PRACTICAL GUIDANCE
What Nonprofits Need to Know About Lobbying in KENTUCKY

New in This Update:
This Practical Guidance resource updates the 12.14.21 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 Kentucky 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 Kentucky?

<table>
<thead>
<tr>
<th>DIRECT LOBBYING OF:</th>
<th>CAN THIS TRIGGER?</th>
<th>TRIGGER</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Legislators</td>
<td>Yes</td>
<td>Being compensated (any amount) to lobby for or against legislative decisions through direct communication with a state legislator, the Governor, or certain other high level state officials or their staff.</td>
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<tr>
<td>State Executive Branch Officials</td>
<td>Yes</td>
<td>Being compensated (any amount) to lobby for or against an executive agency decision on a substantial issue as one of the job’s main purposes (generally interpreted as at least two contacts with the same decision making executive branch public official in a calendar year about matters involving state funds over $5,000).</td>
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<tr>
<td>Local Legislators or Local Executive Branch Officials</td>
<td>Maybe</td>
<td>The Kentucky state lobbying statute does not regulate lobbying at the local level, but Louisville has been considering their own lobbyist registration ordinance, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.</td>
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Grassroots Lobbying: Grassroots lobbying (calling on members of the public to take action on their own to contact public officials) is not regulated at the state level in Kentucky. However, if your work requires registration of a legislative lobbyist then you may be required to report the costs of certain grassroots advertising that appears during a legislative session supporting or opposing legislation.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN KENTUCKY:

- **Legislative and executive agency lobbying are separately regulated:** Kentucky separately regulates legislative and executive branch lobbying under two different systems with different registration and reporting requirements. Note that in some cases, advocacy work on a single topic might require both kinds of lobbyist registration and reporting, depending on the decision you are lobbying, and the officials you approach. This guide provides practical guidance for both systems.

- **Legislative lobbying reporting is frequent during the legislative session and requires reporting of internal lobbying expenses:** If your nonprofit’s work triggers legislative lobbying registration, periodic reports are due once a month during the legislative session and the employer reports require disclosure of your internal organizational lobbying related expenses. You will need strong operational systems in place to ensure you are timely tracking both your internal expenses and your staff time spent on lobbying, since the deadlines for reporting are very short.

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 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 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?

Kentucky separately regulates legislative and executive branch lobbying under two different statutes, administered by two separate agencies. The Kentucky Legislative Ethics Commission ("KLEC") administers legislative lobbying, and the Kentucky Executive Branch Ethics Commission (the "Commission") administers executive agency lobbying.

When you are deciding if you might need to register, you will need to examine both the kind of decisions you will be attempting to influence, and the public officials you plan to contact to attempt to influence their decisions. In some cases, advocacy work on a single topic might require both legislative and executive agency lobbyist registration.

- **"legislative lobbying"** means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any **legislation** by direct communication with:
  - Any member of the General Assembly (House or Senate)
  - The Governor
  - The secretary of the following cabinets: Justice and Public Safety; Education and Workforce Development; Public Protection; Transportation; Economic Development; Health and Family Services; Finance and Administration; Tourism, Arts and Heritage; Personnel; Energy and Environment; and Labor
  - Any member of the staff of any of the above officials

- **"legislation"** means any bill, resolution, amendment, nomination, administrative regulation, or any other matter pending before the General Assembly or any of its committees, or the executive approval or veto of any bill acted upon by the General Assembly.

- **"executive agency lobbying"** means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation or otherwise
influence the outcome of any executive agency decision by direct communication with:

- Any of the seven elected state executive officials: Governor; Lieutenant Governor; Secretary of State, Auditor of Public Accounts; State Treasurer; Attorney General; and Commissioner of Agriculture
- The Secretary of the following cabinets: Justice and Public Safety; Education and Workforce Development; Public Protection; Transportation; Economic Development; Health and Family Services; Finance and Administration; Tourism, Arts and Heritage; Personnel; Energy and Environment; and Labor
- Any officer or employee of an executive agency whose principal duties are to formulate policy or to participate directly or indirectly in the preparation, review, or award of contracts, grants, leases, or other financial arrangements with an executive agency (which includes the offices of elected executive officials, cabinets listed above, and departments, boards, commissions controlled by elected executive officials)
- Any member of the staff of any of the above officials

“executive agency decision” means a decision of an executive agency regarding:

- The expenditure of funds of the state or of an executive agency
- Drafting, adopting, or implementing a budget provision
- Administrative regulations or rule
- Executive orders
- Legislation or amendments thereto

Q: Does just having a meeting about our organization count as lobbying?

