

# PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

# WYOMING

## Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
<b>State Legislators</b>	Yes	Any attempt to influence legislation <b>on behalf of your organization</b> will trigger lobbyist registration. There is no compensation or spending threshold, but the registration fee is lower if you aren't making many expenditures.
<b>State Executive Branch Officials</b>	It depends	Wyoming's lobbying laws only apply to lobbying related to <b>legislation</b> and not to executive branch rules or decisions.  It is possible for your conversations with state-level executive branch officials to count as lobbying that might trigger registration if you are speaking with them in attempt to influence legislation – for example, trying to get the governor to veto a bill.
<b>Local Legislators or Local Executive Branch Officials</b>	Probably not	We are not aware of any authority interpreting Wyoming lobbying laws as applying to local legislation. It is good practice, however, to check whether any local jurisdiction you plan to lobby has a separate local lobbying ordinance.

### KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN WYOMING:

- **If your employee is engaging in direct lobbying in Wyoming, they will need to register:** Any person attempting to influence legislation on behalf of your organization by directly communicating with elected officials will need to register as a lobbyist.
- **Registration is easy, and the reporting burden is low:** The registration process is very easy, and the lobbyist activity reports are only due once a year. The reports cover only gifts to legislators or special events to which legislators were invited. You do not need to report lobbyist compensation or internal lobbying expenses.
- **Separate report for paid advertising and printed literature:** There is also a separate simple annual report that groups must file if they spend money on paid advertising, or certain printed literature, designed to influence legislation.
- **In practice, organizations doing only grassroots lobbying without advertising or printed literature often do not register:** In part because grassroots activities that do not include paid advertising or printed literature (for example, only unpaid social media and a volunteer phone-banking campaign) do not generate any required reporting, many groups in Wyoming do not register any individuals if they are doing only this kind of grassroots lobbying work. Since the registration and reporting requirements are not burdensome, your organization should consider seeking additional guidance if you decide to follow this example.

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](mailto:advocacy@afj.org) or at [info@democracycapacity.org](mailto:info@democracycapacity.org) with any comments.

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

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

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

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

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

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

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

## Q: What activities count as lobbying?

Wyoming law defines **lobbying** extremely broadly as any "attempt to influence legislation" on behalf of any organization or any other interest, other than personal. Attempts to influence executive branch rulemaking is not considered lobbying under Wyoming lobbying law.

Direct communication with legislators is clearly lobbying in Wyoming. There is some ambiguity as to whether Wyoming officials believe that the statute covers certain types of grassroots lobbying. The law clearly **does** apply to grassroots campaigns that use paid advertising or printed literature to influence legislation, which you are required to report. However, grassroots campaigns that do **not** use paid advertising or printed literature, such as those that rely on volunteer phone or text banking, are likely not considered lobbying in Wyoming.

We suggest that if your organization is planning a large grassroots lobbying effort (like a big paid phone banking campaign), you consider consulting with the Secretary of State's Election Division about which participants, if any, may need to register. High profile grassroots activities involving significant expenses may draw particular scrutiny.

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

Undertaking any activities that are considered lobbying under the definition above will trigger registration in Wyoming. There is no de minimis exception, but if a staff person is doing only very minimal lobbying activities (\$500 or less in a year in prorated compensation and reimbursements), then the registration fee is only \$10 instead of the usual \$75.

In practice, the registration trigger is the first actual direct communication with public officials attempting to influence legislation, or the first time you spend money on paid advertising in any communication medium (including paid social media) or on printed literature in support or opposition of legislation. You have 48 hours to register after triggering registration.

**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.

In Wyoming, if a fiscally sponsored project raises or spends money for paid advertising or printed literature to influence legislation, the sponsor and the project should analyze which name should be listed as the “Association” in the Statement of Contributions & Expenditures.

Your account manager at your fiscal sponsor will be able to help you understand how they track and report lobbying.

**IMPORTANT NOTE:** In states like Wyoming, where registration is required very shortly after the registration threshold is reached, 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!**

**Executive branch lobbying:** Wyoming does not regulate attempts to influence executive branch rulemaking on behalf of your organization. Note, however, that communications with executive branch officials attempting to influence **legislation** would still count as legislative lobbying.

