

Advocacy for Louisiana Nonprofits

As a nonprofit organization, it is not only permissible to advocate for your organization's goals and objectives at the federal, state, and local levels, it is encouraged. However, before you enter into advocacy activities (sometimes called lobbying) in Louisiana, you need to know what qualifies as lobbying and what rules you need to follow in order to interact with policymakers. If your organization spends money on food, drinks or gifts for statewide elected and certain appointed officials to further your advocacy activities, you may need to register and report your lobbying activities to state officials.

First, let's start with the test that the IRS uses for how much and what is considered lobbying.

DIRECT LOBBYING

- Communication is one made to either a legislator, an employee of a legislative body, or any other government employee who may participate the formulation of the legislation.
- It must refer to a specific piece of legislation and express a view on it.

GRASSROOTS LOBBYING

- Communication is an attempt to influence specific legislation by encouraging the public, **other than the organization's members**, to contact legislators about that legislation.
- It must refer to specific legislation, reflect a view on it, and encourage the recipient to take lobbying action on it.

Under IRS Rules, 501(c)(3) public charities are limited on how much lobbying they can do. If you have made the 501(h) election, **the organization's overall lobbying** is limited to 20% of the first \$500,000 of exempt purpose expenditures, plus 15% of the next \$500,000 of exempt purpose expenditures, plus 10% of the next \$500,000 of exempt purpose expenditures, plus 5% of the remaining exempt purpose expenditures up to a total cap of \$1 million. For most 501(c)(3) organizations in Louisiana, 20% is your cap if you have made the 501(h) election. For more information on making the 501(h) election, [read here](#).

Grassroots lobbying is limited to 25% of the organization's total lobbying limit using percentage guides above. For instance, if your exempt expenditures are \$500,000, your overall lobbying is limited to \$100,000. Your grassroots lobbying would then be limited to 25% of that \$100,000, or \$25,000. That means that if you spent \$25,000 on grassroots lobbying, then you could only spend \$75,000 on direct lobbying to stay under the permissible cap. Pay attention to the words that are used above: grassroots lobbying to "other than the organization's members." If you are communicating to **your membership** about specific legislation, it is generally not considered grassroots lobbying.

The IRS rule on membership communications provides that a communication to members that expresses a view on specific legislation but does not directly encourage members to engage in direct or grassroots lobbying is not lobbying at all. However, a communication to members that expresses a view on specific legislation and asks members to contact their lawmakers is counted as direct lobbying. For more information and examples, see [Being a Player](#), page 16.

If you have not made the 501(h) election, then you fall under the insubstantial part test, which means, “no substantial part of a charity’s activities... may be carrying on propaganda or otherwise attempting to influence legislation.” The term “no substantial part” is not clearly defined in IRS policy so organizations must determine whether or not their lobbying activities are a permissible portion of their activities.

Your organization and leadership should consult with your CPA and legal counsel to decide which path forward is best for your organization. Many organizations find that the 501(h) election is the easiest way to have a bright-line limit on how much of your organization can spend and maintain your 501(c)(3) status. Your organization may also find it helpful to call Bolder Advocacy’s free technical assistance hotline for help at 866-NP-LOBBY.

Just as important as what is considering lobbying under the IRS is what is NOT considered lobbying. The following are exceptions to the IRS direct lobbying rules and can help maximize your advocacy without counting against your lobbying limit:

1. Nonpartisan analysis, study or research that presents all sides of an issue and is broadly disseminated
2. Responses to written requests for assistance from committees or other legislative bodies
3. Challenges to or support for legislative proposals that would change the organization’s rights or its right to exist
4. Examinations and discussions of broad social, economic, and similar problems

For a more in-depth description of each exception, see [Being a Player](#), pp. 13-15.

If your messaging to legislators is general like: “support more funding for early education” or “let’s make Louisiana families strong” and you provide legislators with nonpartisan reports that shows possible outcomes of such spending with policy recommendations, then the preparation of those materials is not considering lobbying and do not count against any limits your organization may have under the insubstantial test or the 501(h) limits. However, you may need to count the communication with the legislator(s) as direct lobbying for IRS purposes.

It is also important to note that IRS lobbying limitations usually apply only to the legislative branch of government, meaning the Louisiana Legislature or U.S. Congress. If you want to disseminate information about the policy actions of a board, like the Louisiana Board of Elementary and Secondary Education (BESE), the IRS considers that board to be administrative and activities around policy under consideration by such a board does not fall under direct or grassroots lobbying. The same rules would apply to a local school board, local municipal councils, and local police juries. They are considered administrative and not legislative bodies.

