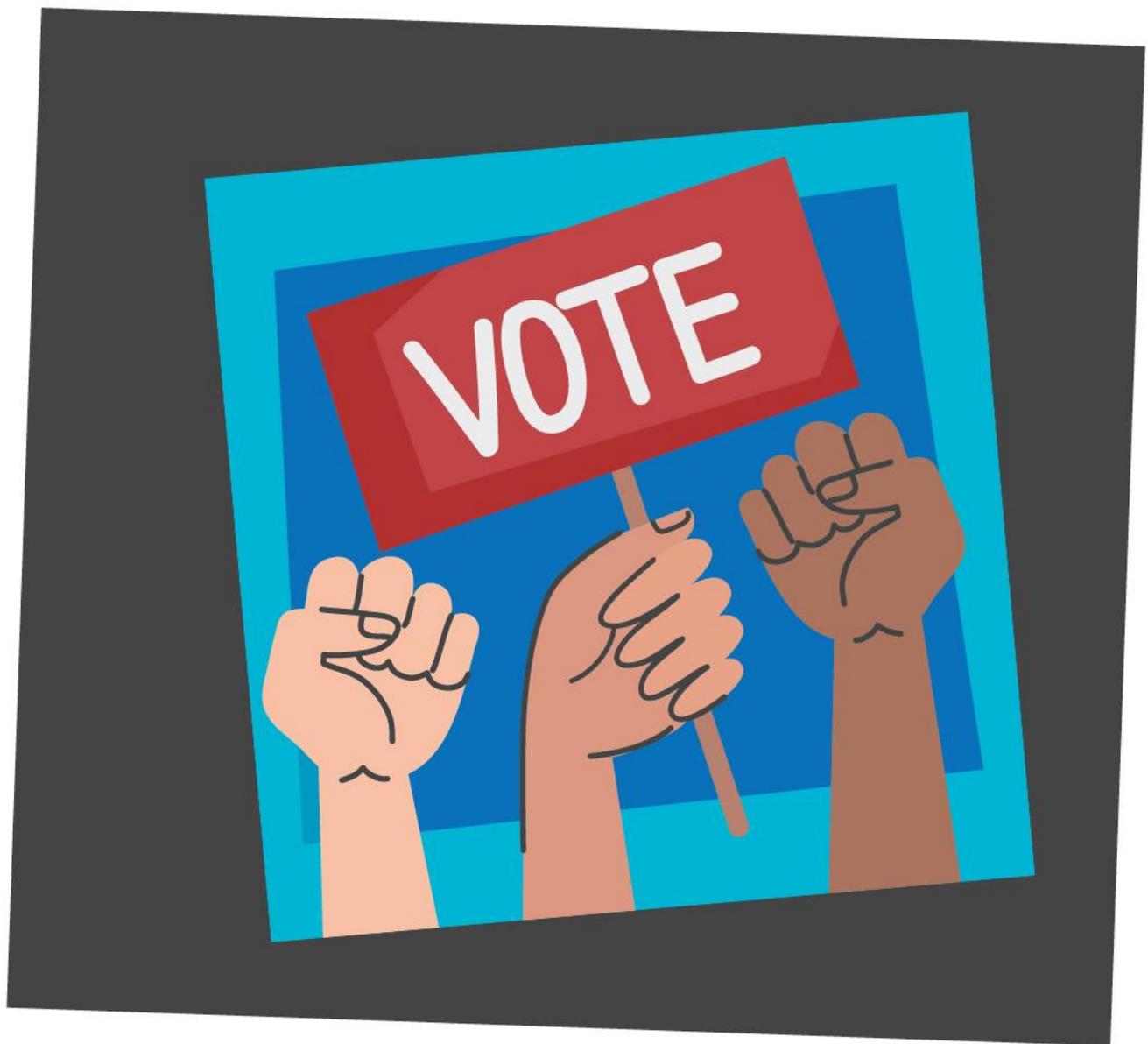


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

NEW YORK



Democracy **Capacity**

 **BOLDERADVOCACY**
A program of Alliance for Justice

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: New York's elections are overseen by the State Board of Elections. Their voter-facing information page is here: <https://www.elections.ny.gov/>

County Boards of Elections: Each county also has its own Board of Elections (and New York City also has its own Board of Elections). You can find their contact information and links to their websites here:

<https://publicreporting.elections.ny.gov/CountyBoardRoster/CountyBoardRoster>.