No, but caution is warranted.

Having meetings with legislative or executive branch public officials just to talk about what your organization does (or what their legislative or agency employer does) is not lobbying. Discussing issues relating to a bill or an executive branch decision is lobbying.

For example, if Students Vote Now (the hypothetical organization discussed in the Case Study presented later in this guide) were to have a meeting only to discuss the organization’s purpose – to get all students to vote – then that meeting does not involve lobbying. However, if the discussion were to turn to what the organization is advocating for – a specific vote or position on a bill, or an executive agency procedure relating to voting – then that would be lobbying and might trigger a registration requirement.

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

Legislative lobbying trigger: The requirement to register as a legislative lobbyist (called a “Legislative Agent”) is triggered by being paid to do legislative lobbying (even a small amount).

Executive agency lobbying trigger: The requirement to register as an executive agency lobbyist (Executive Agency Lobbyist or also called by the state an “EAL”) is triggered by an individual being paid to do executive branch lobbying regarding a substantial issue as one of the job’s main purposes. The Commission interprets this to mean making direct contact with one of the listed public agency officials at least twice in a calendar year, about an executive agency decision involving state funds of at least $5,000.

Q: Does another staff member coming to a lobbying meeting need to register?

No. Not if they always attend with your registered lobbyist.
It is a great idea for someone with specific knowledge on an issue to attend some lobbying meetings. Another employee of your organization, or of your lobbying firm if you use one, can accompany your registered lobbyist employee or consultant to meetings. Your additional staff member would themselves need to register if they did any such advocacy meetings alone. Running into a legislator in the halls and engaging in small talk does not count as lobbying.

**Q:** Are there exceptions to what counts as lobbying?

Yes. Certain types of lobbying activities do not require state-level lobbyist registration or reporting. The exceptions most relevant to nonprofit organizations are outlined below.

**Legislative lobbying exceptions:** Legislative lobbying registration is not triggered by:

- Unpaid lobbyists
- Appearing at public legislative meetings or hearings
- Private citizens who receive no compensation for lobbying and express personal opinions

**Executive agency exceptions:** Executive agency registration is not triggered by:

- Unpaid lobbyists
- Appearances before public meetings of executive agencies
- Contacts made for the sole purpose of gathering information contained in a public record
- Submitting public comments to an executive agency during a public comment period
- Persons with direct interest in executive agency decisions who are exercising their constitutional right to assemble with others for their common good and petition state executive branch agencies for redress of grievances or other proper purposes

**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/](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/](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 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](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 Kentucky ballot measure is not regulated as a lobbying activity under Kentucky law (even though the IRS does count it as a lobbying activity). Instead, Kentucky regulates activity to support or oppose a ballot measure under the state's campaign finance laws. Nonprofit organizations considering working on ballot measures in Kentucky (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?

Note that if the lobbying activities that you are planning to pursue can be structured to lobby only one branch (either legislative or executive agency), then you should only register for that branch to avoid unnecessary costs and reporting obligations.

**Legislative lobbyist registration:**

Both the individual employee lobbyist (Legislative Agent) and your organization (Employer) are required to register together on a simple one-page registration form [https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx](https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx). The form can be returned by fax or regular mail as per the instructions on the form, or via e-mail directly to KLEC administrative staff.

The Initial Registration Statement must be filed within seven days of engagement of the lobbyist, but if your organization only decides to use an employee to lobby after they have already been hired, then you should register them as a lobbyist once you have determined that you are going to begin to pay them to do legislative lobbying.

Your organization (the Employer) pays the $250 registration fee at the time of the initial registration, which covers as many individual employee lobbyists (Legislative Agents) as you wish to register, through December 31st of the next odd-numbered year. Registration must be done within seven days of triggering the legislative lobbying registration requirement.

