

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

GEORGIA

New in This Update:

This Practical Guidance resource updates the 11.04.21 version. Updates include:

- A new FAQ describing how to use this resource
- A new FAQ comparing federal and state lobbying rules

Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes Both Direct and Grassroots	Individual compensated more than \$250 per year specifically to do lobbying-related work; or more than \$1,000 in a calendar year in lobbying expenditures aimed at legislators or their staff.
State Executive Branch Officials	Yes Both Direct and Grassroots	Individual compensated any amount specifically to do lobbying-related work.
Local Legislators or Local Executive Branch Officials	Yes Both Direct and Grassroots	Individual compensated any amount specifically to do lobbying-related work; or more than \$1,000 in a calendar year in lobbying expenditures aimed at local elected county or municipal officials, or local elected members of any board of education.

Georgia lobbying rules also separately cover lobbying of public officials to win government vendor contracts, and lobbying of the State Transportation Board. These topics are not covered in this Guide and nonprofits doing these types of lobbying should seek separate advice.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN GEORGIA:

- Lobbying thresholds are low and include grassroots lobbying:** Most nonprofit advocacy organizations using paid staff to do any type of direct or grassroots lobbying activities at the state or local level in Georgia will trigger a state lobbyist registration requirement, since thresholds are so low. You should carefully consider which individual staff members may need to register, and what expenditures, if any, will need to be reported. Unpaid volunteers do not need to register or report, even if they are participating in lobbying activities with your nonprofit.
- Most organizational expenditures will not need to be reported:** Because of the way reportable lobbying expenditures are defined in Georgia, small advocacy organizations will often have no such expenditures to report, but must still submit all reports for each reporting period, even when no lobbying activities have taken place in the period.
- Reporting deadlines vary and late filing fees can be huge:** Late filing fees in Georgia can cumulatively amount to \$11,275 per person per report! Separate reports need to be filed with the state for each lobbyist doing each type of lobbying (legislative, executive branch, and local lobbying) and the reporting deadlines for each type of lobbying are different. Nonprofits should carefully determine which staff members need to register for which type of lobbying activities, and make sure that strong operational systems are in place to ensure all the various reports get filed on time.

This resource is current as of May 2022. 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.com 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 the details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying activities. 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 and on the Additional Resources page of this Guide.

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 our free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in our resource library at <https://bolderadvocacy.org/>

Q: What activities count as lobbying?

Lobbying is defined as undertaking to promote or oppose (i) state legislation, (ii) rules or regulations of a state agency, or (iii) ordinances or resolutions at the county or municipal level, if such activities are being done by an individual who has met the lobbyist registration threshold, which will usually occur if the individual is being paid to do these activities, since the thresholds are so low.

Both direct communication (direct lobbying) and grassroots lobbying (indirect lobbying calling on members of the public to take action) are regulated, and there does not need to be direct communication with a legislator, or with a public officer in the state or local executive branch, for an activity to count as lobbying.

Generally, only the work directly doing or creating the lobbying communication will count as lobbying. For example, the state has deemed that an employee who creates grassroots lobbying communications pieces advocating for or against legislation (for example, creating such social media postings) is lobbying, but an employee that stuffs envelopes with flyers supporting or opposing legislation is not.

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

The requirement to register as a lobbyist with the state is generally triggered by an individual being paid to do lobbying related work (for state executive branch or local lobbying **any** amount of compensation to do lobbying, and for legislative lobbying at least \$250 in the calendar year for the lobbying work).

Lobbyist registration can also be triggered if an individual (paid or unpaid) makes more than \$1,000 worth of lobbying expenditures on a legislative branch public officer or certain local public officers or their staffs.

The definition of “**public officer**” includes:

- Every constitutional officer – i.e., the sheriff, probate judge, superior court clerk and tax commissioner in each county

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- Every elected state official
- The executive head of every state department or agency whether elected or appointed
- Each member of the General Assembly (House and Senate)
- The executive director of each state board, commission, council or authority and the members thereof
- Every county official and every elected member of a local board of education
- Every elected municipal officer

The definition of reportable lobbying expenditures is outlined in more detail below, but in general includes gifts, food and drink, and travel reimbursements given to public officers, as opposed to any internal expenses of the organization such as staff compensation or costs of grassroots lobbying mailings.

Q: Are there exceptions to what counts as lobbying?

Yes! The exceptions most likely to be relevant to nonprofits are:

- Individuals expressing their own personal views
- Giving invited testimony or furnishing information to a legislative or agency body
- Lobbying activities done by unpaid volunteers

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 our resource <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 our <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

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to register under the LDA. The thresholds are designed to require only those organizations with sustained 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?