The IRS Limits vs. Louisiana Rules

The IRS rules determine how much a nonprofit can lobby. Louisiana law provides a different set of rules that require different compliance activities in addition to the IRS rules. Louisiana law has rules that determine whether or not something is considered lobbying and will need to be accounted for and/or reported to the Louisiana Board of Ethics. In other words, Louisiana law sets the standard for registration and reporting as a state lobbyist.

There are two main sections of law that deal with Legislative and Executive Branch lobbying in Louisiana. The first is LA R.S. 24:50 – 24:58.1, which covers lobbying the legislative branch; the second is LA R.S. 49:71 – 49:78.1, which covers lobbying the executive branch.

Legislative Branch Lobbying

Under Louisiana law, lobbying the legislature means any of the following (LA R.S. 24:51(4)):

- Any direct act or communication with a legislator (or their staff), the purpose of which is to aid in influencing the passage or defeat of any legislation.
- Any preparation or research specifically intended, at the time it is performed, for use in or in support of any ongoing or planned direct act or communication with a legislator, the purpose of which is to aid in influencing the passage or defeat of any legislation.
- Conducting or attending a meeting the purpose of which is to discuss direct communication with a legislator to aid in influencing the passage or defeat of any legislation.

Furthermore, Louisiana law (LA R.S. 25:51(5)) defines a lobbyist as:

(5)(a) “Lobbyist” means either of the following:

- (i) Any person who is employed or engaged for compensation to act in a representative capacity for the purpose of lobbying if lobbying constitutes one of the principal duties of such employment or engagement (approximately more than 20% of your time)
 - (ii) Any person who acts in a representative capacity and makes an expenditure (food or drink of no more than \$65 intended to be consumed in presence of the lobbyist)
- (b) However, “lobbyist” shall not mean any person who does not make any direct act or have any direct communication with a legislator for the purpose of influencing the passage or defeat of any legislation.

These two statutes covering “lobbying” versus “lobbyist” can be confusing. While the activity of preparing a report to engage a legislator on the defeat or passage of a particular piece of legislation is considered lobbying under Louisiana law, only the person who makes a direct contact with a legislator and who is paid to do so by an organization is considered a legislative lobbyist. Only the lobbyist must register and report expenditures in Louisiana; the person who assists the lobbyist, while not making direct contract, does not. It is

important to keep track of all of your organization's efforts to conduct lobbying so that you can adequately report them to the IRS, funders, your board, and any other entities who are interested in your organization's activities.

EXAMPLE

For instance, your organization puts together a one-page information sheet about a specific piece of legislation designed to sway legislators to vote one way or another on that specific bill. A staffer named John in your office prepares the one pager because he is graphically savvy and has them printed at a nearby copy place. The organization's expenditure on John's time must be tracked as well as the amount to make the copies because it counts against your IRS expenditure limit. However, in Louisiana, John does NOT have to register as a lobbyist unless lobbying constitutes a principal part of his job and he is paid by the organization to do so. The amount your organization spent on preparing the one-pager is also not considered an expenditure for Louisiana ethics reporting purposes.

The act of preparing the materials is considered "lobbying" for state purposes. However the nonprofit is not required to report to the state on the cost to prepare the materials, because the cost to prepare the materials is not considered an "expenditure" (defined generally as money spent on food and drinks for legislators that is intended to be consumed in front of the lobbyist). The statute is set up this way to prevent state employees from "lobbying" or trying to influence legislation with state dollars.

Note A volunteer lobbyist who represents a nonprofit will generally not have to register with the state as a lobbyist. However, the volunteer lobbyist will need to register in the following two situations: if the nonprofit reimburses the volunteer lobbyist for out-of-pocket expenses and the volunteer lobbyist spends more than 20% of their time in a given year lobbying; or if the volunteer lobbyist makes a lobbying "expenditure." LA R.S. §51(2); LA R.S. §51(4)(a), (b).

LOBBYING REGISTRATION

Only lobbyists must register and report with the Louisiana Board of Ethics. Lobbyist entities (the nonprofits that hire or designate a lobbyist) are not required to register and report in Louisiana.

Lobbyists must register electronically as soon as possible after employment as a lobbyist or after the first action requiring registration as a lobbyist, whichever occurs first. However, the deadline to register as a lobbyist is no later than 5 days after employment, or not later than 5 days after the first action requiring registration as a lobbyist, whichever occurs first. LA R.S. § 24:53(A). Each lobbyist pays \$110 for each registration and for each renewal filed. There are no additional fees paid for filing supplemental registration forms. LA R.S. § 24:53(I).

Lobbyists must file reports monthly, by the twenty-fifth day of the following month. LA R.S. § 24:55(B). Some information a lobbyist must report include: the subject matter lobbied,

total expenditures made, aggregate total of expenditures attributable to an individual lobbying target, or to a spouse or minor child of a legislator. LA R.S. § 24:53(A)(4). Each report shall also include a statement of the expenditure for each social gathering to which the entire legislature (either house) is invited to. LA R.S. § 24:55(E). Note that a lobbyist must retain records made pursuant to expenditure reports for no less than three years.

