

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

LOUISIANA

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	An individual who makes any direct contact with a legislative branch official for the purpose of influencing legislation and either : <ul style="list-style-type: none"> spends 20% or more of their time on lobbying in a calendar year or makes a lobbying expenditure for the benefit of a legislative branch public official
State Executive Branch Officials	Yes	An individual who makes any direct contact with an executive branch official for the purpose of influencing executive action and makes a lobbying expenditure for the benefit of an executive branch public official.
Local Legislators or Local Executive Branch Officials	Yes	An individual who makes any direct contact with a local government official for the purpose of influencing local government action and makes over \$500 in aggregate lobbying expenditures for the benefit of local government officials in a calendar year.

Grassroots Lobbying: Grassroots lobbying (calling on members of the public or others to contact public officials on their own) is not regulated by the state in Louisiana.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN LOUISIANA:

- You will generally not need to register as a lobbyist if you do not make expenditures for the benefit of public officials:** In Louisiana, lobbyist registration is not generally triggered unless you are making expenditures for the benefit of public officials (i.e., taking them out for drinks or meals). The only other way to trigger lobbyist registration is if a staff member pursues legislative lobbying activities for 20% or more of their work time during the year.
- There are different rules for lobbying legislative, executive branch, and local government officials:** However, there is only one process for registration and reporting. Both are simple to complete. There is a separate registration fee for lobbying under each category.
- The rules about expenditures made for the benefit of public officials are very complicated and only permit a narrow range of activities:** An “expenditure” is a payment of some good or service that benefits a public official or their family, but the only permissible expenditures lobbyists can make are for food or drink for a public official (or members their family) where the food or drink are meant to be consumed in the presence of the lobbyist. There are a few exceptions relating to conferences and events, but generally nonprofits are better off avoiding making any such expenditures for the benefit of public officials, absent a very strong need.

This resource is current as of January 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?

Louisiana has very broad definitions of three types of **lobbying** – **legislative, executive agency**, and **local government** – but, as outlined below, the registration triggers are high, and most nonprofit staff will not need to register with the state, even if they are engaged in regular part-time lobbying activities.

The core of the Louisiana lobbying definition, which applies to all three forms of lobbying, is any direct act or communication with a covered public official, the purpose of which is to aid in influencing a government action.

- **Legislative lobbying** is defined as:

- Any direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any **legislation**.

Legislation is bills, resolutions, concurrent resolutions, joint resolutions, amendments, nominations, and other matters pending or proposed in either house of the legislature and includes any other matter which may be the subject of action by either house.

- Any preparation or research specifically intended, at the time it is performed, for use in or in support of any ongoing or planned direct legislative lobbying activities.
- Conducting or attending a meeting, the purpose of which is to discuss direct legislative lobbying activities.

We discuss in further detail in the FAQ below how the two kinds of lobbying preparation activities play into the registration trigger.

- **Executive agency lobbying** is defined as any direct act or communication with an **executive branch official**, the purpose of which is to aid in influencing an **executive branch action**.

- **Executive branch official** is an elected official, an appointed official, or an employee in an executive branch agency.

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- **Executive branch agency** is the state, and any state office, department, board, commission, institution (or any quasi-public entity created in the executive branch of state government). It also includes any board or commission in which the governor appoints at least a majority of the members.
- **Executive branch action** is any act by an executive branch agency or official to effectuate the public powers, functions, and duties of the official or agency, including (but not limited to) any act in the nature of policymaking, rulemaking, adjudication, licensing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to formulate, adopt, amend, or repeal any rule; to adopt, repeal, increase, or decrease any fee imposed on the affairs, actions, or persons regulated by an executive branch agency; or to affect the passage, defeat, or implementation of any legislation
- **Local government lobbying** is any direct act or communication with a **local government official** for the purposes of influencing **local government action**.
- A **local government official** is an elected official, an appointed official, or an employee in a **local government agency**.
- A **local government agency** is any political subdivision, including any parish, municipality, school board, or special district, and any other unit of local government and any department, office, agency, board, commission, district, governing authority, committee, subcommittee, advisory board, task force, or other instrumentality of a political subdivision or other unit of local government.
- A **local government action** is any act by a **local government agency** or official to effectuate the public powers, functions, and duties of the official or agency, including (but not limited to) any act in the nature of policymaking, rulemaking, adjudication, licensing, regulation, or enforcement; relative to contracts, requests for proposals, development of specifications, or engaging another person to perform a governmental function; to adopt, repeal, increase, or decrease any fee imposed on the affairs, actions, or persons regulated by a local government agency; or to affect the passage, defeat, or implementation of any legislation.