If you need information for more than one county select "All" in the drop down menu. There is also a downloadable file.

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 New York City Board of Elections has an interactive Early Voting Wait Time Map (showing locations and current wait times for every early voting site), links to check whether you're registered, a New York State Voter's Bill of Rights, and FAQs in several languages, among a much more voter information. Their website can be found here: <https://vote.nyc/>

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). There are also 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 Board of Election Offices sometimes apply laws differently:** In New York the county Board of Elections offices may sometimes have their own way of doing things. It is worth taking the time to check the websites of the Board of Elections offices in the county or counties where you will be focusing your work.

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

New York does not have many specific rules relating to voter registration drives. Of course, you should still use common sense about protecting registrants' private information and put in place good processes for safekeeping and returning the registration applications on time!

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



Practical Tip

- **New York City offers forms in multiple languages:** New York City offers forms in multiple different languages through the Campaign Finance Board and the New York City Board of Elections: <https://www.nycfb.info/nyc-votes/order/>



Watch Out

- **Know the deadline:** The registration deadlines in New York are quite early. Pay attention to the timing requirements and make sure you return all collected applications in time! <https://www.elections.ny.gov/VotingDeadlines.html>
- **Don't pay your drive workers by the piece:** Do not pay registration drive participants based on how many registrations they collect. 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?

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 right 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.

New York is an excuse-only absentee ballot state. This means that the state requires a reason for voting by mail. Voters can cast an absentee ballot only if on Election Day they expect to be (1) not present in the voter's county of residence; (2) unable to vote in person due to illness or physical disability, or because they are responsible for someone else who is ill or physically disabled (a temporary illness excuse includes a fear of contracting COVID-19, but that will currently expire on December 31, 2022); (3) a resident or patient of a veteran's health administration hospital; and voters who are in jail or prison for an offense other than a felony (or are awaiting trial).

Practical Tips: Informational programming might be your best bet

- **Forms:** You can download absentee ballot application forms in English and in Spanish from the New York Board of Elections here: <https://www.elections.ny.gov/VotingAbsentee.html>

This form does not have instructions for returning it to the voter's county Board of Elections written on it, so be sure to also include return instructions if you hand out this form for the voter to return. You can also check with the county to see if they can provide pre-paid envelopes to return the forms.

- **Additional languages:** Your county Board of Elections may also have forms in additional languages. For example, New York City offers both regular and ADA accessible forms in five languages here: <https://vote.nyc/page/absentee-voting-0>

Danger Zone

- **Issues with assisting with absentee ballots:** Nonprofits can theoretically assist voters in completing applications for absentee ballots, but since it is a felony to make a material (i.e., not trivial) false statement on an absentee ballot application it's likely not worth the risk to plan such a program. It is also not advised to have your organization pick up actual ballots for your constituents.
- **Issues with submitting absentee ballots for voters to Boards of Elections:** New York also theoretically permits organizations to collect completed ballots and return them to the voters' county Board of Elections. That said, any delay in submitting, or a failure to submit completed absentee ballots, could be treated as a crime since it is a felony to attempt or commit a "fraudulent act in connection with an absentee vote cast or attempted to be cast." It's best to steer clear of this programming as well.



