliver the cure forms to the county Boards of Elections.

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

- In Ohio, voters can check the status of their absentee ballot here: <https://www.ohiosos.gov/elections/voters/toolkit/ballot-tracking/>
- The contact information for the Board of Elections office for each county if additional information is required can be found here: <https://www.ohiosos.gov/elections/voters/toolkit/local-election-results/>

✗ **Danger Zone**

- **Do not collect and deliver voters’ cure forms:** As with ballots, third parties, including nonprofits, may not collect a voter’s cure form in Ohio. Only a voter (or certain family member of a voter) is permitted to fix and return the ballot.



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

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



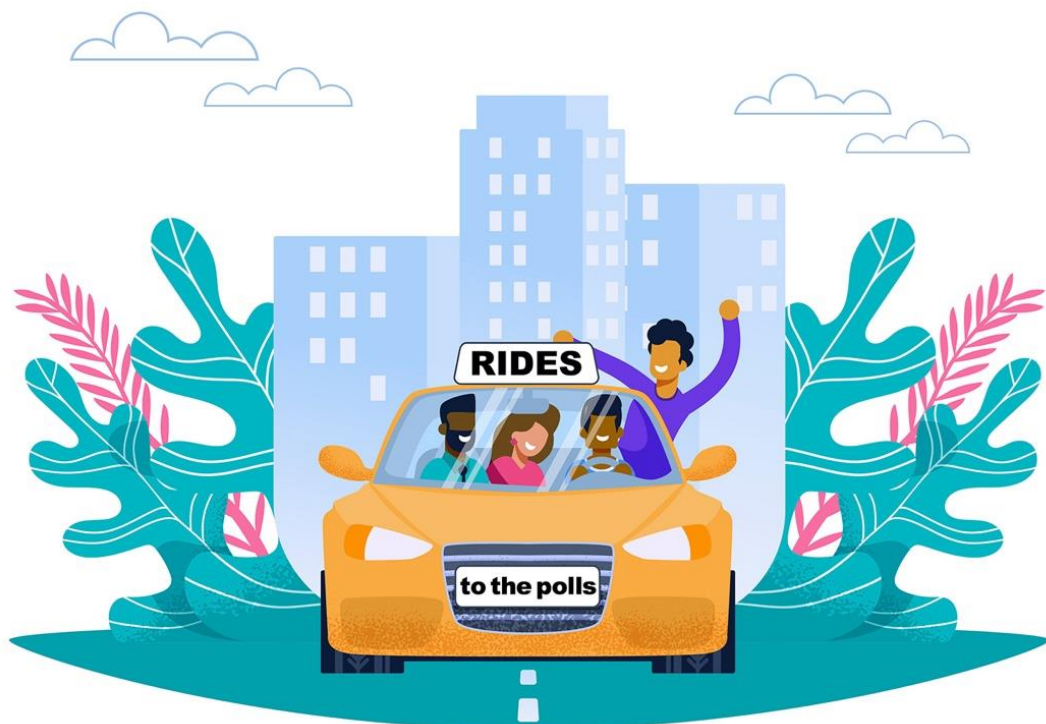
Practical Tip: Consider partnering with existing programs

- You don't necessarily need to organize a rides to the polls program on your own. You might consider partnering with another organization that is already doing this work. Many of the major rideshare companies offer free or discounted ride codes to help facilitate voting. Other organizations also help coordinate carpools to the polls.



Watch Out

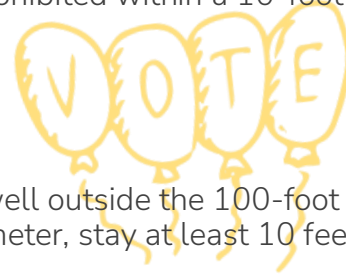
- **Staying nonpartisan:** If your organization is a 501(c)(3) public charity, all of your work must remain strictly nonpartisan. In the context of a rides to the polls program, this means you must offer rides in a nonpartisan way. You should not turn away voters because you think they are likely to vote for a particular political party or candidate. You should also avoid targeting your services to local communities based on partisan criteria.
- **Auto insurance and driver's licenses:** If you do decide to put together your own rides to the polls program you should contact your organization's insurance broker to make sure that your insurance program covers the use of staff cars or volunteers' cars for this purpose! You should of course also ensure that all of your drivers (both employees and volunteers) are themselves licensed and insured in accordance with the rules of your state before they participate in your program.