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

Each of the three forms of lobbying in Louisiana (legislative, executive agency, and local government) has a different trigger for when a person is required to register.

The key element for all three types of lobbying is whether or not the lobbyist made any expenditures **for the benefit of relevant public officials** in the course of pursuing the lobbying activities (either directly or through being reimbursed by your organization). Legislative lobbying is the only kind of lobbying that has an additional trigger **not** based on making an expenditure for the benefit of a public official.

- **Legislative lobbying triggers:** Being paid to make direct contact with a legislative branch official for the purpose of influencing legislative action and either:
 - Spending 20% or more of their time pursuing activities that meet the definition **legislative** lobbying (which includes some kinds of preparation to lobby), or
 - Making a lobbying expenditure for the benefit of a legislative official

The 20% threshold:

Note that while some kinds of preparation to lobby are included in the 20% threshold, there are many other preparation activities that are not.

For example, all of your initial strategic planning to decide whether or not you want to run a lobbying program during the current legislative session, and what the focus of your program will be, should not count towards the 20% threshold. Wait time and travel time also do not count.

The 20% trigger only applies to legislative lobbying. Time spent on executive agency or local government lobbying (or preparation) will not count towards this trigger.

In addition, if a staff person does spend more than 20% of their time during a calendar year helping to prepare to lobby (as defined above), but does not actually have any direct communications with public officials, that person still does not need to register. No one who has not actually directly lobbied a public official is required to register.

Expenditures for the benefit of public officials: An **expenditure** is paying for the food, drink, or refreshment for a local government official (or their spouse or minor child) for the purpose of lobbying. Note that Louisiana does not permit public officials to accept any other kinds of expenditures, other than pursuant to certain technical exceptions. For more detail see the FAQ below “What is considered a reportable expenditure.”

- **Executive agency lobbying trigger:** You can lobby executive agency officials without registering as an executive agency lobbyist, so long as you do not make any expenditures for their benefit.
- **Local government official lobbying trigger:** You can lobby local officials about local government actions without registering, so long as you don’t make \$500 or more in expenditures in a calendar year for their benefit.

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 divided between 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 to track your portion of the available 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 the 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?

An individual must be making direct contact with a public official for the purpose of lobbying in order to be required to register. As discussed above, this means that your grassroots activities, and any time spent by staff persons who do not make direct communication with officials, will not count towards a registration trigger.

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?

It depends where in the process the ballot measure is.

In Louisiana, proposed amendments to the state constitution may be put before the voters after approval by a super-majority of both houses of the state legislature. If you are lobbying the legislature to refer (or decline to refer) a measure to the ballot, then the legislative lobbyist registration analysis discussed in this Guide applies.

Once a measure has been placed on the general ballot, advocacy for or against the measure is regulated under Louisiana’s campaign finance laws. Nonprofit organizations considering working on ballot measures in Louisiana that have reached the ballot should seek advice on how to comply with any applicable state or local campaign finance reporting requirements, including potential donor disclosure requirements.

Q: If we are required to register, how does the process work?

Under Louisiana law, only individuals are required to register. If any staffer for your organization triggers registration, they will have to register, but the organization itself does not.

There is a separate **\$110 fee** for registering for each kind of lobbying (legislative, executive agency, and local government).

