

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

OKLAHOMA

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	An individual employed or retained for compensation to lobby legislative public officials on behalf of your organization will need to register as a legislative lobbyist.
State Executive Branch Officials	Yes	An individual employed or retained for compensation to lobby executive branch public officials on behalf of your organization will need to register as an executive lobbyist.
Local Legislators or Local Executive Branch Officials	Maybe	The Oklahoma state lobbying statute does not regulate local lobbying. It is best practice, however, to check whether local jurisdictions have their own lobbying ordinances before lobbying local public officials.

Grassroots Lobbying: Grassroots lobbying (calling on members of the public, or other organizations, to take action) is not regulated at the state level in Oklahoma.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN OKLAHOMA:

- **Registration is easy to trigger:** While there is an “incidental” lobbying exception, if any of your organization’s employees do any substantial direct lobbying, they will likely need to register.
- **Gift rules are detailed and technical:** It will ease your organization’s compliance burden significantly if you and your lobbyists refrain from making expenditures for the benefit of public officials. If you do intend to make any such expenditures, you should first familiarize yourself with the details of the gift and reporting rules.
- **Reporting can be simple as long as you do not make expenditures for the benefit of public officials:** The only kind of expenditures your employee lobbyist will need to disclose on periodic reporting are any expenditures they made for the benefit of public officials. If they generally refrain from making such expenditures, they will have little or nothing to report.
- **Once your employee has registered as a lobbyist, they will need to file a report for every deadline, even if they have nothing to report:** Reporting deadline are very short (monthly legislative lobbying reports are due only days after the end of the reporting period!) and late fees are stiff, so you will want to have good systems in place to make sure your lobbyist is filing all of their reports on a timely basis.

This resource is current as of November 2023. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.org 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 in Oklahoma is regulated by the Oklahoma Ethics Commission (the “Commission”). Oklahoma law defines **lobbying** as any oral or written communication with a **legislative public official** or an **executive branch public official**, on behalf of another individual or entity, about **legislative** or **executive actions**. (Note that the statute does not explicitly define the terms legislative public official, executive branch public official, legislative action, or executive action, but we have provided definitions here to help you better parse the definition of lobbying.)

- **Legislative public official** means a member of the legislature, or an employee of the legislature. It also means the Governor, or an employee of the Governor. It further includes any state officer or employee who advises the Governor, an individual legislator, or the legislature as a whole, on legislation (other than legislation that affects only his or her agency).
- **Executive branch public official** means a state officer or employee of a state-level executive branch agency, **excluding** the Governor or an employee of the Governor, who are covered instead as legislative public officials.
- **Legislative action** means the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any legislation, rule, regulation, executive order or any other program, policy, or position of state government.
- **Executive branch action** means the passage, defeat, formulation, modification, interpretation, amendment, adoption, approval or veto of any legislation, rule, rate, regulation, executive order or any other program, policy, or position of state government.

FAQS

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

Any individual who is employed for compensation to lobby legislative or executive branch public officials for your organization will need to register as a legislative lobbyist, executive branch lobbyist, or both (unless one of the exceptions discussed below applies).

Q: How does the trigger threshold work if we are a fiscally sponsored project?

You will need to be sure you are communicating transparently and in a timely fashion with your fiscal sponsor if you plan to undertake activities that might potentially count as lobbying activities!

Each fiscal sponsor will have its own ways of working with projects who wish to take on lobbying activities.

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project's independent contractors or employees, the lobbyist registration trigger must be analyzed together with all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how they track the registration threshold.

IMPORTANT NOTE: In states where registration is required prior to lobbying, or very shortly after the registration threshold is reached, or periodic lobbyist disclosure is due shortly after the end of a reporting period, special procedures may need to be worked out in order to process your project's registration or reporting on time. You should connect with your account manager as soon as you begin planning any potential lobbying strategy!

Q: Are there exceptions to what counts as lobbying?

Yes! Certain types of lobbying activities do not require state-level lobbyist registration. The exceptions most relevant to nonprofit organizations are:

- **Incidental lobbying:** Individuals whose lobbying activities are only incidental to, and are not a significant part of, the services they provide to your organization. The Commission has not adopted specific guidance on how much lobbying an individual can do under this exception. In the past, however, it has used the example of a CEO who occasionally engages in lobbying activities as someone who would fit this exception.
- **Volunteer lobbyists:** Individuals who do some lobbying on behalf of your organization but are not compensated for it.
- **Testimony:** Testimony given at, or submitted in writing to, a committee or subcommittee of the legislature, or a public hearing of an executive branch agency.
- **Mass media communications:** A speech, article, publication, or other material that is widely distributed, broadcast on radio or television, or published in newspapers, magazines, or similar publications.

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?