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

Many nonprofit organizations put on programming designed to provide support and encouragement for voters who may face long lines or tough weather conditions, and to make voting a fun and festive occasion. These activities are often referred to as **“line warming.”** Nonprofits participating in line warming activities need to carefully think through which state and local laws may apply to them. In today’s environment, these rules are also constantly changing, so it’s worth checking on the current status of the law before you begin planning any line warming program.

Ohio does **not** prohibit line warming activities such as providing food, water, or entertainment. **All** solicitation is prohibited however, within the polling place itself or within 100 feet of an entrance to a building in which a polling place is located. Outside of the 100 foot no-solicitation zone, solicitation is also prohibited within a 10-foot radius “neutral zone” around any voter waiting in line to vote.



✓ Practical Tips

- All of your line warming activities should stay well outside the 100-foot no-solicitation perimeter. Even outside of that perimeter, stay at least 10 feet away from any voter waiting in line to vote.
- Allow both voters and nonvoters to participate.
- You can call Election Protection if you need assistance with what is happening at your polling place: 1-866-OUR-VOTE (1-866-687-8683). Election Protection also tries to staff volunteer lawyers on the ground on election day who can assist in person if needed.

👁 Watch Out

- **Do not offer food or other incentives to induce persons to vote:** Ohio law prohibits anyone from procuring or offering “money or other valuable thing to or for the use of another, with the intent that it or part thereof shall be used to induce such person to vote or to refrain from voting.” Ohio has interpreted this prohibition very broadly. Food, discounts, and other such inducements are considered “things of value” for purposes of the election law statutes on bribery. If you are offering food, water, or entertainment, the safe practice is to offer them to any person, even if they are not voting.
- **Remember IRS rules still apply:** IRS rules for nonprofit organizations always apply – even to your state level work. 501(c)(3) organizations must remain strictly nonpartisan in all of their line warming activities.
- **Federal election and bribery rules may also apply:** In any election where federal candidates are also on the ballot, federal election rules also apply. See: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>



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

Observers inside the polling area: Most states have fairly strict rules for what kind of observers are allowed into the polling area while people are voting, and what they are allowed to do while inside. In general, nonprofit organizations usually find that running an observer program is complicated, and it may be more effective to focus on other civic engagement and GOTV work in their communities.

State rules about lawn signs and road signs: All signs in Ohio, including political signs, are largely regulated by local jurisdictions, other than certain basic rules about size and location, which can be found here:

<https://codes.ohio.gov/ohio-administrative-code/rule-5501:2-2-02>

If you intend to put up any political signs, you should check the local ordinances in any jurisdiction where you will be working. Also see the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: The law is silent on this topic, so partisan and nonpartisan clothing and materials (e.g., hats, buttons, T-shirts, etc.) will generally be allowed within the 100-foot no-solicitation perimeter, as long as they aren't disruptive or used to solicit votes.

Selfies in or near the polling place: Voters are prohibited from allowing their ballots to be seen by anyone else, and observers may not take photographs that reveal how others voted. Consider posting selfies with the "I Voted" sticker instead!

Phone and text banking: As we discussed earlier in this Practical Guidance, you will need to comply with federal telecom rules applicable to phone and text banking programs in all states. In general, these rules cover how you are allowed to reach out to landline or mobile phones depending on whether or not you have consent from the phone owner, and what rules apply if the communication is automated (e.g., robocalls, autotexting, etc.). In addition, partisan communications will likely have additional disclaimer requirements.