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

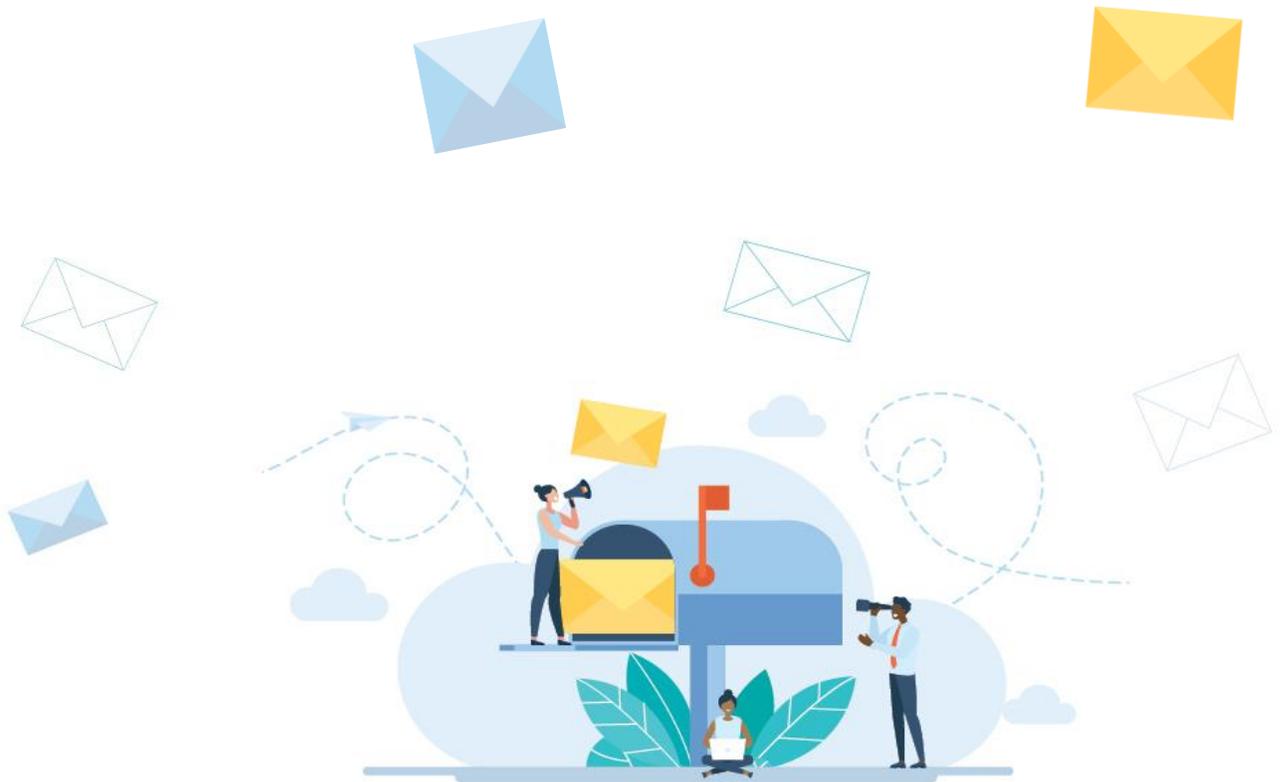
If there is an issue over absentee ballot signature matching, a signature is missing from an affirmation on the ballot return envelope, or there is another problem that may result in the absentee ballot being rejected, the county Board of Elections must notify the voter of the problem by mail within one day and, if possible, give the voter a chance to “cure” or fix the problem. The board must also contact the voter by email and phone, if available.

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.



Practical Tip: Use official sources of information!

- In New York, voters can check the status of their absentee ballot through their county Board of Elections. You can find a directory of county Boards of Elections here:
<https://publicreporting.elections.ny.gov/CountyBoardRoster/CountyBoardRoster>
- The State put out this guidance about the ballot cure process:
<https://www.elections.ny.gov/NYSBOE/download/Voting/CuresProcess2021Guidance.pdf>



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

It is currently legal to give voters a ride to the polls in New York.



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.