In Oklahoma, there are two types of ballot measures (sometimes referred to as “state questions”) – initiatives and referenda. An initiative proposes a statute or constitutional amendment, while a referendum approves or rejects a bill passed by the legislature. Each can get on the ballot either via a petition by voters or by proposal of the state legislature.

For an initiative or referendum proposed by the state legislature, the legislature must pass the proposal before it is placed on the ballot to be approved by voters.

Communicating with public officials to support or oppose the placement of the legislatively sponsored issue on the ballot is considered lobbying and is regulated as discussed in this Guide. Once the initiative or referendum is on the ballot, the state’s campaign finance regime regulates your support or opposition to the measure (note, however, that the IRS considers that activity lobbying).

Citizen-initiated initiatives or referenda do not require legislative approval to be placed on the ballot, and advocacy at all stages of the process is governed by Oklahoma campaign finance laws (and IRS lobbying rules).

Nonprofit organizations considering working on ballot measures in Oklahoma should seek additional legal 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 any of your staff triggers lobbyist registration in Oklahoma, they will need to register within five days of engaging in the lobbying activity.

Your staff should register online under the State's "Guardian System," by using the "Registration" link on the main Guardian page, which is here: <https://guardian.ok.gov/>

If your lobbyists will continue to lobby during the next calendar year, they will need to renew their registration.

Legislative lobbyists' registration will terminate automatically at the end of the calendar year, but they can terminate it early if they are certain that they will not do any additional legislative lobbying for the year.

Note: Executive lobbyists must affirmatively terminate their registration by November 30 each year, if they do not want to register for the following year – otherwise they will be required to do so under the statute.

The Commission sets the registration fee annually, before July 1. The fee for 2024 is \$125 for each individual that registers.

Your organization, as the "lobbyist principal," does not need to register. It will, however, need to pay a \$125 fee, which will cover all of your individual lobbyists.

- **Type of lobbyist:** Your individual lobbyist will register as a legislative lobbyist, an executive lobbyist, or both, under the same online registration.
- **Information about your organization**
 - Your individual lobbyists will each need to enter information about your organization (the "lobbyist principal"), including the type of organization (use "business or organization") and your organization's full legal name, name of a contact person, and contact information for that person (use business contact information since it will be made public).
 - Note that the State is quite rigorous about ensuring that the name of your organization in the lobbyist registration system matches the legal name of the organization in the Secretary of State's records exactly. Assuming your organization is registered as a corporation in Oklahoma, you should be able to find your organization in the Secretary of State's search function embedded within the Guardian System. If you cannot find it in the system, you should call the Commission.
- **Agencies that will be lobbied**
 - For legislative lobbyists, this field will automatically populate.
 - For executive lobbyists, your lobbyist will identify which agencies they intend to lobby on your behalf.

Note that submitted registrations are not automatically approved, as the Commission's staff will review them before acceptance. You will not be able to file any required periodic reports until the registration has been fully approved.

The Ethics Commission provides training on the Guardian System upon request. You can contact the Commission staff at (405) 521-3451 or ethics@ethics.ok.gov with questions or to make an appointment for training.

Q: When are periodic lobbying reports due?

Legislative lobbyists and executive branch lobbyists report on different schedules.

Lobbyists who are both legislative lobbyists and executive lobbyists must report on the more frequent legislative lobbyist schedule.

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Registered lobbyists must submit reports on every due date, even if they made no reportable expenditures during the period.

If a deadline falls on a weekend or holiday, it is **not** extended.

Late fees are high (\$100/day for the first 6 days and \$400 for the 7th day per report).

Legislative lobbyist report due dates:

- Month of January – due February 5
- Month of February – due March 5
- Month of March – due April 5
- Month of April – due May 5
- Month of May – due June 5
- Month of June – due July 15
- July through December – due January 15

Executive lobbyist report due dates:

- January through March – due April 15
- April through June – due July 15
- July through September – due October 15
- October through December – due January 15

The current year's reporting schedules, as well as a free subscription calendar service are available at the Commission's website here:

https://www.ok.gov/ethics/State_Officers_&_Employees/Lobbyist_Reporting_Calendars.html

Q: What information do the periodic lobbying reports include?

The good news about Oklahoma periodic reporting is that only certain expenditures for the benefit of state officials are reportable, and if you want to ease your reporting compliance burden, you can refrain from making these types of expenditures.

Reportable expenditures include gifts, meals, food and beverages not part of a meal, and certain events made for the benefit of public officials and their families. Lobbyist reports do not include lobbyist compensation, personal travel expenses, or any other organizational costs.

Q: What is considered a reportable "expenditure"?

In Oklahoma, only expenditures made for the benefit of public officials are reportable.

Generally, your organization and your lobbyists are prohibited from giving any gifts, meals, or anything else of value to officials of state entities that you lobby (either directly or indirectly through their family members).

