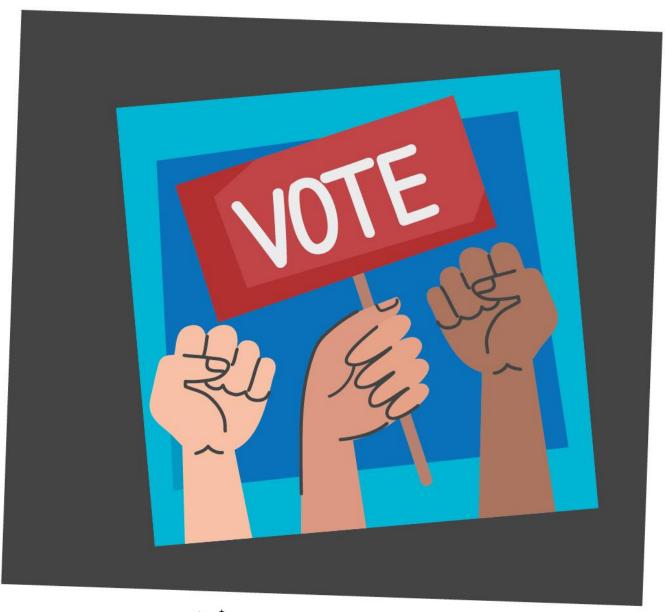
PRACTICAL GUIDANCE

Nonprofit Voter Assistance

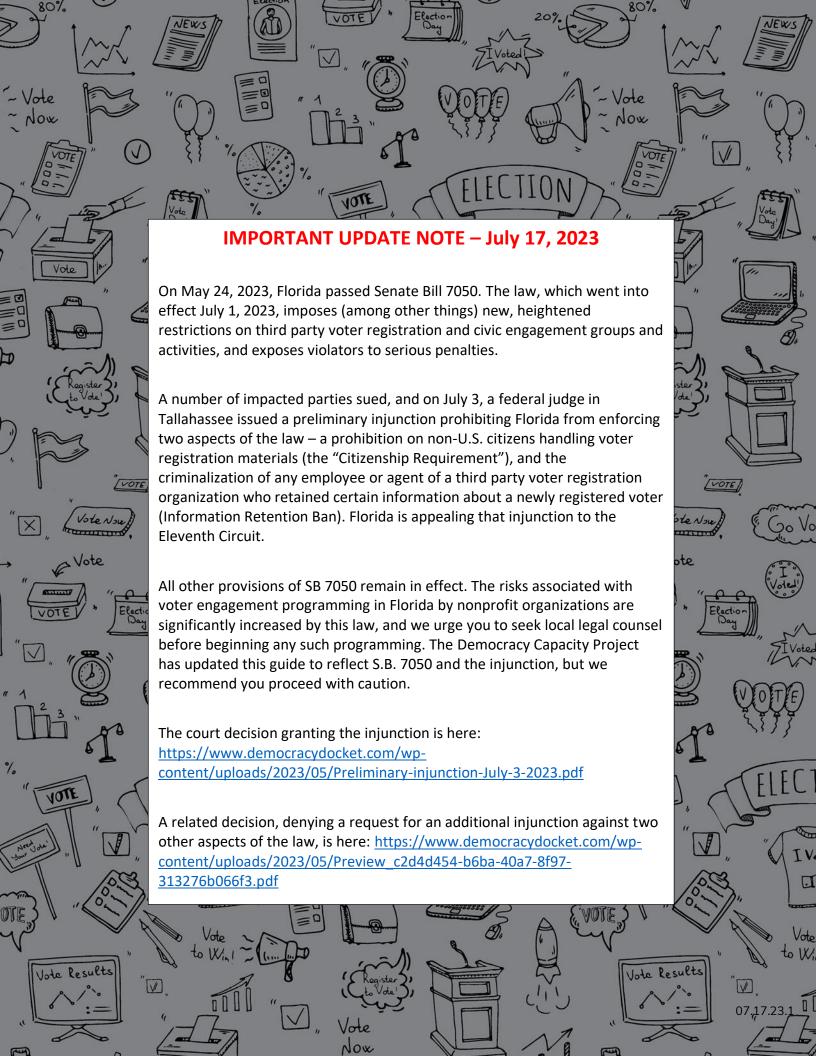
FLORIDA

SEE IMPORTANT UPDATE NOTE ON NEXT PAGE!