Note that if your lobbyist is a consultant employed through a lobbying firm, then the “Employer” would be the lobbying firm, and your organization would instead be reported on the registration form as the “Real Party in Interest.”


KLEC recommends that each of your individual employee lobbyists complete an ethics training offered by KLEC. The training can be done either by attending the annual in-person training or requesting a separate in-person or Zoom training. Your employee lobbyists will receive more information about these trainings once they have registered. You can also view a past training produced by KLEC at: [https://www.youtube.com/watch?v=qjKIWUNV8po](https://www.youtube.com/watch?v=qjKIWUNV8po)

**Executive agency lobbyist registration:**

Each individual employee lobbyist (Executive Agency Lobbyist, which the state calls an “EAL” on their forms) must file an Initial Registration Statement to register as an
individual lobbyist, and your organization will be listed as the Employer. The fillable
electronic Word version of the form and detailed instructions on how to fill it out are
available at: https://ethics.ky.gov/lobbying/Pages/Registration.aspx

Note that currently the form cannot be submitted online, and instead must be printed,
signed by both the individual employee lobbyist and a representative of your
organization, and then delivered back to the Commission in person, by fax, mail or e-
mail at ethicsfiler@ky.gov. The form also asks questions about the “Real Party in
Interest,” which only applies if you are engaging a lobbyist through a lobbying firm (in
which case your organization is the Real Party in Interest and the lobbyist firm is the
Employer).

The form requires you to give a brief description of the executive agency decision or
decisions that you are planning to lobby and to disclose which officials you are going to
be contacting to lobby.

The Initial Registration Statement must be filed within ten days of engagement of the
lobbyist, but if your organization only decides to use an employee to lobby executive
agency decisions after they have already been hired, then you should register them as a
lobbyist only once you trigger executive agency lobbyist registration.

There is no registration fee due with the Initial Registration Statement, since all
Employers of executive agency lobbyists must pay a $500 lobbyist registration fee once
a year, due on July 31st for the prior year period.

Note that executive agency lobbyist registrations do not automatically terminate, so if
you will no longer be doing any executive agency lobbying you will need to affirmatively
terminate your registrations, or you will automatically continue to be responsible for
periodic reporting and the annual registration fee.

Q: When are periodic lobbying reports due?

Legislative lobbying reporting:

KLEC requires six annual period reports (called “Updated Registration Statements”):

<table>
<thead>
<tr>
<th>Reporting Period:</th>
<th>Due by:</th>
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<tbody>
<tr>
<td>Month of January</td>
<td>February 15th</td>
</tr>
<tr>
<td>Month of February</td>
<td>March 15th</td>
</tr>
<tr>
<td>Month of March</td>
<td>April 15th</td>
</tr>
<tr>
<td>Month of April</td>
<td>May 15th</td>
</tr>
<tr>
<td>May 1st - August 31st</td>
<td>September 15th</td>
</tr>
<tr>
<td>September 1st – December 31st</td>
<td>January 15th</td>
</tr>
</tbody>
</table>

Periodic reports can be filed online at https://apps.klec.ky.gov/lec/onlinefiling.aspx

Both your organization, and your individual lobbyists, must file separate reports. The
reports must be filed for each reporting period even if no lobbying has taken place
unless and until the individual lobbyist’s registration is terminated. KLEC will send
reminders before each reporting date, but your organization will still need good and
timely operational expense reporting and staff time tracking systems in place to ensure
all reports get filed on time. The time between the end of the reporting period and the
deadline is very short, and your internal organizational expenses related to lobbying
activities, including prorated lobbyist staff time allocated to lobbying activities during
the period need to be calculated for each report.

Late filings can result in a fine not to exceed $100 per day, up to a maximum of $1,000
per report.
Executive agency lobbying reporting:

For executive agency lobbying, both your organization and each of your registered individual lobbyists (Executive Agency Lobbyists) will need to file an annual report called the “Updated Registration Statement” covering activities between July 1st and the following June 30th. The reports are due July 31st.

