

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

ALABAMA

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	An individual attempting to influence legislation by directly communicating with any member of a legislative body, if that person is paid to lobby on behalf of another, or lobbying is a regular part of their employment, or they work for a registered lobbyist and they have regular communication with legislators about legislative matters when the legislature is in session.
State Executive Branch Officials	Yes	An individual attempting to influence the executive approval, veto, or amendment of legislation, or promoting, opposing, or influencing the enactment, modification, or deletion of regulations before a regulatory body if that person is paid to lobby on behalf of another, or lobbying is a regular part of their employment.
Local Legislators or Local Executive Branch Officials	Yes	City and county elected officials (and employees of those officials) are included in the definitions of “legislative body” and “regulatory body,” so direct lobbying of those officials (or employees) will also trigger the state-level registration requirement.

Grassroots Lobbying: “Grassroots lobbying” (calling on members of the public, or other organizations, to take action) does not trigger registration or reporting in Alabama.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN ALABAMA:

- **All paid staff who lobby will likely need to register:** The definition of lobbyist is broad, and, unless covered by a specific exemption, covers anyone who is paid to lobby or who lobbies as a regular part of their employment (even if lobbying is not their primary role).
- **The reporting burden is likely very light:** If your organization has a staffer who does trigger registration, because Alabama reporting focuses on significant expenditures on public officials, the reporting burden is likely to be very light.
- **Local lobbying is regulated by the state:** Lobbying at the local level (county commission, city council, town council, local executive branch agencies, etc.) is generally regulated by the Commission and subject to the same registration and reporting requirements. Note however, that seeking to influence a grant or contract from a local government is not covered by the state lobbying statute. You should check local ordinances for rules covering such actions.

This resource is current as of August 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@afi.org or at info@democracycapacity.org with any comments.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related activities. In some states there is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

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

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

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

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

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

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

Q: What activities count as lobbying?

Lobbying, which in Alabama is regulated by the Alabama Ethics Commission, is broadly defined as:

- Promoting, opposing, or influencing the introduction, defeat, or enactment of legislation before a **legislative body** (which includes the state legislature, county commissions, city councils, and any committees or subcommittees over which these bodies may have authority)
- Opposing or influencing the executive branch approval, veto, or amendment of any legislation of a legislative body
- Opposing or influencing the enactment, promulgation, modification, or deletion of regulations before a **regulatory body** (which includes any state agency that issues regulations in accordance with the Alabama Administrative Procedure Act, or any other state or local agency which controls the activities, licensing, or functions of any group or person)
- Promoting or attempting to influence the award of a grant or a contract within any department or agency of the executive, legislative, or judicial branch of state government (note that, unlike other kinds of lobbying, this category **does not** include influencing local units of government with respect to grants or contracts)

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

In Alabama an individual must register if that person is paid to lobby on behalf of your organization, **or** lobbying is a regular part of their employment, **or** they work for one of your registered lobbyists and they themselves have regular communication with legislators about legislative matters when the legislature is in session.

Unlike most other states, Alabama has no provision that would allow individuals to engage in a small amount of direct lobbying without needing to register.

The bottom line is that any amount of direct lobbying activity by an individual paid by your organization to lobby for you that is not specifically covered by one of the exceptions outlined below will trigger an obligation to register as a lobbyist.

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! Alabama exempts certain types of activities from the definition of lobbying, which therefore do not require state-level lobbyist registration. The exceptions most relevant to nonprofit organizations are listed below.

- Grassroots lobbying
- Individuals who provide public testimony before a legislative or regulatory body
- Individuals, such as event coordinators or schedulers, who may have irregular administrative contact with legislators but whose primary duties do not include lobbying. This exception should be interpreted narrowly.
- Citizens, who are not paid to lobby, and who choose to exercise their constitutional right to communicate to elected officials about issues or legislation
- Individuals who appear before a legislative body, regulatory body, or executive agency to sell or purchase goods or services

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

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

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

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

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

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

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

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

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

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

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

The only ballot measures in Alabama are proposed amendments to the Alabama state constitution that are placed on the ballot by the state legislature. These measures are known as legislatively referred constitutional amendments.