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.

Division of Elections: Florida's elections are overseen by the Division of Elections of the Department of State. The voter-facing information page is here: https://dos.mvflorida.com/elections/for-voters/

County Supervisors of Elections: Each county has its own Supervisor of Elections. You can find their contact information and links to their websites here: https://dos.elections.mvflorida.com/supervisors/

Some counties have great information on their sites and may include well-produced voter guides or posters that you can link to. For example, Miami-Dade County's Supervisor of Elections website has this 28-page Voter Information Manual: https://www.miamidade.gov/elections/library/quidelines/voter-information-quide.pdf

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



- 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 Supervisor of Election Offices sometimes apply laws differently: In Florida each county Supervisor of Elections office may have its own way of doing things. It is worth taking the time to check the websites of the Supervisor of Elections where you are doing your work.

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

Florida calls organizations running voter registration drives Third-Party Voter Registration Organizations ("**3PVROs**") and over the last few years, has repeatedly modified the rules governing how 3PVROs may conduct drives, including by making the penalties for violations more severe. Many of these changes have been challenged in court, and litigation is ongoing. As noted at the beginning of this Guide, in July 2023 a federal court enjoined Florida from enforcing two aspects of its third-party voter registration law that was passed in May 2023. Florida is appealing that decision, and the situation remains volatile. We recommend they you consult with experienced counsel before starting any third-party voter registration drives. A law firm involved in litigation challenging Florida law maintains a website that is a good source of updates in the progress of the lawsuits: <a href="https://www.democracydocket.com/cases/state/florida?s="h

Florida 3PVRO Rules: https://dos.myflorida.com/elections/for-voters/voter-registration-organizations/ (As of the publication date of this Guide, these rules had not been updated to reflect the May 2023 legislation that went into effect July 1, 2023, or any related litigation.)

Fair Elections Fact Sheet: The Fair Elections Center has a good summary fact sheet here: https://www.fairelectionscenter.org/voter-registration-drive-guides (The Fair Elections guide was updated in June to reflect May 2023 legislation, but (as of the date of this document) it does not reflect subsequent litigation.)



- You must pre-register your drive with the Division of Elections: If you collect forms, you cannot begin until you pre-register and receive a 3PVRO ID number.
- Carefully vet any workers: You must affirm that no one who handles voter registration materials on your behalf has been convicted of certain felonies. A similar prohibition on non-U.S. Citizens handling materials is on hold due to a court order and pending further litigation.
- There are very specific requirements for what you must do for each registration: Each form must have your ID Number and collection date. You must give every registrant a receipt containing the applicant's name, political party, and county of residence, as well as the date the application was received, the name of the individual registration agent and the 3PVRO. You must also tell registrants that you might not return their application and they can do it themselves instead. A prohibition on retaining personal data about registrants is on hold due to a court order and pending further litigation.
- There are fines for late submission of forms: You must return completed forms to the county in which each applicant resides within the earlier of 10 days (no holiday or weekend exceptions), or prior to the registration deadline. Missing the deadline will result in fines.
- **Don't pay your drive workers by the piece:** It's a felony offense in Florida. Pay by the shift or by the hour instead.

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

Clear and easy access to voting by mail and early voting empower more voters to exercise their right to vote, and many nonprofit organizations are eager to help voters understand and exercise their rights to vote through these mechanisms.

Many states have rules and regulations about what third parties – whether individuals or organizations – can or cannot do to assist voters with this task. These rules are constantly changing and come up in many different activities related to voting by mail.