Late filings can result in a fine not to exceed $100 per day, up to a maximum of $1,000 per report.

What information do the periodic lobbying reports include?

Legislative lobbying reporting:

KLEC calls the periodic legislative lobbying reports “Updated Registration Statements.” Your organization (the Employer) and each of your individual employee lobbyists (your Legislative Agents) will each need to file separate reports for each period.

Legislative Lobbying Updated Registration Statements can be filed on the KLEC online reporting system: https://apps.klec.ky.gov/lec/onlinefiling.aspx

You can preview the information that will need to be disclosed by accessing the pdf versions of the forms here: https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx

There are three sections to each report – an updated list of issues lobbied, a report of financial transactions with legislators (if any), and a statement of expenditures.

<table>
<thead>
<tr>
<th>Update on issues lobbied during period</th>
<th>Nonprofit Organization (Employer)</th>
<th>Individual Lobbyist (Legislative Agent)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Both need to list</td>
<td>Both need to list</td>
<td>Seek additional advice before engaging in financial transactions with officials!</td>
</tr>
</tbody>
</table>

| Report of financial transactions | All external and internal lobbying related expenses, from the time lobbying agenda was relayed to any legislative official | Generally, should be zero assuming your employee is reimbursed by you for their lobbying expenses |

| Statement of expenditures | Yes, in periods where no lobbying expenditures other than staff compensation | Usually yes |

| Can use short form? | Yes | Usually yes |

In general, neither your organization nor your individual lobbyists should ever need to report financial transactions, since these are business arrangements with legislative officials. If you think your organization may need to report such transactions, you should seek additional advice.

Your individual employee lobbyists (Legislative Agents) should also generally not need to report any expenditures on their statement of expenditures portion of the report, since only expenditures that are not reimbursed or paid for by your organization are reportable on the individual’s form.

In periods where no lobbying expenditures were made other than lobbyist compensation, both the individual employee lobbyist (Legislative Agent) and your organization (Employer) can use a “Short Form” version of the Updated Registration Statement that requests only contact information and an update on legislative decisions lobbied.
See the below FAQ for more information on the kinds of organizational expenditures that need to be reported on the Statement of Expenditures section of the legislative lobbying periodic reports.

**Executive agency lobbying reporting:**

The Commission calls the annual executive agency lobbying reports “Updated Registration Statements.” If you are doing executive agency lobbying work that requires registration, then both your organization (Employer) and each of your individual employee lobbyists (your Executive Agency Lobbyists) will need to file separate reports for the year.

The Updated Registration Statement forms have four different sections – an updated list of executive agency decisions and public officials lobbied, any expenditures made on executive agency officials (for example, paying for their travel or buying them dinner), any financial transactions involving executive agency officials (i.e., a business deal done with a public official), and disclosure about the lobbyist's prorated portion of their compensation paid for lobbying activities.

Unlike the legislative lobbying reporting, none of your organization's internal lobbying expenses are reportable on the annual executive agency lobbying Updated Registration Statement reports, other than the prorated compensation that you pay to your lobbyist to do the lobbying work. Note that this means that if your organization is doing both legislative and executive agency lobbying you will need to have operational systems in place to differentiate between the two kinds of lobbying tasks so that you can separately report legislative lobbying expenses.

Note that generally neither your organization nor your individual executive agency employee lobbyists should have any financial transactions involving executive branch public officials. If your organization or your staff is considering entering into any such reportable transaction you should first seek additional legal advice.

Lobbyist compensation should be reported as the prorated portion of total compensation paid for executive agency lobbying activities.

**Advanced notice to executive agency officials:** Neither your organization nor your executive agency lobbyists should generally have any expenditures made on executive agency officials to report. If you do, you will need to deliver a copy of the expenditure statement to the official at least 10 days before filing the report. See also the information on the gift ban in the next FAQ below.

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**Q:** What is considered a reportable “expenditure”?

**Legislative lobbying expenditures:**

Generally, for nonprofit advocacy organizations using employee lobbyists, the organization's reportable lobbying expenditures will be reported on your organization's periodic reports, and your individual employee lobbyists can use the simple short form and declare no lobbying expenditures.