Supporting or opposing a Georgia ballot measure is not regulated as a lobbying activity under Georgia law (even though the IRS does count it as a lobbying activity). Instead, Georgia regulates activity to support or oppose a ballot measure under the state's campaign finance laws. Nonprofit organizations considering working on ballot measures in Georgia (either working to get a measure on the ballot or supporting or opposing an existing measure) should seek advice on how to comply with any applicable state or local campaign finance reporting requirements.

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

Only the individual lobbyists need to register, but the nonprofit will need to authorize each lobbyist registration form. Lobbyists must register **prior** to participating in the lobbying activity. Each lobbyist must renew their registration every year if they are going to lobby again in the next calendar year.

Note that lobbyist information is made available to the public online so organizational contact information should be provided when registering as opposed to personal.

Lobbyists register with the state Government Transparency and Campaign Finance Commission (also often referred to as “the Commission,” or by its old name the “Ethics Commission”) by e-mailing a New Lobbyist Registration Form available at http://ethics.ga.gov/wp-content/uploads/2018/05/LobbyReg-2018_writable.pdf to the Commission at GAethics@ethics.ga.gov.

The form must be notarized, signed by the nonprofit entity authorizing the individual to lobby on its behalf, and the appropriate boxes must be checked for the type or types of lobbying contemplated. Individuals must also affirm that they have not been convicted of a crime of moral turpitude and have agreed to abide by the Georgia General Assembly Sexual Harassment Policy.

You should have your staff members check the boxes for only the type or types of lobbying that you have active plans to do, since each different type of lobbying entails additional reporting requirements, on different schedules, and risks additional fines if a deadline is inadvertently missed. Once registered, the reporting requirements apply for the remainder of the calendar year, even if your nonprofit never actually does any lobbying work of a certain type. Lobbyists can terminate their registration but must be in good standing to do so.

There is no fee to register, but once the registration has been accepted there is a \$20 lobbyist badge fee that must be paid for the lobbyist registration to be deemed complete. Once badge payment is received the lobbyist may set up an appointment to come to the Commission's office and have their photo taken and badge issued.

Lobbyists should also use the PIN Application for E-Filing Form (http://ethics.ga.gov/wp-content/uploads/2017/09/Current_CFC-PIN-APP.pdf) to apply for a PIN in order to e-file lobbyists reports. This form also requires notarization.

Q: When are periodic lobbying reports due?

The required reporting schedules vary depending on what type of lobbying each lobbyist declared when they registered (even if such lobbying never takes place):

- Legislative lobbying when legislature is in session: Twice monthly by the 1st and 15th
- Legislative lobbying rest of year: Monthly by the 5th

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- State executive branch/agency lobbying: Monthly by the 5th
- Local legislative or local executive/agency branch lobbying: By May 5th, September 5th, and January 5th

Note that lobbying disclosure reports are due all year, even when the legislature is not in session, and even in periods when no lobbying activities took place. Nonprofits doing lobbying work of more than one type (legislative, executive branch, or local) will need to make sure that each staff member registered is filing all separately required reports for each lobbying type.

Fees for filing disclosure reports late start at \$275 per person per report and go up to \$11,275 cumulative per person per report (!) after only 21 days when the legislature is in session (45 days when it is not. Strong operational systems should be put in place to ensure all required reports are being submitted on time.

Q: What information do the periodic lobbying reports include?

In general, the periodic reports are designed to disclose certain lobbying expenditures made directly on legislators or other public officers or their staff. Disclosure includes details of the expenditures, as well as the name of the public officers they were made on, and the bill, ordinance, or regulation that was being lobbied for or against.

Q: What is considered a reportable “expenditure”?

Only spending of the following types are reportable lobbying expenditures: (i) reimbursement of expenses for lodging, food and beverage, travel, conference, or other registration fees related to official duties, made to any public officer or their staff or (ii) food, beverage, and registration fees at events where the event is open to the legislative or agency body (such as a cocktail hour after a meeting).

Internal expenses related to your nonprofit’s lobbying (for example staff compensation, staff travel costs, direct mail costs or advertising expenses) are not lobbying expenditures that are reportable to the state. Many small advocacy nonprofits that do not spend money hosting events or taking legislators or public officials out for lunch or drinks will have no lobbying expenditures, but it is important to remember that each lobbyist must still submit “zero expenditure” reports, even when no reportable lobbying activities have taken place in the period.

Gift ban: It is also important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local “gift ban” laws, and such rules often apply even if your nonprofit has not reached the threshold required for lobbyist registration. 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.

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?

Lobbyist badges must be worn when meeting legislators or other public officers at the state capitol building, any legislative office buildings, and any other state government facilities.