**People expressing their own personal views:** The Wyoming lobbying statute explicitly states that it does not intend to infringe on the rights of individuals to petition or communicate with the legislature. In the nonprofit context, this means that if you are working with a group of constituents and are facilitating their expression of their own views on legislation to public officials, this won’t count as them attempting to influence legislation on behalf of your organization. You will need to be careful, however, to avoid providing your constituents with a particular script to avoid the communications being deemed made on behalf of your organization.

**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 from state to state.

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

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

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

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

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

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

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

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

In Wyoming, citizens may use the initiative process to place proposed statutes or veto referendum (to repeal a statute passed by the legislature) on the ballot for voters to approve or reject. If a proposed statute is certified for the ballot, the legislature can block the measure from actually coming to a vote of the public by passing a “substantially similar” measure instead. The legislature may also put a proposed constitutional amendment on the ballot for voter approval.

Communicating with public officials with the goal of influencing the legislature to support or oppose placing a proposed constitutional amendment on the ballot, or to pass or reject a statute substantially similar to a citizen initiative proposed statute, may constitute lobbying and trigger registration, as outlined in this Guide.

Once a measure, whether initiated by the legislature or citizens, is on the ballot, activities supporting or opposing such measure are regulated under the state’s campaign finance laws (note, however, the IRS still considers this activity to be lobbying). Nonprofit organizations considering working on ballot measures in Wyoming 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?**

After lobbying, new lobbyists have 48 hours to register, with no extensions for weekends or holidays. The Wyoming Secretary of State’s Lobbyist dashboard, <https://lobbyist.wyo.gov/Lobbyist/Default.aspx>, provides the links for new lobbyist registration and lobbyist registration renewal.

Your lobbyist can also register by mail or e-mail, using the fillable PDF forms on this page <https://sos.wyo.gov/Forms/Default.aspx?root=Lobbyists>

If your lobbyist is registering for the first time in Wyoming, they click on the first link “New Lobbyist Registration,” <https://lobbyist.wyo.gov/Lobbyist/Default.aspx>

Your lobbyist must search the lobbyist database by last name to confirm they’ve never registered before. After their online search confirms “No Records Found” (which appears under the red line), they click on the blue “Create a new registration” button. Next, your

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lobbyist will enter their name and contact information – they should use business contact information, not personal. Then, they click “next” to enter your organization’s full name (no acronyms) and contact information. (Your organization is a “Principal.”)

The registration fee is \$75 for those lobbyists who expect to receive more than \$500 in prorated lobbyist compensation or reimbursements over the course of the year. The fee is \$10 for lobbyists who don’t expect to exceed the more than \$500 annual compensation or reimbursement amount, or who lobby on a volunteer basis and receive no compensation other than travel and per diem reimbursements.

A flow chart depicting the registration options is available on the Secretary of State’s website under the link for the “Registration and Reporting Process” here:

<https://lobbyist.wyo.gov/Lobbyist/Default.aspx>

Lobbyists need to renew their registrations each registration cycle if they continue to lobby in the next session.

## **Q: When are periodic lobbying reports due?**

The annual lobbying registration reporting period is May 1 through April 30.

If your lobbyist or your organization must file any “Lobbyist Activity” or “Paid Advertising to Influence Legislation” reports, the deadline is June 30th. See below for when such reports are required. It is possible for lobbyists to be registered but not have to file any annual reports.

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

There are two types of annual reports that registered lobbyists or lobbying organizations might need to file – the Lobbyist Activity Report and the Paid Advertising to Influence Legislation Report.

Even if you have a registered lobbyist, it’s possible that neither your lobbyist nor your organization will have to file either of these reports. If you did not make any reportable expenditures during the lobbyist reporting cycle (May 1 through April 30) you will not need to file these reports.

### **Lobbyist Activity Reports**

Lobbyist Activity Reports require only that you disclose any expenditures made on, or on behalf of, any legislator, state elected official or state employee acting in their official capacity that exceeds \$50, and provide the details of any special events you hosted (such as receptions, meals, entertainment, attendance at athletic events or other functions).