Lastly, any expenditures by a lobbyist principal (the one the lobbyist is representing) or employer made in the presence of a lobbyist shall be reported by the lobbyist, and any lobbyist principal who makes direct expenditures that are required to be reported shall timely notify its lobbyist about such expenditures for necessary compliance. Such information shall be furnished to the lobbyist no later than 2 business days after the close of the reporting period (LA R.S. §24:55(F)(2), (3)).

LOUISIANA EXPENDITURES

Under Louisiana law, LA R.S. 24:51(2), an “Expenditure” means the gift or payment of money or anything of value for the purchase of food, drink, or refreshment for a legislator, for the spouse or minor child of a legislator, or for a public servant, other than a legislator, in the legislative branch of state government and any gift or payment as permitted by R.S. 42:1123(13) and (16) for the purpose of lobbying when the lobbyist or principal accounts, or would be expected to account, for the expenditure as an ordinary and necessary expense directly related to the active conduct of the lobbyist’s, his employer’s, or the principal’s trade or business.”

In other words, an expenditure is purchasing food or drink for a legislator, since those are pretty much the only expenditures allowed to be made by lobbyists in Louisiana.

The old days of tickets to sporting events and other “perks” for legislators paid for by outside sources are over. The only things lobbyists can give to legislators are food or drink that must be intended for consumption in the presence of the giver. There are a few exceptions for awards and invitations for legislators to attend conferences.

Louisiana law does not consider money spent on creating information sheets or giving small tokens to legislators that bear the organization’s logo or information (such as a pen or a lapel pin) as expenditures.

See LA R.S. 42:1115; LA R.S. 42:1115.1 (the per event/per person cap); LA R.S. 42:1123 (exceptions). As of July 1, 2018, the per event/per person limit is \$65, but it is subject to change by the Louisiana Board of Ethics in accordance with changes in the Consumer Price Index.

Expenditures are the most common activity by organizations that must be tracked and reported to the Louisiana Board of Ethics for the purposes of lobbying.

EXAMPLE

For instance, your organization plans a day at the Capitol during the legislative session where you promote the work of your organization. You may find a sponsor who can cover the cost of a lunch or special reception at the Capitol, and you want to make that a part of your legislative day. From the IRS standpoint, this expenditure does not count toward your lobbying unless you are specifically naming a piece of legislation and expressing a view about the bill in front of legislators. However, Louisiana law considers all such events to be expenditures and they will have to be reported, either by the person who makes the expenditure or by the person in the organization whose job responsibilities include lobbying as their primary duties. Not only will the person making the expenditure have to register as a lobbyist, they will have to file monthly reports for the year in which they register as a lobbyist or until they unregister with the Board of Ethics. If your organization does not want to pay for an individual to register as a lobbyist, your organization may want to partner with one that already has a registered lobbyist and who can make the expenditure for the group.

It is important to note that whether your nonprofit makes an expenditure or not, if a substantial portion of your work is being paid to speak to legislators on behalf of your organization, you must register as a legislative lobbyist with the Louisiana Board of Ethics.

Just remember that once you register as a legislative lobbyist, you must file monthly reports with the Louisiana Board of Ethics. **Expenditure reports are due every month** by the 25th and encompass the previous month's expenditures (LA R.S. 24:55(B), LA R.S. 49:76(B), and LA R.S. 33:9666(B)). In certain months, the 25th falls on a weekend or holiday, and therefore the report is due on the next state business day.

These reports are required whether you make an expenditure or not. Failure to file a report results in a \$50 per day fine from the Ethics Board (LA R.S. 42:1157).

You cannot file the report prior to the end of the reporting month. For example: you hold your day at the Capitol on May 5 and it is the only expenditure you plan to make that month. You try to file your report on May 15 so that you do not forget to report the expenditure. However, the system will not allow you to submit that report until May is over. You must wait to submit your report until June 1. The good news is that filing the reports is quick and easy online, especially if you have not made any expenditures. The online reporting system will take you through a series of prompts before you click submit.

Executive Branch Lobbying

Louisiana law considers executive branch lobbying to be "any direct act or communication with an executive branch official, the purpose of which is to aid in influencing an executive branch action." (LA R.S. 49:71(6). "Executive branch officials" consist of the Governor, members of the Governor's staff, agency heads (see below), and legal counsel for state

PRO-TIP: If you plan on spending any significant time at the Louisiana State Capitol during session, registering as a lobbyist has one considerable perk. You can obtain a Lobbyist Badge that allows you to bypass security. This perk may seem small, but in the spring when hundreds of school-aged children make their annual trips to the capitol, you must wait in line behind those children to go through security if you do not have a badge. The legislative lobbyist registration is only \$110 and the corresponding badge fee from the House of Representatives is only \$10, so many advocates consider it a smart investment.

agencies. However, the state does not require you to register as a lobbyist for the Executive Branch unless you make an expenditure. LA R.S. 49:71(7) says a “lobbyist” means any person who acts in a representative capacity **and** makes an expenditure.

