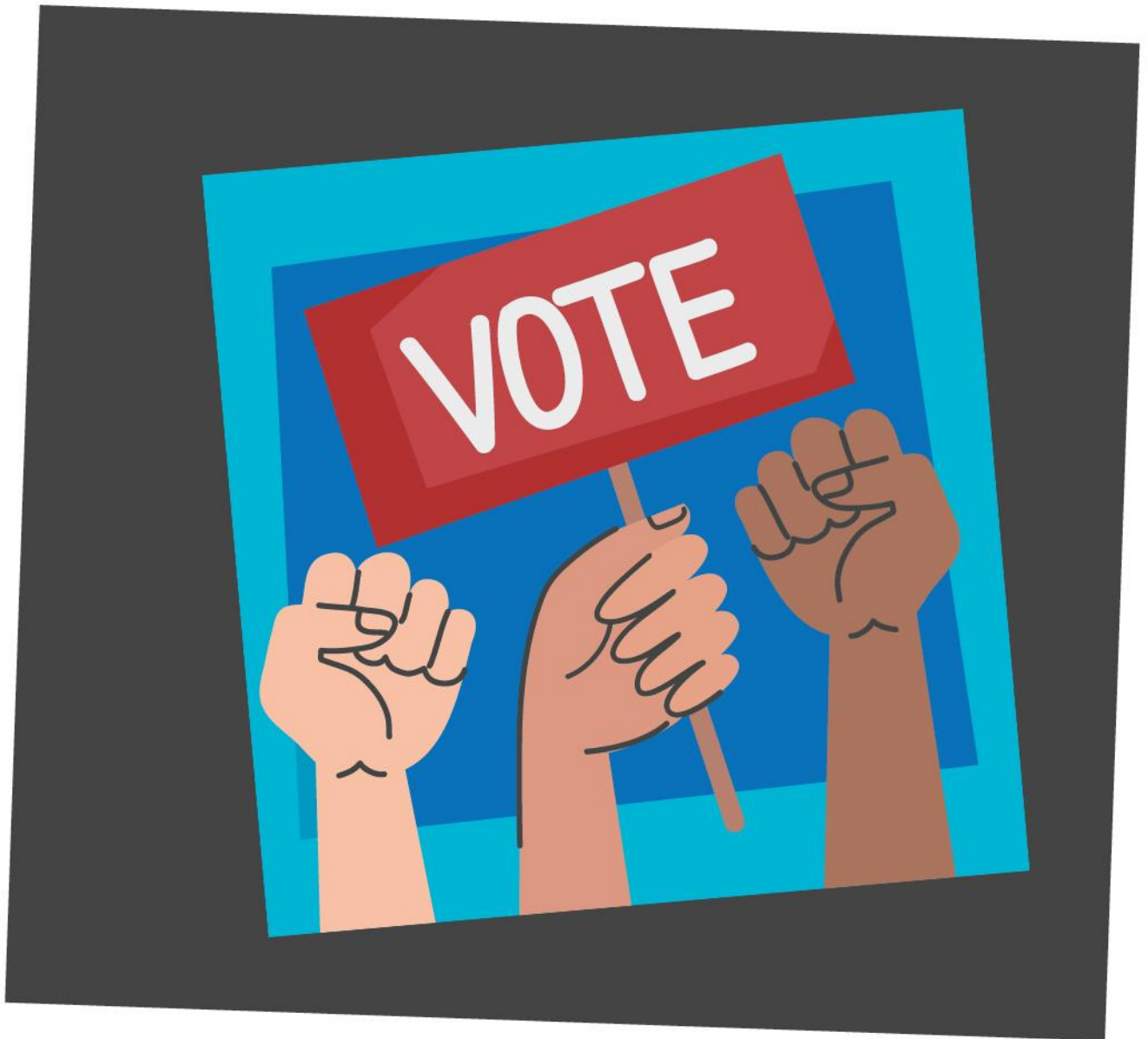


# PRACTICAL GUIDANCE

Nonprofit Voter Assistance

KENTUCKY





## 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.

**State Board of Elections:** Kentucky's elections are overseen by the State Board of Elections. The voter-facing information page is here:

<https://elect.ky.gov/Voters/Pages/default.aspx>

**County Clerks:** Each county has its own Clerk. You can find their contact information and links to their websites here: <https://elect.ky.gov/About-Us/Pages/County-Clerks.aspx>

Some counties have great information on their sites and may include well-produced voter guides or posters that you can link to. For example, the Jefferson County Clerk has an easy-to-use voter information website. It can be found here:

<https://elections.jeffersoncountyclerk.org/>

**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). They also maintain 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 Clerks sometimes apply laws differently:** In Kentucky each County Clerk office may have its own way of doing things. It is worth taking the time to check the Clerks' websites for the counties where you are doing your work.