Supporting, opposing, or otherwise seeking to influence a proposed state constitutional amendment while it is still being considered by the legislature is considered lobbying and subject to the same registration and reporting requirements as all lobbying.

Supporting or opposing a ballot measure once it is on the ballot is regulated by state campaign finance law (even though the IRS continues to consider it lobbying).

Nonprofit organizations considering working on ballot measures in Alabama (either working to get a measure on the ballot or supporting or opposing an existing measure) 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?

If your organization has an employee who triggers registration, then that individual must register with the Alabama Ethics Commission as a “lobbyist.” Your organization is then the employee lobbyist’s “principal.” A detailed description of the registration process can be found at

<https://ethics.alabama.gov/docs/pdf/2022/LobbyistandPrincipalRegistrationProcess.pdf>

Lobbyists must complete a Lobbyist Registration Statement either online (preferred) or via paper. They must also pay the \$100 registration fee, either online (which adds a \$4 processing fee) or by mailing a check to the Ethics Commission. In addition to identifying the name and address of both your lobbyist and your organization, the registration form requires lobbyists to list the subjects about which they will be communicating with the legislative body (this last question does not seek much detail – the examples on the form are “education, medical, etc.”). You can see an example of the lobbyist’s registration form here:

https://ethics.alabama.gov/docs/Reg_Form_Lobbyist_Principal_2010.pdf

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You can begin the online registration process here:

https://www.alabamainteractive.org/ethics_registration/NewRegistration.do;wsuid=34DE3B0DCEC04CC2481996190365C427

Note that an individual's registration is not complete until the registration form **and** the fee have been received by the Ethics Commission. An individual registering as a lobbyist will receive a receipt during the registration process and should keep it. The receipt contains an order number, which the registering lobbyist can use to check the status of their registration online. If your employee lobbyist chooses to mail a check, they should include a copy of the receipt with any mailed checks.

A registered lobbyist has an ongoing obligation to supplement or update the registration form by submitting a new form that indicates any changes within **ten days** of the change.

As a "principal," your organization will not need to register formally, but it will need to file a form verifying your lobbyist's registration, which can be done online or on paper. If your organization has more than one individual lobbying on its behalf, you should list them all on a single form. You can see the verification form here:

<https://ethics.alabama.gov/docs/PrinStatementLobbyReg.pdf>

Note that both lobbyist registration forms and principal verification forms are made public, so you should use business contact information when you register.

In some situations, a leader of a smaller nonprofit (such as an executive director or program manager) will wear two hats – they may simultaneously be the employee who engages in lobbying activity and therefore needs to register as a lobbyist in their personal capacity, **and** be responsible for verifying the lobbyist on behalf of the organization, in their capacity as the representative of the organization (the "principal"). In such a case, the leader would be responsible for filing **both** the lobbyist registration form **and** the principal verification form. (And such an individual would likely also be the one handling all of the required reporting as well.)

All first-time lobbyists must attend an Ethics Training Class for lobbyists within 90 days of registration. This class is held four times per year (the training dates are linked from this page: <https://ethics.alabama.gov/lobbyists.aspx>). Once the registered lobbyist has taken the class, they won't need to take it again unless the law changes and the course content is updated.

Once your employee lobbyist no longer needs to be registered (because they have stopped lobbying and you are confident that they will not start again soon), they should terminate their registration online. Note that Alabama requires lobbyists to terminate affirmatively – you should not just wait for the registration to expire at the end of the year.

Your lobbyist can terminate via the Ethics Commission's system, or in paper form. A copy of the termination form is available here:

<https://ethics.alabama.gov/docs/Termination-of-Lobbying-Activities.pdf> – note that it needs to be signed by both the lobbyist **and** your organization (the principal). The employee lobbyist will **also** need to submit any final report for the last quarter in which they were registered, even if their registration overlapped with only part of the quarter.

Lobbyists who are currently registered and need to keep their registration must re-register every year by January 31.