You only need to start reporting your lobbying expenses from the time you first make a direct lobbying communication. That means you don’t need to report any lobbying expenses you had while deciding to lobby. Thereafter, you will be required to report all time and expenses relating to preparing, researching, planning, and implementing your lobbying activities.

There are four categories of lobbying expenditures to be reported on your organization’s (the Employer’s) Updated Registration Statement – Statement of Expenditures section.

- **Advertising** – This category includes the costs of “advertising” that appears during a session of the General Assembly and supports or opposes legislation. Advertising includes statements disseminated to the public in print, by radio or television broadcast, or by any other electronic means, including internet or telephonic communications. In other words, in cases where you have already triggered lobbyist...
registration in Kentucky, you will need to report grassroots advertising expenses relating to your direct legislative lobbying activities.

- **“All invited” or other allowable events with legislative officials** – This category includes the costs of receptions, meals, or events where you invited all members of the legislature, committee or caucus, or certain other kinds of approved events with legislative officials that are allowable under state ethics guidelines. You should seek additional guidance if you are contemplating hosting such an event, to ensure you are not in violation of any gift ban or other ethical rules regarding spending on legislative officials.

- **Organizational lobbying expenses (other than lobbyist staff compensation)** – This category includes your internal costs of legislative lobbying (prorated where necessary to allocate portions of an expense between lobbying and non-lobbying activities – for example, costs of an office printer used both for lobbying materials and for regular office work). This category includes travel costs for your staff to travel to lobby, research, or consulting costs for legislative lobbying related work, internal and external printing costs, etc.

- **Lobbyist staff compensation** – This category includes your lobbyist staff compensation costs, prorated to include only the time spent planning, developing, coordinating, or implementing the legislative lobbying agenda, from the time the staff member started to lobby.

You can preview the information that will need to be disclosed by accessing the pdf versions of the forms here: [https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx](https://klec.ky.gov/Forms/Pages/Get-Blank-Forms.aspx)

It is recommended that you keep a record of each non-public meeting engaged in with a legislator or group of legislators, particularly during the legislative session. Even if no funds were expended directly on that meeting, a percentage of your lobbyist’s daily expenditures may need to be assigned to that meeting. This list of meetings is not required to be reported but it is helpful to have it available if KLEC has any questions.

We note again that during the legislative session the report of legislative lobbying expenditures is due only 15 days after the end of the reporting period, and you will need to have robust operational systems in place, including expense and lobbyist staff time tracking, to be able to effectively track and report your lobbying expenses in such a short time frame.

State law requires that you maintain receipts or records for your lobbying expenditures reported through at least the end of the second calendar year after the expenditure is made, and other nonprofit compliance requirements such as IRS reporting may require that you keep the same records for longer.

### Executive agency lobbying expenditures:

As discussed above, unlike for legislative lobbying, the only expenditures reportable for executive agency lobbying (other than prorated lobbyist compensation) are expenditures made on the executive branch public officials. Most nonprofits will err on the side of caution and have no such expenses made on public officials, especially given the strict gift ban rules in the state outlined in more detail below.

### Gift ban:

It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with other 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.

Kentucky law specifically prohibits a legislative lobbyist or employer expending anything directly on a legislator or the legislator’s immediate family unless it is an expenditure offered to all legislators of both parties. This is informally known as the “no cup of coffee” rule.
Members of the executive branch, including boards and commissions and their family members may potentially be able to accept some gifts up to $25 total in a calendar year from lobbyists or organizations seeking grants, but it is best practice not to give executive branch officials any gifts, even small ones.

Most legislators and executive branch employees simply refuse even a bottle of water or a cup of coffee from anyone at any time. If you lunch with a legislator or an executive branch official, make sure to request separate checks.

Instead of swag, you can give a legislator or an executive branch official a stack of brochures about your organization. The official can share those with other legislators or constituents.

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?
   Although there are no Kentucky statutes that require a lobbyist to wear a badge while lobbying, it is good manners to state who you are working for, and it gives the legislator or executive branch official a chance to think about potential conflicts of interest with your organization. Some legislative or executive offices require identification of your organization prior to the meeting, either verbal or written, or require lobbyists to sign in and list the issue and organization they are lobbying on before the meeting commences.