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

Kentucky does not require training, notification, or registration for voter registration drives. However, the individual or group hosting a drive must act under the supervision and direction of the County Clerk and must return completed forms to the County Clerk of the county where the voter resides. Your nonprofit may not pay staff or volunteers based on how many registrations they collect. Be sure to carefully read the information available in the links below before starting your voter registration drive programming in Kentucky.

**Kentucky Voter Registration Drive Rules:** <https://elect.ky.gov/Voters/Pages/Voter-Registration-Drives.aspx>

**Fair Elections Fact Sheet:** The Fair Elections Center also has a good summary fact sheet called Conducting a Voter Registration Drive in Kentucky that you can access here: <https://www.fairelectionscenter.org/voter-registration-drive-guides>



### Practical Tip: Make sure to work with your County Clerk!

- To ensure you are working within the law and that registrant cards are submitted timely and accurately, get to know the staff at your County Clerk office and work with them.



### Watch Out

- **Registration cards must be returned to the County Clerk at least one month before an election:** Completed voter registration cards must be submitted to the County Clerk for the county in which the voter resides at least 29 days before the election. The registration is not valid until it has been processed by the County Clerk. Once a new registration is processed, the voter will receive a confirmation in the mail with the voter's precinct name and voting location.
- **Make sure the registration card is complete:** The voter must provide their complete residential address (and mailing address, if different) on the voter registration card. Failure to do so may result in a processing delay.
- **But do NOT complete the card for the registrant:** Do not fill in any missing information on a registration card unless you have the express permission of the applicant. Review the card before the applicant leaves so you can advise them if any required or essential information is missing.
- **Voters must select a political party to vote in partisan elections:** If a voter does not select a party registration, in primary elections they will be eligible to vote only for nonpartisan offices.
- **Don't pay your drive workers by the piece:** It's a misdemeanor offense in Kentucky to 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?

Kentucky uses the term “absentee ballot” to cover both mail-in and in-person early voting. Voters are permitted to vote via a mail-in ballot only if they meet certain specific criteria, including medical emergency, temporarily living out of the state, or being unable to vote due to age or disability (for a complete list, see <https://elect.ky.gov/Voters/Pages/Absentee-Voting-By-Mail.aspx>).

Voters wishing to request a mail-in absentee ballot, generally must do so only through an online portal, and only family members are permitted to assist them (with a few narrow exceptions). Voters who cannot use the online portal can contact their County Clerk’s office and the County Clerk will take their absentee ballot application information over the phone and enter it into the online portal. This process does not leave any logistical options for nonprofit organizations to give voters direct help with applying for a mail-in ballot.

Similarly, helping a voter to vote, including via mail-in ballot, is a felony in Kentucky (again, subject to certain narrow exceptions). Unless Kentucky changes its law, nonprofits should not plan to assist voters with their mail-in absentee ballots, other than by providing **information** about how the voter can obtain an application and vote their ballot.



### Practical Tip: Focus on information instead of action

- Since the laws governing mail-in absentee ballot requests and returns effectively prevent nonprofit organizations from assisting voters, you can instead focus on getting your constituents trustworthy official information about the vote-by-mail process instead of running a full assistance program.
- The vote-by-mail page for voters at the Kentucky State Board of Elections is here: <https://elect.ky.gov/Voters/Pages/Absentee-Voting-By-Mail.aspx>



### Danger Zone

- **Assisting a voter in completing a ballot is generally prohibited:** Anyone who influences a voter while assisting them has committed a Class D felony.
- **Third party collection and delivery of mail-in absentee ballots is prohibited:** No one other than the voter, an election official, a USPS worker, or a family member, housemate, or a caretaker designated by the voter is allowed to exercise control over a mail-in absentee ballot.