Unfortunately, Florida's current laws have created legal ambiguity about whether you are allowed to help voters **apply** to vote by mail, and now clearly prohibit groups from assisting voters to **return completed vote-by-mail ballots** in almost all circumstances.



Practical Tip: Focus on information instead of action

- With the laws surrounding vote-by-mail ballot requests and returns in flux (see details below), it may be wiser to 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 Florida Division of Elections is here: https://dos.myflorida.com/elections/for-voters/voting/vote-by-mail/

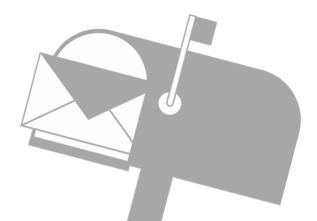




Danger Zone

- Assisting with applying for vote-by-mail ballots the law is ambiguous! Florida's current law says that "Any person who distributes, orders, requests, collects, delivers, or otherwise physically possesses more than two vote-by-mail ballots per election in addition to his or her own ballot or a ballot belonging to an immediate family member [...] commits a felony of the third degree..."
 - If your group is considering working on assisting voters with applying for vote-by-mail ballots you should seek additional counsel.
- Nonprofits are effectively prohibited from assisting with returning vote-bymail ballots: The law as currently enacted makes it clear that nonprofits should not make plans to assist voters with the return of their vote-by-mail ballots.





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

Florida has made it difficult for nonprofit organizations to effectively assist voters in obtaining a vote-by-mail ballot or returning the completed ballots – other than by getting voters the information they need to do it themselves, as discussed in our Practical Tips in the prior FAQ.

Although 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, it can still be enormously helpful for you to educate your constituents about how to track their own ballots, and how to contact their official county Supervisor of Elections office if they need to cure their ballot.

Note that recent amendments to Florida law require local officials to "purge" vote-by-mail applications annually, so it would be very valuable to help educate your constituents on how to check on their vote by mail status and about the need to reapply after each annual purge if the voter wishes to continue to vote by mail.



Practical Tip: Use official sources of information!

- In Florida, voters can check the status of their vote-by-mail ballot here: https://dos.myflorida.com/elections/for-voters/check-your-voter-status-and-polling-place/vote-by-mail-ballot-information-and-status-lookup/
- The contact information for the Supervisor of Elections office for each county if additional information is required can be found here: https://dos.elections.myflorida.com/supervisors/



${f Q}$: Can we help with a rides to the polls program?

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



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.



- **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.

Florida recently amended its laws and made it less clear which line warming activities are permitted, and which are not. Prohibited activities within 150 feet of an entrance to a polling place now include: "seeking or attempting to seek any vote, fact, opinion, or contribution; distributing or attempting to distribute any political or campaign material, leaflet, or handout; conducting a poll except as specified in this paragraph; seeking or attempting to seek a signature on any petition; selling or attempting to sell any item; and engaging in any activity with the intent to influence or effect of influencing a voter." As of April 2023, courts have blocked the enforcement of the last bolded phrase of this law for being unconstitutionally vague, but the rest of the provisions remain in effect.



Practical Tips

- Stav well outside the 150-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.



- The law is vague: Currently there is active litigation challenging the new line warming language, and it is unclear exactly how election officials will apply it.
- 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-toencourage-citizens-to-register-to-vote-or-vote/



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

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

State rules about lawn signs and road signs: Generally, Florida law restricts placement of any road signs along state or county roads without a permit, and partisan signs cannot be placed in these areas in any case. Lawn signs may only be placed with permission of the property owner, and partisan signs must be taken down within 30 days after the election. See the FAQ on campaign finance rules below for more information.

Partisan or nonpartisan GOTV clothing and buttons: Partisan and nonpartisan clothing and materials (hats, buttons, T-shirts, etc.) are allowed within the 150-foot no solicitation perimeter, so long as they aren't used 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, but Florida law then also says you can't show it to anyone else! For this reason, you shouldn't run a program asking your constituents to post their ballot selfies. Consider posting selfies with the "I Voted" sticker instead.