✓ Practical Tips

- If a nonprofit organization is doing text or phone banking, it is often simplest from a practical perspective to have volunteers use a call list, or text banking interface, that is only partially (not fully) automated, so that federal robocall rules are not implicated.
- If your program is nonpartisan, so long as it is not fully automated, it is unlikely that you will implicate state-based telecom robocall rules.



Watch Out

- **Don't use the phone or text banking program to do something you can't do in person!**



Q: When might our work also trigger state campaign finance laws?

State-level campaign finance laws can apply not only to giving cash or in-kind contributions to candidates, but to other activities as well. For example, they also often apply to political-related advertising, political speech on signs and billboards, and to partisan phone or text banking programs.

Nonprofits that are allowed to do partisan electioneering work need to be particularly aware that their support or opposition of candidates will likely trigger campaign finance related reporting to the state.

In Ohio, OH Rev. Stat. §§ 3501.01 *et seq.* outlines the state level campaign finance regulations that might apply to your work:

<https://www.ohiosos.gov/campaign-finance/laws-and-rules/>



✓ Practical Tip

- **Bolder Advocacy's Technical Assistance Hotline:** Bolder Advocacy's free Technical Assistance Hotline team can help lead you to some current state law resources on campaign finance for your state. You can e-mail advocacy@afj.org or call 866-NP-LOBBY (866-675-6229) during standard business hours.

👁 Watch Out

- **Partisan GOTV work:** In Ohio, these state campaign finance rules cover, among other things, rules about political advertising and partisan phone banking, as well as prohibited conduct for corporations (most nonprofits are corporations!) in the State. If you are doing partisan GOTV work, you will need to carefully examine the Ohio campaign finance statute and consider seeking additional legal advice.
- **Working on ballot measure initiatives:** Ballot measure initiative work can also trigger state campaign finance rules, even for nonpartisan groups. 501(c)(3) organizations are allowed to work on ballot measure initiatives because the IRS considers such work legislative lobbying (as opposed to prohibited electioneering), but state law usually regulates this activity under campaign finance laws.



Q: How can we help recruit poll workers?

The Secretary of State runs a centralized poll worker recruitment website, but in the end poll worker hiring is handled in Ohio by each county's Board of Elections, and the deadlines for applying vary by county.

The Secretary of State's site provides numerous resources that can be useful for your poll worker recruitment drive, including a recruitment toolkit:

<https://www.ohiosos.gov/elections/poll-workers/>

Some additional materials are here: <https://www.ohiosos.gov/publications/-pollworker>

Note that Ohio also provides various interesting incentives for people to sign up to be poll workers. For example, social workers and lawyers can receive continuing education credits for the time spent as a poll worker!

You can find your county Board of Elections website here:

<https://www.sos.state.oh.us/elections/elections-officials/county-boards-of-elections-directory/>



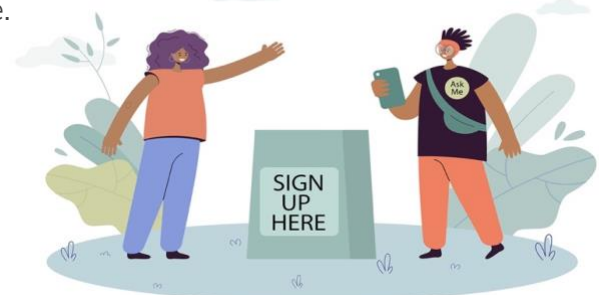
Practical Tip

- While more poll workers are often urgently needed, it can sometimes be frustratingly slow to get through to the county offices to get started. You may need to start this process early and have some patience with your poll worker recruitment plan.
- If your organization is considering doing a poll worker recruitment drive and has trouble reaching the right person at your county's Board of Elections office, it may be worth considering partnering with an organization that can help manage the initial intake and encourage your potential recruits to be persistent.
- We like the work of **Power the Polls**: <https://www.powerthepolls.org/faq> and you can e-mail them to discuss potential partnering opportunities here: partners@powerthepolls.org



Watch Out

- **Managing volunteer expectations:** This kind of programming doesn't have too many legal compliance issues to deal with – but you'll need to manage the expectations of your volunteers.
 - It may take a bit of persistence to get set up as a poll worker with the county.
 - In particularly contested election districts, there is a possibility of tension at the polls and potential confrontation with members of the public that could make your recruits uncomfortable.