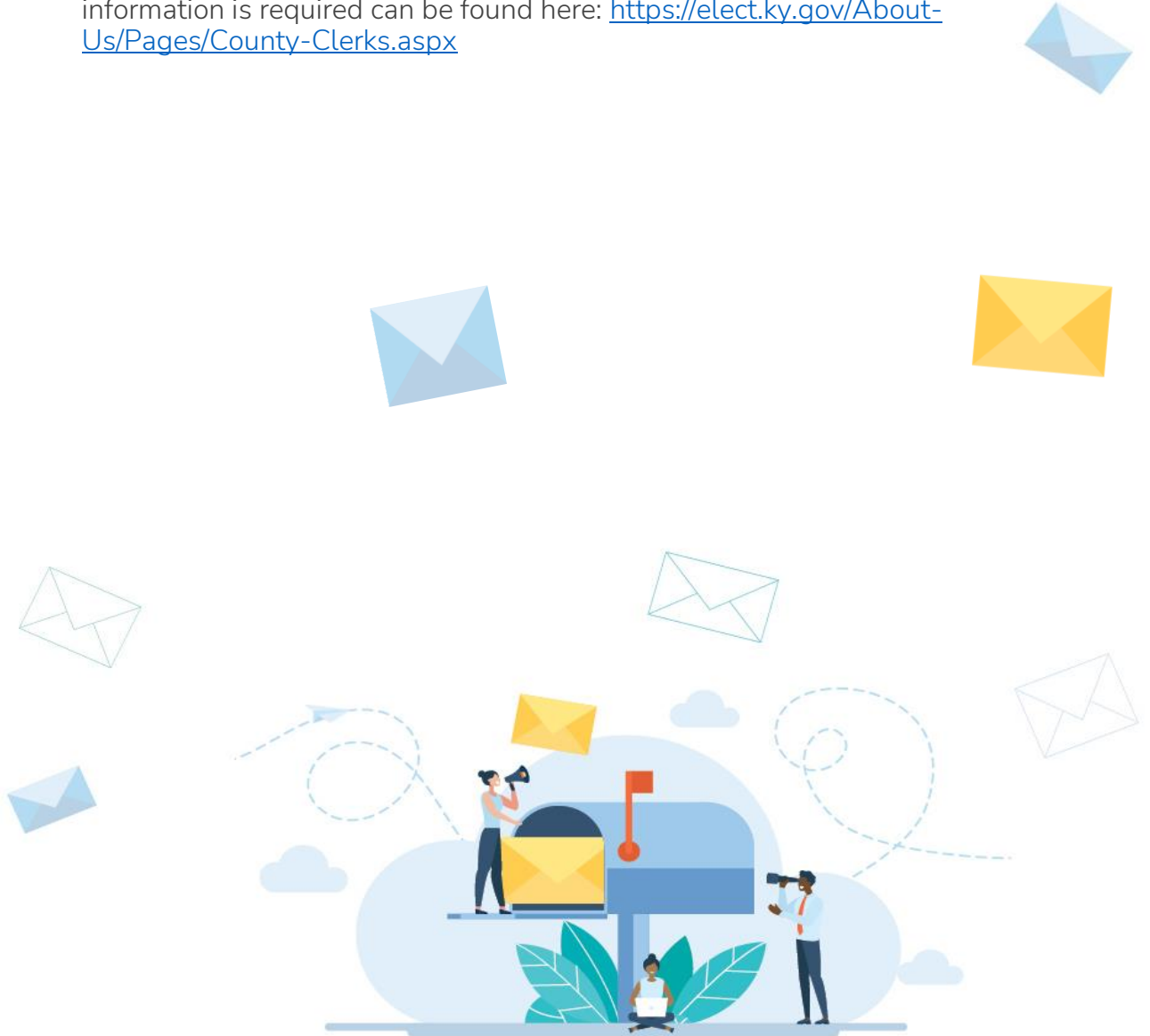
## Q: Can we help voters fix problems with their vote-by-mail ballots?

Running a full vote-by-mail “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 official election official’s office if they need to cure their ballot. Kentucky has recently changed its law to direct County Clerks to make a reasonable effort to contact a voter whose signature does not match with the one on file, in order to allow the voter to cure that defect.