Q: When are periodic lobbying reports due?

Once you have a registered lobbyist, both your individual employee lobbyist **and** your organization (the "principal,") must file quarterly reports with the Alabama Ethics Commission, whether or not you did any lobbying, or made any reportable expenditures, in that particular quarter. The reports are due on April 30 (for January-March), July 31 (for April-June), October 31 (for July-September), and January 31 (for October-December). If your lobbyist employee has no lobbying activity or reportable

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expenditures for any given quarter, both they and your organization still have to file by the deadline, but you can indicate on the respective forms that there is nothing to report.

You can file the reports electronically, or download the reporting form from the Alabama Ethics Commission website, complete it, and return it by mail. Note that lobbyist reports are public information, so you can search and view past reports on the Ethics Commission website.

Q: What information do the periodic lobbying reports include?

The quarterly report requires both your employee lobbyist and your organization to disclose two kinds of information.

The first type of information is the categories of legislation about which the employee lobbyist lobbied. Your organization and your employee lobbyist would just report the same high-level description your employee lobbyist already provided when registering (e.g., “education, medical, etc.”).

The second type of information is reportable expenditures. Alabama requires lobbyists to report certain expenditures (i.e., gifts) that they might make on (or for the benefit of) public officials, or certain financial transactions with public officials (if any). The state does not require your organization to report internal expenditures, such as staff compensation, advertising, or internal office expenses.

If your organization doesn't make many (or any) expenditures on public officials, you will likely have little or nothing to report most quarters. Regardless of whether you engaged in any lobbying activities, however, both your staffer (the lobbyist) and your organization itself (the principal) are still required to file quarterly reports, so long as the employee lobbyist is registered. You can find examples of the quarterly reports for both lobbyist and principals at <https://ethics.alabama.gov/Lobbyists.aspx>.

Q: What is considered a reportable “expenditure”?

The quarterly report form requires both the employee lobbyist and the organization to report three categories of activity:

- **Expenditures on public officials:** Both your employee lobbyist and your organization would need to report any expenditure on public officials that has a value that is greater than \$250. If your lobbyist made multiple expenditures in a 24-hour period that have an aggregate value of greater than \$250, those should be reported as well. Most nonprofit organizations will choose not to make expenditures of that size on public officials to simplify compliance with gift bans and lobbyist reporting obligations. Note that in any case, most expenditures on a public official or public employee are prohibited by Alabama's gift ban (see below) – the reporting requirement applies to the gift ban exceptions. If you do have expenditures to report, you must also report the date of the expenditure and the name(s) of all recipients.
- **Monetary transactions with public officials:** If your organization (or your employee lobbyist) engages in any transaction with a public official or candidate for public office (or member of an official's or candidate's household) with a value in excess of \$500 you will need to report on the nature and date of the transactions. This scenario is most likely to arise when a public official also owns or operates a business, and your organization is a customer of that business and spends in excess of \$500 (if, for example, the public official sold office supplies or was a landlord for your office space). **Note:** this category does **not** include campaign contributions, which are regulated under the Alabama Fair Campaign Practices Act, available here: <https://www.sos.alabama.gov/alabama-votes/voter/election-laws>
- **Business ventures or loan obligations with public officials:** If your organization (or your employee lobbyist) enters into any business ventures with a public official, or makes or receives any loans with a public official or candidate for public office (or

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member of an official's or candidate's household), you will need to report the transaction.

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 public officials at the state or local level.

In Alabama, lobbyists, principals, and their employees are not allowed to give a **thing of value** (which is defined very broadly) to any public official, public employee, or their families. The full list of exceptions to a “thing of value” is in Ala. Code § 36-25-1(31)(b), which can be found here

[https://ethics.alabama.gov/docs/Alabama%20Ethics%20Act%20-%20Unofficial%20Restated%20Version%20\(2022\).pdf](https://ethics.alabama.gov/docs/Alabama%20Ethics%20Act%20-%20Unofficial%20Restated%20Version%20(2022).pdf)

Most nonprofit organizations find it easier to avoid giving any gifts to public officials and public employees. If you believe it is important to your organization's mission to give a gift, consider contacting the Alabama Ethics Commission for guidance as to what is allowed.