Initial registration:

If your staffer needs to register, they would start by accessing the Louisiana Lobbyist Online System Registration portal via this web page:

<https://eap.ethics.la.gov/Lobbyist/Registration/NewRegistration.aspx>

They will need the following information/items to complete the online portion of their registration:

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- Lobbyist's business contact information
- Recent photograph of the lobbyist: The photograph must be in jpg format and should be square in shape as it will be displayed in a 200 x 200 format on the online lobbyist tracking system
- Branch information: The lobbyist will need to select whether they will be doing legislative, executive agency, or local government lobbying (each registration costs \$110)
 - Note that, as of the date of this publication, the description of the triggers for legislative lobbying and executive agency lobbying are (confusingly) accidentally reversed, but your staff should choose the branch based on the title of the section.
 - The date of the first act that requires registration should be the date your staff person went over the 20% legislative lobbying threshold (not the first direct lobbying act), or the date of the relevant expenditure.
- Employer information: For nonprofit staff, this will be the business contact information of your organization
- "Representative" information: This question refers to the organization that the lobbyist is representing. For nonprofit staff, the answer will also be your organization.
 - The question "Paid by Representation" is asking if the lobbyist is paid by the organization they are representing. For your paid staff, the answer would be yes.
 - The payment category question should be answered on a prorated basis for time spent actually lobbying, **not** for the staff member's entire annual compensation.
 - The lobbyist will also be asked to outline the general topics of anticipated lobbying.
 - The form also requires disclosure of any business relationships between the lobbyist or your organization and any public officials in the branch that the lobbyist is registering to lobby.

Renewal and termination of registration:

Once a staffer has registered as a lobbyist for one or more branches, all of their registrations will expire each year on December 31st. If the staffer will continue to engage in lobbying activity that requires registration, they will need to renew their registration by January 31st of the following year. Registration renewals should be submitted through the Louisiana Lobbyist Online System Registration portal between December 1st and January 31st of the new year, via this web site:

<https://eap.ethics.la.gov/Lobbyist/login.aspx>

If a registered staffer does not renew by this deadline, their registration will expire.

If the staffer stops engaging in lobbying activity that requires registration, and wishes to be relieved of the obligation to file monthly reports, they can terminate their registration before it expires at year end via the portal.

Required training:

The Louisiana Board of Ethics (the "Board") requires lobbyists to perform one hour of training for each branch they will lobby, to be completed by December 31 of the lobbying year for which they are registered. The trainings are free and can be accessed on the online lobbyist portal. For additional information on these training, you can call the Board at 225-219-5600.

Q: When are periodic lobbying reports due?

Each month a registered lobbyist must electronically file a lobby expenditure report, that covers all three kinds of lobbying. The reports are due on the 25th of the month following the reported expenditures. For example, a report on expenditures made in the month of January is due on February 25.

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Registered lobbyists must file reports every month, even if they made no expenditures or did no lobbying.

Monthly reports can be filed online at <https://eap.ethics.la.gov/Lobbyist/default.aspx>

Late filings can result in a fine not to exceed \$50 per day, up to a maximum of \$1,500 per report. However, a penalty of up to \$10,000 can potentially be levied if the filing is more than 11 days late.

Q: What information do the periodic lobbying reports include?

Reports include a list of the subject matters about which the person lobbied. They also include information about reportable expenditures made for the benefit of public officials (if any), including the total amount of expenditures for the month and for the year to date, the public officials (or officials' family members) on whom the lobbyist made expenditures, as well as the monthly and year-to-date aggregate expenditures on this person (or their family members).

Lobbyists are required to retain records that document all expenditure reports for at least three years.

Q: What is considered a reportable “expenditure”?

An “expenditure” is defined as the purchase of a good or service for the benefit of a person a lobbyist is trying to influence, but various ethics and gift ban restrictions severely limit the kinds of expenditures that are allowed.

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 has not 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.

In Louisiana the only things lobbyists can give to legislators are food or drink, when they are intended for consumption in the presence of the lobbyist. Each expenditure is limited to \$70. This limit changes annually as adjusted to the Consumer Price Index – for the most current limit see the annual Chapter 17 Rule promulgated by the Board, which can be found here: <https://ethics.la.gov/promulgation.aspx>

There are certain other technical exceptions related to meetings, conferences, and other events. If your organization is considering inviting public officials to speak at a conference or event, and possibly paying an honorarium or waiving registration fees, you should first consult with local counsel to ensure you are complying with Louisiana's very strict gift ban.

Louisiana does not consider your organization's costs to lobby to be a reportable expenditure. For example, your costs of doing research or other support activities do not count as reportable expenditures, nor do your office overhead or staff compensation costs. Any money spent by the lobbyist on the lobbyist themselves or their staff, including food, drink, and travel, is also not a reportable lobbying expenditure in Louisiana.