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

- In Kentucky, voters can check the status of their vote-by-mail ballot here: <https://vrsws.sos.ky.gov/MIC/>
- The contact information for the County Clerk office for each county if additional information is required can be found here: <https://elect.ky.gov/About-Us/Pages/County-Clerks.aspx>





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

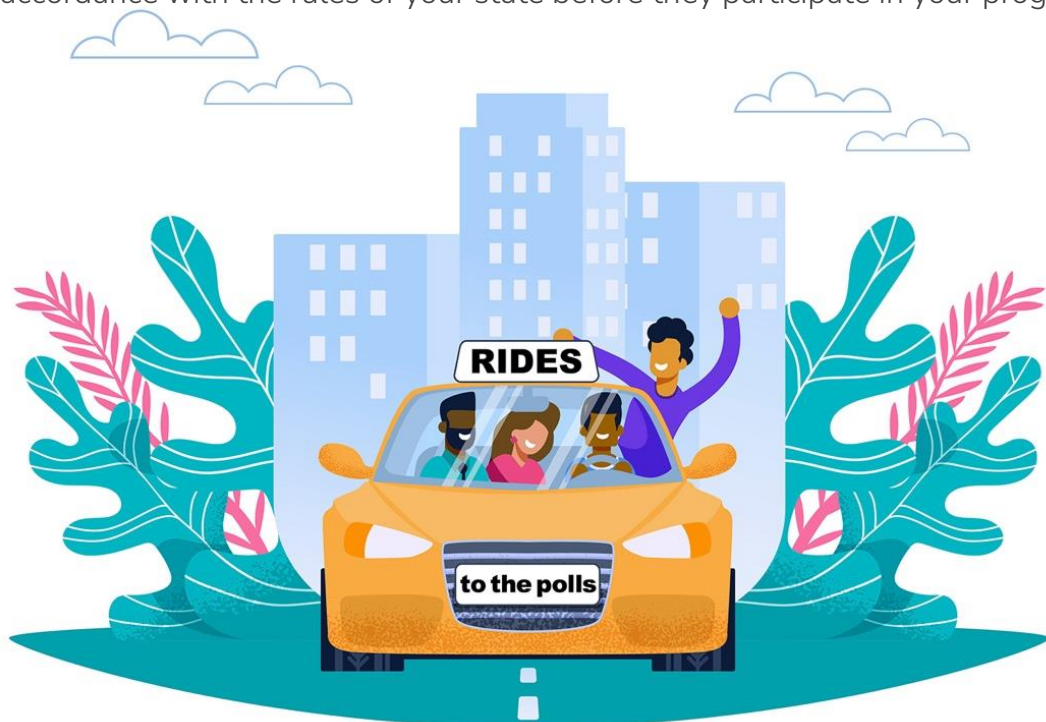
It is currently legal to give voters rides to the polls in Kentucky. (Note that under Kentucky law, there are special rules for candidates or committees that pay for rides to the polls, but those rules don't apply to independent third party entities, like nonprofit organizations, that provide rides.)

### ✓ **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**

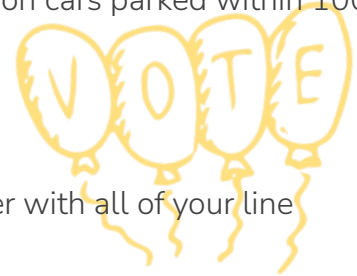
- **Staying nonpartisan:** If your organization is a 501(c)(3) public charity, all of your work must remain strictly nonpartisan. In the context of a rides to the polls program, this means you must offer rides in a nonpartisan way. You should not turn away voters because you think they are likely to 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.

In Kentucky, the following activities are prohibited within 100 feet of an entrance to a polling place: “the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any bona fide candidate or ballot question in a manner which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot question.” (But note that bumper stickers on cars parked within 100 feet are an exception.)



### ✓ Practical Tips

- Stay well outside the 100-foot no solicitation perimeter with all of your line warming activities!
- 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

- **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:** Kentucky prohibits observers in the polling area while people are voting, and regulates what people 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:** Kentucky prohibits placing signs of any type – for campaigns, or otherwise – on state highway rights of way, utility poles, fences, guardrails, or road signs. Kentucky law does not restrict placement of road signs along state or county roads. On private property, lawn signs may only be placed with permission of the property owner. Cities and counties frequently have local ordinances that impose limitations as well. See the FAQ on campaign finance rules below for more information.

**Partisan or nonpartisan GOTV clothing and buttons:** People can wear partisan or nonpartisan election-related clothing and materials (hats, buttons, etc.) within the 100-foot no solicitation perimeter, so long as they aren't using the items to solicit votes.

**Selfies in or near the polling place:** The only photo that you are allowed to take inside a polling place is one of your own ballot and just you. You cannot take a photo of anyone or anything else in the polling place. For this reason, it is a risk to run a program asking your constituents to post their ballot selfies. Consider posting selfies with the “I Voted” sticker taken outside the polling place 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!** For example, don't request an absentee ballot for a voter using an online request system, since there are state rules prohibiting assisting voters with mail-in absentee ballot applications.