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?

There are no laws requiring specific identification for lobbyists.

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

You should review the Lobbyist Code of Ethics to be sure you are familiar with the full list of restrictions on lobbyist activity. The code can be found at <https://ethics.alabama.gov/docs/Code-of-Ethics-Lobbyists-House-of-Rep.pdf>. Some of the restrictions most relevant to a nonprofit organization include:





- **A lobbyist cannot work on contingency:** Lobbyists cannot accept a job or be paid for their work based on the passage or defeat of particular legislation.
- **Requirement to file a notice of termination:** Lobbyists are required to file a written, verified statement with the commission when they stop engaging in activities requiring registration. If you no longer need to be registered, do not just rely on the registration period expiring – you should affirmatively terminate.

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 Alabama House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

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

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying is not regulated in the state of Alabama, so the Students Vote Now staff who oversee the student volunteers would not be required to register as lobbyists.</p>
 <p>Lobby Day</p>	<p>If paid staff engage in this activity, it will trigger registration because they will be communicating directly with public officials in an attempt to influence the passage or defeat of legislation. Since there's no exception for people who only do a little lobbying, Students Vote Now will need to think strategically about how many paid staff participate in the event, since they will each need to register as lobbyists (but the reporting should be simple).</p> <p>The unpaid student volunteers would not need to register, nor would any of Students Vote Now administrative staff that simply arranged the logistics of the event or the meetings and had some administrative interaction with legislators or their staffs.</p> <p>Since reporting is very focused on expenditures on public officials, once registered, none of the expenses of the Lobby Day as described above will need to be reported as long as the group refrains from giving any swag gifts and instead leaves information about the organization.</p>
 <p>Committee Testimony</p>	<p>In Alabama, testifying before a legislative or regulatory body, or any committee of such a body, is specifically exempted in the definition of lobbying, so this activity on its own will not trigger registration.</p>
 <p>Mayor</p>	<p>The state regulations include lobbying at the city and county level, so if a paid Students Vote Now staff member speaks with the Mayor of Huntsville about a local ordinance, it would trigger state lobbyist registration.</p>
<p>Bottom Line</p>	<p>Students Vote Now can do its planned grassroots campaign, and have someone testify without triggering registration, but if it pursues a Lobby Day or engagement with the Mayor, at least one staff member will need to register.</p> <p>However, if Students Vote Now refrains from making expenditures for the benefit of public officials or entering into monetary transactions with them, then the reporting will be very simple and should not be burdensome for the individual lobbyists or the organization.</p> <p>Students Vote Now should put systems in place that will remind it to file the quarterly reports for the remainder of the year, or to terminate registration if no additional lobbying will take place after the activities described above.</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 emailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

ALABAMA STATE RESOURCES:

- **Alabama Ethics Commission**

The Alabama Ethics Commission is responsible for administering the lobbyist registration and reporting system in Alabama. <https://ethics.alabama.gov/Lobbyists.aspx>

- **Full Text of Alabama Lobbying Statutes**

The Alabama state lobbying statute is embedded in Title 36, Chapter 25 of the Alabama Code, (especially sections 36-25-1.1, 36-25-18, and 36-25-19), which can be found here:

<http://alisondb.legislature.state.al.us/alison/codeofalabama/1975/coatoc.htm>

The Ethics Commission maintains an easy-to-read PDF of the entire statute here:

[https://ethics.alabama.gov/docs/Alabama%20Ethics%20Act%20-%20Unofficial%20Restated%20Version%20\(2022\).pdf](https://ethics.alabama.gov/docs/Alabama%20Ethics%20Act%20-%20Unofficial%20Restated%20Version%20(2022).pdf)

- **State Training Material**

Information on state-run training sessions can be found here

<https://ethics.alabama.gov/lobbyists.aspx>

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to the Alabama Ethics Commission by calling 334-242-3748 or emailing lobbyistprincipal@ethics.alabama.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/>



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