You will not need to file a report if the total value of the reportable expenditures (including items under \$50) does not equal \$500 or more. In other words, you will not need to file this annual report if your organization refrains from spending money for the benefit of public officials.

**IMPORTANT NOTE:** The Lobbyist Activity Reports ask for details about the lobbyist’s “source of funding” for the expenditures made for the benefit of public officials. If you do need to file a Lobbyist Activity Report the answer to that question should be the name of your organization, not the names of any of your donors.

### **Paid Advertising to Influence Legislation Report**

This annual report requires brief disclosure about expenditures your organization made on paid advertising or printed literature with the goal of influencing Wyoming state legislation.

**IMPORTANT NOTE:** The Paid Advertising to Influence Legislation Report asks for details about your “Receipts” (also called on the form “Contributions”) that were used to pay for the advertising or printed literature. Unless you have accepted specifically earmarked

funds restricted for only these expenditures you should only list the name of your organization in the receipts section, not the names of any of your donors.

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

As discussed above, your lobbyist or your organization may potentially be required to file two annual reports after the end of the Wyoming lobbyist registration cycle. The first potential report is the Lobbyist Activity Report, and the second is the Paid Advertising to Influence Legislation Report. Both reports require disclosure on only a small subset of potential lobbying expenditures, which we have discussed in more detail below.

**Lobbyist Activity Reports:** Despite its name, the “Lobbyist Activity Report” isn’t a report about your lobbyist’s full activities and expenses. It is designed to capture any gifts or special events on which you spent money for the benefit of public officials.

Your lobbyist will only need to file a Lobbyist Activity Report if the value of the gifts and special event invitations your lobbyist or your organization offer to state officials adds up to \$500 or more in one registration period (May 1 to April 30).

Details of how you should fill out the form are below.

- **Part I: Gifts:**

In this first section of the form, you must list any gifts that you gave to any public officials. For the **Source of Funding** use the name of your organization, not any donors.

In Part 1, you should list any item of value given to a public official, any special discount given to an official, and any hospitality (such as meals or entertainment) that is **not** offered to a group of legislators (like the whole legislative body, or a committee. etc.) You only need to itemize items over \$50, but smaller gifts still count towards the \$500 threshold for needing to file this form.

- **Part II: Special Events/Functions:**

The second section of the form calls for listing the cost of group functions that you put on, aggregated by group, as opposed to by individual public official. Again, for the **Source of Funding** use the name of your organization, not any of your donors.

**Paid Advertising to Influence Legislation Report:** This report, the requirement for which was added on to the end of the lobbyist statute, is a little out of place in the Wyoming lobbyist regime because it borrows language from the state election code – similar language was originally drafted to cover disclosure of paid advertising relating to ballot referendum legislation. (You can access the original by navigating to Section 22-24-201 in this pdf of the Elections Code: <https://wyoleg.gov/statutes/compress/title22.pdf>) We can look to the definitions of paid advertising in any “communications medium” and “printed literature” from that statute to try to understand better the kinds of expenditures that the State might be expecting in this report.

In the elections code statute, **communication media** means advertising on television, radio, in print media, on billboards and other electronic media.

**Printed literature** means any printed material, but does not include any member association printed communication that is not intended for public dissemination, or items with small printed messages on them, such as bumper stickers, pens, pencils, buttons, rulers, nail files, balloons and yard signs.

- **Receipts:**

In this section of the report you should disclose only your organization’s name unless you have specifically raised earmarked restricted funds that were used for these expenditures.

- **Expenditures:**

For this section of the report include expenditures you made for paid advertising in any communications media or for printed literature (using the definitions above) in an effort to influence Wyoming legislation.

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Note that the State's online reporting system wasn't designed with this organizational report in mind, and you may potentially find that your organization should be filing this report, but you don't have a registered lobbyist to do so. The Secretary of State's Election Division gave informal guidance that the individual listed on the form as the "Association Representative" should use the States' online lobbyist registration portal to register as a lobbyist and then file this report.

**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 hasn't 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.

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

**Maybe.** If you accept restricted funds earmarked to cover the costs of your paid advertising or printed literature campaigns, you may need to report such funding on the "receipts" section of the Paid Advertising and Printed Literature Report. You should seek additional advice if you believe you may need to do such reporting.