Q: What happens if there is a violation of lobbyist rules?
   The regulations governing both legislative and executive branch lobbying contain provisions that dictate how KLEC or the Commission must respond to complaints of an ethics or lobbying rules violation, or any potential misconduct that they themselves discover.

   Extensive administrative hearings must be run quite formally, much like a trial, with procedures such as a complaint, investigation, interviews, and a formal hearing. You should immediately seek additional legal assistance if you have been given notice of a complaint against your organization or one of your lobbyists, or you are concerned you may have inadvertently violated any ethics or lobbyist rules.

Q: Are there any other restrictions on lobbyists that we should be aware of?
   Legislative lobbyists cannot contribute to, solicit funds for, or bundle contributions to a legislator, legislative candidate, or caucus campaign committee, even in their own personal capacity. Legislative lobbyists are also prohibited from serving as treasurers for a legislator or legislative candidate, or from directing or serving as an officer of a 527 political organization supporting or opposing the election or re-election of an individual to the General Assembly.

   Lobbyists are not permitted to go upon the floor of either house of the General Assembly without an invitation of the House.

   Lobbyists cannot be paid on a contingency basis.
### 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 Kentucky 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 Kentucky House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Louisville about a similar, but separate, local ordinance being considered.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Lobbyist Registration/Reporting Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Student Engagement</strong></td>
<td>The student engagement activities as described are legislative grassroots lobbying that are not regulated as lobbying in Kentucky and will not trigger legislative lobbying registration or reporting. Note however, that if Students Votes Now runs the Lobby Day event in a way that triggers registration, the expenses of these grassroots activities may be reportable.</td>
</tr>
<tr>
<td><strong>Lobby Day</strong></td>
<td>The Lobby Day activities are direct communications with legislators, whether done in person or via Zoom, and assuming Students Vote Now uses its paid staff members to communicate with the legislators, then this activity will require legislative lobbying registration and reporting. If Students Vote Now believes that the event can be carried out effectively using only unpaid persons to communicate with the legislators [perhaps Board members, or student volunteers] then the event would not trigger registration. If registration is triggered, all costs of the Lobby Day, from the time Students Vote Now communicates to the legislators the purpose of the meetings they are arranging, will be reportable. No swag should be given to the legislators.</td>
</tr>
<tr>
<td><strong>Committee Testimony</strong></td>
<td>Appearing before a public hearing of a committee of the General Assembly is not lobbying, even if the appearance is made by a paid member of Students Vote Now’s staff and will not trigger lobbyist registration.</td>
</tr>
<tr>
<td><strong>Mayor</strong></td>
<td>The Kentucky executive agency lobbyist regulations do not apply to lobbying executive branch officials at the local level, but Louisville has been considering its own separate lobbyist registration statute, so Students Vote Now should check the status of that ordinance. Students Vote Now should refrain from giving the Mayor any swag gifts and opt for giving information about the organization instead to avoid any potential gift ban or ethics rules violations.</td>
</tr>
<tr>
<td><strong>Bottom Line</strong></td>
<td>Only the Lobby Day activities as currently planned will trigger legislative lobbyist registration if Students Vote Now uses paid staff to communicate with the legislators. If Students Vote now believes that it can effectively carry out the Lobby Day event using unpaid persons to do the communication with legislators, then no lobbying registration will be triggered. If Students Vote Now proceeds with the Lobby Day event using paid staff to communicate with legislators, then at least one staff person and the organization will need to register and also make periodic reports of all organizational expenses relating to its lobbying activities. Students Vote now should refrain from giving any swag gifts to the legislators or the Mayor and should give out information about the organization instead.</td>
</tr>
</tbody>
</table>
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 Kentucky Lobbying Disclosure Guide for more details on the actual text of the Kentucky lobbying statutes, and any related advisory opinions. https://bolderadvocacy.org/resource/kentucky-lobbying-disclosure/

• Also see our Kentucky Campaign Finance and Ballot Measure Guide for rules related to state ballot measure advocacy, which Kentucky regulates as a campaign finance activity, unlike the IRS which regulates such activities as direct legislative lobbying. https://bolderadvocacy.org/resource/kentucky-campaign-finance-and-ballot-measure-guide/

KENTUCKY STATE RESOURCES:
Two different state agencies administer state lobbyist registration and reporting. The Kentucky Legislative Ethics Commission (KLEC) administers legislative lobbying, and the Kentucky Executive Branch Ethics Commission (the Commission) administers executive agency lobbying.