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



Practical Tips

- From a practical perspective, it is often simplest for nonprofit organizations to carry out their phone or text banking programs using volunteers that can use a call list or text banking interface that is not completely 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 fall within the state-based telecom restrictions.



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 absentee ballot requests.

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 Florida, Chapter 106 of the Florida Statute outlines the state level campaign finance regulations that might apply to your work.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0100-0199/0106/0106ContentsIndex.html&StatuteYear=2022&Title=%2D%3E2022%2D%3EChapter%20106



Practical Tip

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



- Partisan GOTV work: In Florida, these state campaign finance rules cover, among other things, how disclaimers must be added to political ads, rules relating to when physical political advertisements must be taken down after an election, and text and phone banking rules (including a rule that says you must have a Florida registered agent!). If you are doing partisan GOTV work, you will need to carefully examine the Florida Campaign Finance Statute and consider seeking additional legal advice.
- Working on ballot measure initiatives: Ballot measure initiative work can also trigger state campaign finance rules, even for nonpartisan groups. 501(c)(3) organizations are allowed to work on ballot measure initiatives because the IRS considers such work legislative lobbying (as opposed to prohibited electioneering), but state law usually regulates this activity under campaign finance laws.







Q: How can we help recruit poll workers?

Poll worker recruitment is handled in Florida by each county's Supervisor of Elections.

Each poll worker must be registered to vote (or pre-registered if under 18) in the county in which they are applying to be a poll worker and complete a training for their position at least once each election cycle.

You can find your county Supervisor of Elections website here: https://www.myfloridaelections.com/Contact-your-SOE



Practical Tip

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



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



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

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



Practical Tip

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



Watch Out

• It's possible this work can trigger lobbyist registration requirements: In some cases, your advocacy for a new polling place might count as lobbying under state or local lobbyist registration rules. Florida 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 Florida for further information: https://www.democracycapacity.org/fl-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 on the content covered in this Practical Guidance. You can contact Bolder Advocacy's team of experts by emailing Bolder Advocacy at advocacy@afj.org or calling during standard business hours at 866-NP-LOBBY (866-675-6229).

Your state or local nonprofit coordinating group: Most states have several nonprofit coordinating groups that you can seek advice from. Some 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 your local group, please reach out to the Democracy Capacity Project at info@democracycapacity.org for referrals.

Links to Some Key Florida Laws: The Florida statutes referenced below can be accessed here (with the caveat that changes in law are not immediately codified into the statute):

http://www.leg.state.fl.us/Statutes/index.cfm?Mode=View%20Statutes&Submenu=1&Tab=statutes

- **Third Party Voter Registration:** Fl. Stat. § 97.0575 Third-party voter registrations.
- **Assistance with Vote-By-Mail Ballots:** Fla. Stat. § 104.0616 Vote-by-mail ballots and voting; violations.
- **Line Warming:** Fl. Stat. § 102.031 Maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.
- State Rules About Lawn and Road Signs: Fl. Stat. § 479.105 Signs erected or maintained without required permit; removal.
- **Ballot Selfies:** Fl. Stat. § 104.20 Ballot not to be seen, and other offenses.
- **GOTV Clothing/Hats/Buttons in Polling Places:** Florida Polling Place Manual 1S-2.034, Chapter III, D: https://www.flrules.org/Gateway/reference.asp?No=Ref-11592
- Campaign Finance: Fla. Stat. § 106 Campaign Finance.

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

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

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

This work is licensed by the Democracy Capacity Project, a special project of NEO Philanthropy, Inc., under a Creative Common's Attribution-Non Commercial-No Derivatives 4.0 International License.



This work was produced by the Democracy Capacity Project, with the support of the Bolder Advocacy program of the Alliance for Justice, Inc., and the assistance of the amazing volunteer lawyers of We The Action, a program of Civic Nation, Inc. Design by Heidi Flynn Barnett of Flynn Design www.flynndesign.us.

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.