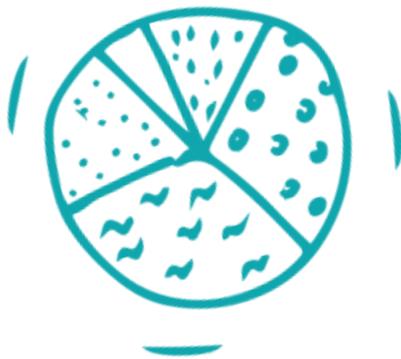
Q: How can we help voters who are already at the polls?

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.

New York’s Election Law § 17-140: Furnishing money or entertainment to induce attendance at polls generally makes it **illegal** in New York to carry out line warming programs. The state prohibits anyone from offering food or drink (or a number of things, such as tobacco) to anyone in connection with an election on an election day, including, but not limited to those who are waiting in line to vote. Litigation challenging the constitutionality of this law is pending.

Danger Zone

- Line warming and related election day voter entertainment programs are prohibited under current law. Groups should steer clear of these activities.



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 more effective to focus on other civic engagement and GOTV work in their communities.

State rules about lawn signs and road signs: Generally, New York law restricts placement of any road signs along state or county roads without a permit. Rules for lawn signs are made by local jurisdictions, but they must be content neutral. See also the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: Political buttons, as well as political banners, posters and placards are prohibited within 100 feet of a polling place. Hats and other clothing items are not specifically banned but it is best not to count on being able to wear such materials into the polling place, especially in New York City where poll workers routinely ask voters to remove such items.

Selfies in or near the polling place: New York prohibits revealing the contents of a ballot, after it is prepared for voting, to any person. It also prohibits soliciting a voter to reveal the contents of a ballot. Consider having constituents post 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

- 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!**

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 New York, Article 14 of Chapter 17 of the New York Consolidated Laws outlines the state-level campaign finance regulations that might apply to your work:

<https://www.nysenate.gov/legislation/laws/ELN/A14>



✓ 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.

👁 Watch Out

- **Partisan GOTV work:** In New York, these state campaign finance rules cover, among other things, what kind of disclaimers and reporting needs to accompany partisan digital advertising. If you are doing partisan GOTV work, you will need to carefully examine the New York campaign finance regulations 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 overseen in New York by the State Board of Elections.

Each poll worker must be registered to vote in New York, but students may also fill some roles through special high school programming, and translators are not required to be registered voters. Poll workers will be assigned within the county where they reside (or in New York City, within the five boroughs).

For more information, go to the State Board of Elections' poll worker page here: <https://www.elections.ny.gov/BecomePollworker.html> or the New York City poll worker page here: <https://vote.nyc/page/poll-worker-positions>



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 to get signed up, 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



Watch Out

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. You'll need to check your program plan against **both** state-level lobbying rules, and the rules of New York City if you are going to be working there. See our Practical Guidance – What Nonprofits Need to Know About Lobbying in New York for further information: <https://www.democracycapacity.org/ny-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 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 for referrals.

Links to Some Key New York Laws:

- **Assistance with Absentee Ballots:** Ny Stat. §§ 8-400 et seq. – Absentee voting: <https://www.nysenate.gov/legislation/laws/ELN/A8T4>
- **Line Warming:** NY Stat. § 17-140 – Furnishing money or entertainment to induce attendance at polls: <https://www.nysenate.gov/legislation/laws/ELN/17-140>
- **Ballot Selfies:** NY Stat. § 17-130(10) – Misdemeanor in relation to elections: <https://www.nysenate.gov/legislation/laws/ELN/17-130>
- **State Rules About Lawn and Road Signs:** NY DOT Sign Program Rules – Signs erected or maintained without required permit; removal: <https://www.dot.ny.gov/programs/nys-signs>
- **Campaign Finance:** NY Stat. §§ 14-100 et seq. – Campaign Finance: <https://www.nysenate.gov/legislation/laws/ELN/A14>

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.

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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.

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