## 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 Kentucky, Chapter 121 of the Kentucky Revised Statutes outlines the state level campaign finance regulations that might apply to your work.

<https://apps.legislature.ky.gov/law/statutes/chapter.aspx?id=37608>



### 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](mailto:advocacy@afj.org) or call 866-NP-LOBBY (866-675-6229) during standard business hours.



### Watch Out

- **Partisan GOTV work:** In Kentucky, state campaign finance rules mostly cover the regulation of election financing, but do include advertising disclaimers and disclosure of contributors. If you are doing partisan GOTV work, you will need to examine the Kentucky campaign finance statute carefully and consider seeking additional legal advice.
- **Working on ballot measure initiatives:** Kentucky does not have citizen-initiated ballot measures. The state legislature, however, may put a proposed constitutional amendment on the ballot in even-year elections. Ballot measure advocacy 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 that applies to their lobbying caps (not prohibited electioneering), but state law usually regulates this activity under campaign finance laws.



## Q: How can we help recruit poll workers?

Poll worker recruitment is handled in Kentucky by each County Clerk's office.

Each poll worker – called a “precinct election officer” in Kentucky – must be a qualified and registered voter, cannot be a candidate for office, must not be an immediate family member of a candidate for office, and cannot have changed party affiliation after December 31st preceding a primary election or the second Tuesday in August preceding a general election.

You can find your County Clerk website here: <https://elect.ky.gov/About-Us/Pages/County-Clerks.aspx>



### Practical Tip

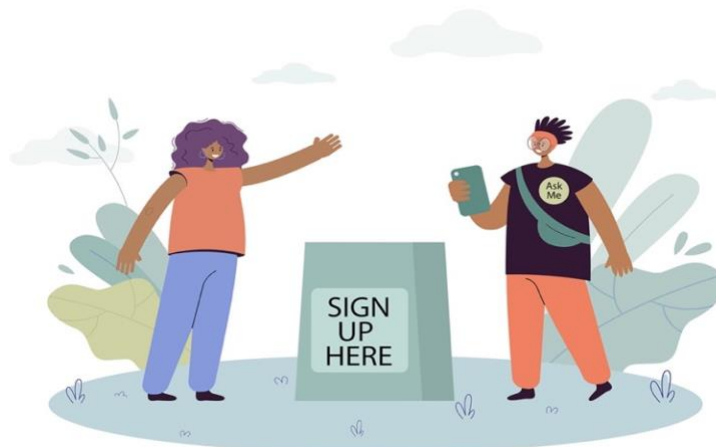
- While more poll workers are often urgently needed, it can sometimes be frustratingly slow to get through to the county offices to get started. You may need to start this process early and have some patience with your poll worker recruitment plan.
- If your organization is considering doing a poll worker recruitment drive and has trouble reaching the right person at your County Clerk's 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](mailto:partners@powerthepolls.org)



### Watch Out

**Managing volunteer expectations:** This kind of programming doesn't have too many 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://sylvacoalition.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. Kentucky has many 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 Kentucky for further information: <https://www.democracycapacity.org/ky-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](mailto: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](mailto:info@democracycapacity.org) for referrals.

**Links to Some Key Kentucky Laws:** The Kentucky statutes referenced below can be accessed here: <https://apps.legislature.ky.gov/law/statutes/>

- **Voter Registration:** Ky. Rev. Stat. Ch. 116 – voter registration
- **Assistance with Vote-By-Mail Ballots:** Ky. Rev. Stat. § 117.085 – Mail-in absentee ballots -- Application through online portal -- Procedures -- Cancellation -- Administrative regulations – Disclosure of information
- **Line Warming:** Ky. Rev. Stat. § 117.235(3)(e) – Persons permitted in voting room -- Electioneering and prohibited activities -- Maintenance of order – Mock elections for school children -- Display of political campaign signs on private property
- **Ballot Selfies:** Opinion of the Attorney General 16-007 – Whether a voter is prohibited by law from taking a picture of oneself and their personal ballot inside the voting room (“ballot selfie”)
- **GOTV Clothing/Hats/Buttons in Polling Places:** Ky. Rev. Stat. § 117.235(3)(e) – Persons permitted in voting room -- Electioneering and prohibited activities -- Maintenance of order – Mock elections for school children -- Display of political campaign signs on private property
- **Campaign Finance:** Ky. Rev. Stat. Ch. 121– Campaign Finance Regulation

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



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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](mailto:info@democracycapacity.org).

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