Q: How can we advocate for a new polling place?

Asking for a new polling place is often a multi-step process, but some great materials exist that explain best practices for this kind of program!

✓ Practical Tip

- **+1 The Polls Toolkit:** We like the +1 The Polls Toolkit, created by a collaboration between MTV, the SLSV Coalition, Campus Vote Project, and the Alliance for Youth Organizing. It's geared towards student organizers, but its best practices are relevant even if your work is not on campus. <https://slsvcoalition.org/resource/1-the-polls-toolkit-bringing-a-voting-site-to-your-campus/>

👁 Watch Out

- **It's possible this work can trigger lobbyist registration requirements:** In some cases, your advocacy for a new polling place might count as lobbying under state or local lobbyist registration rules. Ohio has some local lobbyist registration ordinances in place at the county and city levels, so you'll need to check your program plan against both state-level lobbying rules, and the rules of any local jurisdictions you'll be working in. See our Practical Guidance – What Nonprofits Need to Know About Lobbying in Ohio for further information: <https://www.democracycapacity.org/oh-lobbying>



Q: Where can we get additional help?

Bolder Advocacy's Technical Assistance Hotline: Bolder Advocacy's free Technical Assistance Hotline team can help nonprofits and attorneys with questions about the content covered by this Practical Guidance. You can contact Bolder Advocacy's team of experts by e-mailing Bolder Advocacy at advocacy@afj.org or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

Your state or local nonprofit coordinating group: Most states have several nonprofit coordinating groups that you can seek advice from. Some of these groups coordinate programming with their members and offer free or reduced price access to canvassing tools, voter lists, and more. If you are having trouble locating such a group in your area, please reach out to the Democracy Capacity Project at info@democracycapacity.org for referrals.

Links to Some Key Ohio Laws:

- **Third-Party Voter Registration:** OH Rev. Stat. § 3599.11
<https://codes.ohio.gov/ohio-revised-code/section-3599.11>
- **Assistance with Absentee Ballots:** OH Rev. Stat. § 3599.26
<https://codes.ohio.gov/ohio-revised-code/section-3599.26>
- **Line Warning:** Ohio Precinct Election Official Manual, pages 35-37
<https://www.ohiosos.gov/globalassets/elections/eoresources/peo-training/peotrainingmanual.pdf>
- **Ballot Selfies:** OH Rev. Stat. § 3599.20
<https://codes.ohio.gov/ohio-revised-code/section-3599.20>
- **Campaign Finance:** OH Rev. Stat. §§ 3501.01, et seq.
<https://www.ohiosos.gov/campaign-finance/laws-and-rules/>

While this Practical Guidance is designed to give you information about certain laws and rules, it is not legal advice, and does not create an attorney-client relationship. If you need additional advice about your specific situation, you should seek your own legal counsel.

We do our best to keep these Practical Guidance resources up to date, but new laws are put forward every day in this space, as are new lawsuits challenging those laws! Please refer to the "Last Updated" date for this Practical Guidance and seek further assistance if you believe you may need updated guidance.

We reference and link other organizations and other resources in this Practical Guidance because we believe they may be helpful to your work. These resources are publicly accessible to all users, and to the best of our knowledge the original host of the resources has all rights required to make them publicly accessible and usable by you. Your use of such resources is subject to any terms and conditions noted on those resources or in the terms of use or other policies of the host website. The Democracy Capacity Project, a special project of NEO Philanthropy, Inc., makes no representation or warranty regarding the accuracy or applicability of the substantive content of any such linked resources, their fitness for use in your situation, or the intellectual property rights of the works presented.

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

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



Democracy **Capacity**

 **BOLDERADVOCACY**
A program of Alliance for Justice