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?

Lobbyists are not required to wear badges for identification in Louisiana, but it is a best practice to identify oneself as a lobbyist before engaging in lobbying. Registered legislative lobbyists can obtain an ID badge (but are not required to) that enables them to enter the legislative building through an expedited process. More information about the ID badge may be found here:

FAQS

https://house.louisiana.gov/H_Staff/ASPNETFORM/PDF/22%20Lobby%20Web%20Letter.pdf

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

Legislative lobbyists may not hold fundraising events for legislators, even in their personal capacity, during a regular legislative session (currently mid-March through early June) without a prior 30-day notice to the Board. Note that, in general, Louisiana legislators are restricted in their ability to accept contributions from anyone during the session.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 101 currently pending in the Louisiana 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 Bill 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 Louisiana House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of New Orleans about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>As described, the student engagement activities are grassroots legislative lobbying activities that are not regulated as lobbying in Louisiana and will not trigger legislative lobbying registration or reporting.</p>
 <p>Lobby Day</p>	<p>The Lobby Day activities are direct communications with legislators, whether done in person or via Zoom. Students Vote Now can use paid staff without any staff triggering registration as long as no individual spends more than 20% of their time on legislative lobbying in a year and makes no reportable expenditures (buying food or drink for legislators).</p> <p>Activity by volunteers does not trigger registration.</p> <p>Given Louisiana's strict gift ban, Students Vote Now should give legislators information about the organization rather than swag.</p>
 <p>Committee Testimony</p>	<p>Appearing before a public hearing of a committee of the State Legislature is lobbying, but does not trigger registration unless the testifying individual spends 20% or more of their time lobbying the legislative branch during the year (including their other legislative lobbying activities) or makes a reportable expenditure for the benefit of a legislative branch official. Volunteers would also not trigger registration by testifying.</p>
 <p>Mayor</p>	<p>The Mayor of New Orleans is a local government official for the purposes of the state lobby disclosure statute. Students Vote Now employees who engage with the Mayor will not need to register, unless they make aggregate expenditures for the benefit of local government officials of over \$500 in a calendar year.</p> <p>Students Vote Now should, in any case, refrain from giving the Mayor any swag gifts and instead opt for giving information about the organization, to avoid any potential gift ban or ethics rules violations.</p>
<p>Bottom Line</p>	<p>Students Vote Now should be able to pursue all of its lobbying program activities without any staffer needed to register, so long as it refrains from making any expenditures for the benefit of public officials, and tracks its staff time to make sure that no one staffer spends 20% or more of their time during the year on direct legislative lobbying.</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 emailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

BOLDER ADVOCACY'S STATE LAW RESOURCES:

- See also Bolder Advocacy's Louisiana Lobbying Disclosure Guide. <https://bolderadvocacy.org/resource/advocacy-for-louisiana-nonprofits/>

LOUISIANA STATE RESOURCES:

- **Louisiana Board of Ethics (the "Board")**
The Board is the agency responsible for administering the legislative lobbyist registration and reporting system in Louisiana. Their website is located at: <https://ethics.la.gov/LobbyingHome.aspx>
- **Full Text of Louisiana Lobbying Statutes**
The full text of the Louisiana legislative lobbying statute can be found at: <https://ethics.la.gov/Pub/Laws/Title24LegislativeLobbying.pdf?20210420>
The full text of the Louisiana executive branch lobbying statute can be found at: <https://ethics.la.gov/Pub/Laws/Title49ExecutiveLobbying.pdf?20210420>
The full text of the Louisiana local government lobbying statute can be found at: <https://ethics.la.gov/Pub/Laws/Title33LocalLobbying.pdf?20210420>
- **Board 2016 Lobby Presentation**
The Board has a helpful presentation that gives an overview of the lobby process. It was created in 2016 and is the Board's most recently published version of the presentation. It can be found here: <http://ethics.la.gov/pub/lobbying/2016LobbyistPresentation.pdf>
- **Additional Questions**
The Board invites individual consultations, complaints, advisory opinion requests, and questions about lobbyist registration and reporting. You can contact them by calling 225-219-5600, or via their online question form at: <https://ethics.la.gov/ContactUs.aspx>

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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