How does this work? Your organization might ask you to meet regularly with Executive Branch officials (members of the Governor’s staff, agency heads, legal counsel for state agencies) to discuss policy. The act of meeting with the executive branch staffer to discuss their support for a particular policy is considered executive branch lobbying under the law. However, you **only** need register as a lobbyist and submit a report if you make an expenditure. In other words, if you take an executive branch member out to lunch and you pay for the lunch, you must register as an Executive Branch Lobbyist AND report the expenditure. Generally, the executive branch meal expenditure is limited to the per person/ per event cap listed above. An exception to the expenditure cap is if the expenditure is made in conjunction with a meeting related to national or regional organization or a meeting of a statewide organization of governmental officials or employees where at least 10 persons are invited. Even if an expenditure is not subject to the cap, it must still be reported.

Organizations Under Executive Branch Lobbying Rules		
<ul style="list-style-type: none"> Louisiana Department of Economic Development 	<ul style="list-style-type: none"> Louisiana Department of Culture, Recreation & Tourism 	<ul style="list-style-type: none"> Louisiana Department of Environmental Quality
<ul style="list-style-type: none"> Louisiana Department of Health 	<ul style="list-style-type: none"> Louisiana Workforce Commission 	<ul style="list-style-type: none"> Louisiana Department of Natural Resources
<ul style="list-style-type: none"> Louisiana Department of Public Safety and Corrections 	<ul style="list-style-type: none"> Louisiana Department of Revenue 	<ul style="list-style-type: none"> Louisiana Department of Children and Family Services
<ul style="list-style-type: none"> Louisiana Department of Transportation and Development 	<ul style="list-style-type: none"> Louisiana Department of Wildlife and Fisheries 	<ul style="list-style-type: none"> Louisiana Department of Veterans Affairs
<ul style="list-style-type: none"> Louisiana Public Service Commission 	<ul style="list-style-type: none"> Louisiana Board of Elementary and Secondary Education (BESE) 	<ul style="list-style-type: none"> Louisiana Civil Service Director

<ul style="list-style-type: none"> • Louisiana Department of Education 	<ul style="list-style-type: none"> • Louisiana Board of Regents 	<ul style="list-style-type: none"> • Public Post-Secondary Institutions
<ul style="list-style-type: none"> • Louisiana Division of Administration 	<ul style="list-style-type: none"> • Louisiana Board of Ethics 	

Executive Branch Lobbyist registration and reporting happens separately from legislative branch activities. It is an additional \$110 to register as an Executive Branch Lobbyist and the same monthly reporting requirements apply. If you register for both branches through the Board of Ethics, their online reporting system will automatically show you both reporting options as part of your monthly reporting. Many advocates find it easier to register as an Executive Branch Lobbyist in case they do have the occasion to make expenditures during the year. Many advocates register as both Legislative and Executive Branch lobbyists.

Don't Be Afraid

As a nonprofit organization, it is essential that you engage in the policymaking process. The proposals that policymakers consider can not only impact your organization's work, they can impact the environment in which you serve your members and, ultimately, the public as a whole. Policymakers need to hear your stories and understand your work as it can influence their decisions that they make. Do not be afraid to reach out to the Louisiana Board of Ethics if you have questions about Louisiana reporting requirements. As a registered lobbyist, you are required to complete one hour of ethics training each year. There is also a lobbying presentation available [here on the Louisiana Ethics Website](#).

Additional Resources and Information

Bolder Advocacy: <https://bolderadvocacy.org/resource-library/>

Louisiana Board of Ethics Lobbying Law: <http://ethics.la.gov/EthicsPublicationSearch.aspx?portal=LobbyLaws>

LA R.S. 24:50	LA R.S. 49:71	LA R.S. 33:9666
LA R.S. 24:51	LA R.S. 49:72	LA R.S. 42:1115
LA R.S. 24:52	LA R.S. 49:73	LA R.S. 42:1115.1
LA R.S. 24:53	LA R.S. 49:74	LA R.S. 42:1123
LA R.S. 24:54	LA R.S. 49:75	LA R.S. 42:1157
LA R.S. 24:55	LA R.S. 49:76	
LA R.S. 24:56	LA R.S. 49:77	
LA R.S. 24:56.1	LA R.S. 49:78	
LA R.S. 24:57	LA R.S. 49:78.1	
LA R.S. 24:58		
LA R.S. 24:58.1		

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