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

The Wyoming lobbyists laws do not require any special badge or identifying statements while lobbying. In the past, the Wyoming Secretary of State's office would print and mail lobbyist badges, but they have stopped the distribution of these badges.

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

Wyoming law does not address contingency fees for lobbyists, but it is best practice not to design your lobbyist compensation that way.

There are also no restrictions against current or former lobbyists serving as state officials or employees (or vice versa). However, if your lobbyist or staff are also a public official, they are barred from voting on issues where they have a personal interest. Similarly, if your organization is considering hiring someone who is also a state official or employee, those individuals may not vote or take official actions in any matters affecting your organization.







# 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 Wyoming 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 Cheyenne about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>The student engagement activities are grassroots lobbying that will trigger lobbyist registration for at least one staff member of the organization leading the activities. This program will also trigger the need to file an annual “Paid Advertising and Printed Literature Report,” so Students Vote Now should carefully track its spending on the physical mailings and the e-mail activities (to the extent the e-mails are not going only to members).</p> <p>While in practice many groups in Wyoming would not register volunteer student phone bankers, since there is some ambiguity in the law on this point Students Vote Now might want to seek extra advice on this point, especially if their campaign was high profile.</p>
 <p><b>Lobby Day</b></p>	<p>Any Students Vote Now staff that are meeting with legislators about HB 101 should register as lobbyists.</p> <p>Student volunteers participating in the Lobby Day and expressing their own opinions about the proposed law do not need to register, even if their access to the public officials is facilitated by the organization. Students Vote Now should not to give the students talking points, however, to avoid having the students lobby “on behalf of” the organization instead of expressing personal opinions.</p> <p>Students Vote Now should consider bringing literature about the organization instead of swag to avoid triggering gift reporting on the Lobby Activity Report. If the literature reflects an opinion on the legislation, it will count as “printed literature” and need to be included on the year end “Paid Advertising and Printed Literature Report.”</p>
 <p><b>Committee Testimony</b></p>	<p>A Students Vote Now employee (or volunteer) giving committee testimony would count as lobbying and would trigger an obligation to register.</p>
 <p><b>Mayor</b></p>	<p>Wyoming’s state lobbying laws don’t cover lobbying municipal officials, and Cheyenne doesn’t have a local lobbying disclosure ordinance, so this activity won’t trigger lobbying registration at the state or local level.</p>
<p><b>Bottom Line</b></p>	<p>Paid staff of the organization participating in the student engagement, Lobby Day, or committee testimony activities should register. If the organization refrains from giving public officials any gifts or doing any special events where public officials receive a benefit, then the lobbyists will not need to file the annual Lobbyist Activity Report.</p> <p>As described, the Student Engagement activities will trigger the need to file one Paid Advertising and Printed Literature Report for the organization at the end of the year.</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](mailto:advocacy@afj.org), or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

### WYOMING STATE RESOURCES:

- **The Wyoming Secretary of State**

Lobbyist registration and reporting is managed by the Election Division of the Secretary of State's Office. Their lobbyist information dashboard can be accessed here:

<https://lobbyist.wyo.gov/Lobbyist/Default.aspx>

- **Wyoming Lobbying Laws**

The text of the Wyoming state lobbying statutes can be accessed here:

[https://sos.wyo.gov/Elections/Lobbyist\\_Statutes.aspx](https://sos.wyo.gov/Elections/Lobbyist_Statutes.aspx)

Wyoming state lobbying regulations can be accessed through the "Lobbyist Rules" link here:

<https://lobbyist.wyo.gov/Lobbyist/Default.aspx>

The text of the Wyoming elections code that may be relevant for understanding the expenditures required to be reported in the Paid Advertising and Printed Literature Report can be accessed by navigation to Section 22-24-201 in this pdf of the Elections Code:

<https://wyoleg.gov/statutes/compress/title22.pdf>

- **Additional Questions**

Any questions can be directed to the Secretary of State's Election Division: 307-777-5860 or

[elections@wyo.gov](mailto:elections@wyo.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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