Some exceptions do exist, however, including lobbyists' payments for meals, other food and beverages, and certain gifts. Payments by your organization for food and beverages at certain events involving state legislative officials are also allowable, but reportable, expenditures.

The rules governing those exceptions are complicated and include the types, frequency, and costs of allowable expenditures, who can make them (individual lobbyists and/or your organization), and what details are reportable. Failing to comply with reporting requirements can result in steep penalties.

If your organization believes that your advocacy will be more effective if you make expenditures on public officials, despite the complications and reporting compliance

FAQS

burden, you should download the most recent version of the Commission's Oklahoma Lobbying Guide, and review very carefully the "Lobbyist, Liaison, and Lobbyist Principal Gift Rules" and the "Expenditures Reports" sections of the Lobbying Guide, to make sure you are correctly following the rules. You may also wish to seek additional advice. The Lobbying Guide is available here:

https://www.ok.gov/ethics/State_Officers_&_Employees/Lobbying/index.html

Records retention: Lobbyists must retain all records necessary to substantiate registration and reports for 4 years.

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 is no badge requirement, but when lobbying state officials, your lobbyist is required to indicate, orally or in writing, that they are lobbying on your behalf.

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

Yes!

Contingent fee lobbying: No individual or entity may retain or employ a lobbyist for compensation that is contingent in whole (or in part) on the passage or defeat of any official action, the approval or veto of any legislation, the issuance of an executive order, or the approval or denial of a pardon or parole by the Governor.

No lobbyist on floor of legislature: Lobbyists cannot go on the floor of the legislature while in session unless they have been invited.





Restrictions on campaign contributions during legislative session: Lobbyists are prohibited from making, promising to make, or soliciting campaign contributions, even in their own personal capacity, for a member of the state legislature, or a candidate for state legislative office, during the regular legislative session and through the 5th day following adjournment.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about HB 101 currently pending in the Oklahoma House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

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

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Since Oklahoma does not regulate grassroots lobbying at the state level, the proposed student engagement activities will not count as lobbying and will not trigger registration or reporting.</p>
 <p>Lobby Day</p>	<p>Any Students Vote Now staff paid to coordinate the Lobby Day may be required to register if their work on this activity is considered more than incidental (considered together with any other activity that the organization does during the year that counts as lobbying).</p> <p>Student volunteers that attend the Lobby Day will not be required to register. Even if some staff need to register, the expenditure report for the period will not contain any expenditures, so long as the group refrains from making any expenditures on the public officials. Students Vote Now can give them information about the organization instead.</p>
 <p>Committee Testimony</p>	<p>In Oklahoma, giving testimony before a committee of the legislature is a lobbying exception, so this activity would not trigger registration or reporting.</p>
 <p>Mayor</p>	<p>Oklahoma state lobbying laws do not cover lobbying local officials, and Oklahoma City does not have its own local lobbying ordinance.</p>
<p>Bottom Line</p>	<p>The student engagement, testimony and Mayoral engagement activities are not considered lobbying in Oklahoma, so the only activity that might trigger any registration is the Lobby Day.</p> <p>Students Vote Now should consider if it plans to do any other lobbying activities during the same calendar year. If it does not, the single Lobby Day can probably be counted as an incidental lobbying exception if related time is minimal.</p> <p>Students Vote Now can strengthen that position by not making any expenditures on public officials that would need to be reported on a periodic lobbying report. It can also consider contacting the Ethics Commission to confirm their plans.</p>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Assistance Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact Bolder Advocacy's team of experts by e-mailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

OKLAHOMA STATE RESOURCES:

- **Oklahoma Ethics Commission**

Oklahoma's lobbying registration and reporting system is administered by the Oklahoma Ethics Commission. Their lobbying resources, including for online registration and reporting, can be accessed here: https://www.ok.gov/ethics/State_Officers_&_Employees/Lobbying/index.html

- **Full Text of Oklahoma Lobbying Statutes**

Lobbying in Oklahoma is primarily governed by the Commission's Ethics Rules, which can be found here: https://www.ok.gov/ethics/Resources/Ethics_Laws_Page.html

Rule 5, Lobbyist Registration and Reporting, starts on page 279 of the 2022 Annotated Ethics Rules (Last updated November 1, 2022)

- **Oklahoma Ethics Commission Lobbying Guide**

The Commission's helpful Lobbying Guide is available here:

https://www.ok.gov/ethics/State_Officers_&_Employees/Lobbying/index.html

- **Lobbyist Education Programs**

The Ethics Commission provides continuing education programs for lobbyists. You can sign up for notifications of when classes will be offered here:

https://www.ok.gov/ethics/2020_Lobbyist_Education.html

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to the Ethics Commission staff at (405) 521-3451 or ethics@ethics.ok.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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