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

Yes. Contingent fees for lobbying are prohibited.

Lobbyists are also not eligible for executive appointment to any board, authority, commission, or bureau which regulates the activities of an organization the lobbyist represented until one year after the expiration of the lobbyist’s registration for that organization.

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 Georgia 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 knock on legislators' doors there, 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 state House regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Atlanta about a similar local ordinance there.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying activities are regulated in Georgia. If Students Vote Now pays any member of its staff more than \$250 in staff time in the calendar year (as a prorated portion of their salary) specifically to undertake this legislative lobbying work, then yes, these activities will trigger a state legislative lobbying registration requirement.</p>
 <p>Lobby Day</p>	<p>If Students Vote Now staff leading the event are paid more than \$250 for their specific time on this activity it will also trigger a state legislative lobbying registration requirement.</p> <p>As described, none of the organizational expenses relating to the event will be reportable lobbying expenditures, so the reporting forms should be easy to complete, but Students Vote Now should check carefully whether giving the contemplated swag items to the legislators is permissible under the state's gift ban or consider giving literature only.</p>
 <p>Committee Testimony</p>	<p>Using paid staff for this testimony would likely trigger the state legislative lobbying registration requirement, but this activity on its own will not trigger registration if the testimony is invited, or if the individual testifying is unpaid (for example, a Board member or a student constituent).</p>
 <p>Mayor</p>	<p>Georgia's state lobbying statute applies to lobbying of city level elected officials, so if a paid Students Vote Now staff member is speaking with the Mayor of Atlanta about a local ordinance this activity will trigger a local level lobbyist registration requirement with the state.</p>
<p>Bottom Line</p>	<p>The proposed Students Vote Now activities as described are likely to require at least one staff member to register as both a legislative lobbyist and a local lobbyist. None of the activities require state agency lobbyist registration, so staff should refrain from checking that box on the registration form to avoid non-relevant reporting requirements.</p> <p>As described, Students Vote Now's periodic reporting will likely not include any reportable expenditures, but they will need put strong operational systems in place so that all reports get filed on time even when no lobbying work is being done to ensure no late fees are incurred.</p> <p>Students Vote Now should either refrain from giving any swag to the state legislators or the Mayor or inquire further as to how any such proposed gifts might be viewed under the state and local gift ban rules.</p>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL HOTLINE:

Bolder Advocacy's free Technical Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact our team of experts by emailing us at advocacy@afj.org, or calling us during standard business hours at 866-NP-LOBBY (866-675-6229).

BOLDER ADVOCACY'S MORE DETAILED STATE LAW RESOURCES:

- See our *Georgia Lobbying Disclosure Guide* for more details on the actual text of the Georgia lobbying statute, and related advisory opinions. <https://bolderadvocacy.org/resource/georgia-lobbying-disclosure/>
- Our *Lobbying or Not?* One pager gives some additional examples on what is and is not considered lobbying activity in Georgia. <https://bolderadvocacy.org/resource/georgia-lobbying-or-not/>
- Also see our *Georgia Campaign Finance and Ballot Measure Guide* for rules related to state ballot measure advocacy, which Georgia regulates as a campaign finance activity, unlike the IRS which regulates such activities as direct legislative lobbying. <https://bolderadvocacy.org/resource/georgia-campaign-finance-and-ballot-measure-guide/>

GEORGIA STATE RESOURCES:

- **Georgia Government Transparency and Campaign Finance Commission**
The agency responsible for administering the lobbyist registration and reporting system in Georgia is the Georgia Government Transparency and Campaign Finance Commission (in past called the "Ethics Commission"). Their website can be reached at: www.ethics.ga.gov
- **Full Text of Georgia Lobbying Statute**
The full text of the Georgia state lobbying statute can be viewed in this convenient pdf that also contains other Georgia campaign finance and ethics related statutes (the lobbying section starts on page 32): <http://ethics.ga.gov/wp-content/uploads/2018/11/2018-Act-CFA.pdf>
- **Georgia Lobbying 101 Slide Deck and Trainings**
The Commission also puts out this Lobbying 101 slide deck: <http://ethics.ga.gov/wp-content/uploads/2018/02/Lobbying-101.pdf> and plans to make additional online training materials available here: <https://ethics.ga.gov/CFCUniversity/cfculobbyist/>
- **Additional Questions**
Technical questions about lobbyist registration and reporting can also be directed to Lobbyist Specialist Nancy Sandberg at nsandberg@ethics.ga.gov

BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review our federal law resources to ensure all IRS compliance obligations are being met. See our *Being a Player: A Guide to the IRS Lobbying Regulations for Advocacy Charities*. <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



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