LEGISLATIVE LOBBYING
• Kentucky Legislative Ethics Commission (KLEC)
KLEC is the agency responsible for administering the legislative lobbyist registration and reporting system in Kentucky. Their website is located at: https://klec.ky.gov/

• Full Text of Kentucky Legislative Lobbying Statute
The full text of the Kentucky legislative lobbying statute can be found at: https://law.justia.com/codes/kentucky/2019/chapter-6/ (scroll to “legislative lobbying” Section starting at 6.801, which also refers to various definitions in Section 6.611).

In addition, KLEC’s condensed FAQ-style interpretation of the statute, with links to relevant sections of the statute and advisory opinions is available on their website at: https://klec.ky.gov/Code-of-Ethics/Employers-and-Legislative-Agents/Pages/default.aspx

• KLEC 2020 Guidebook
The KLEC 2020 Guidebook contains helpful information related to legislative lobbying in Kentucky and can be found at: https://klec.ky.gov/Code-of-Ethics/Documents/2020guidebook.pdf

Note that KLEC also administers the ethics regulations applicable to the members of the Kentucky General Assembly, so portions of the Guidebook are not relevant to nonprofit advocacy organizations considering lobbying activities.

• Registration and Reporting Forms
PDF versions of the legislative lobbying initial registration (Initial Registration Statement) and periodic reporting forms (Updated Registration Statements) for both your organization and your lobbyists can be accessed at: https://klec.ky.gov/Forms/Pages/default.aspx

• Legislative Lobbying Training Webinar
An online lobbyist training webinar produced by KLEC can be viewed at: https://www.youtube.com/watch?v=ojKIWUNV8po

• Additional Questions
KLEC invites individual consultations, and questions about legislative lobbyist registration and reporting can be directed to a legislative lobbyist specialist at: 502-573-2863, or via online question form at: https://klec.ky.gov/About-KLEC/Pages/Contact.aspx
ADDITONAL RESOURCES

EXECUTIVE AGENCY LOBBYING

- Kentucky Executive Branch Ethics Commission
  The Kentucky Executive Branch Ethics Commission (the Commission) is the agency tasked with administering the executive agency lobbyist registration and reporting system in Kentucky. Their website is located at: https://ethics.ky.gov/lobbying/Pages/default.aspx
  There is a good introductory FAQ page at: https://ethics.ky.gov/lobbying/Pages/lobbyingguide.aspx

- Full Text of Executive Agency Lobbying Statute

- Executive Agency Lobbying Handbook
  The 2021 Executive Agency Lobbying Handbook contains helpful information related to executive agency lobbying in Kentucky, including the full text of the lobbying statute, and a set of the lobbyist registration and reporting forms and instructions can be found at: https://ethics.ky.gov/SiteCollectionDocuments/lobbying/Executive%20Agency%20Lobbying%20Handbook%20July%202021.pdf

- Registration and Reporting Forms
  PDF versions of the executive agency lobbying initial registration (Initial Registration Statement) can be accessed at: https://ethics.ky.gov/lobbying/Pages/Registration.aspx and periodic reporting forms (Updated Registration Statements) for both your organization and your lobbyists can be accessed at: https://ethics.ky.gov/lobbying/Pages/RequirementsAfterRegistration.aspx

- Lobbyist Training Webinars
  Two online training webinars produced by the Commission can be accessed at the bottom of the Ethics Branch Lobbying Guide page: https://ethics.ky.gov/lobbying/Pages/lobbyingguide.aspx

- Additional Questions
  Additional questions about executive agency lobbyist registration and reporting can be directed to the Commission at: 502-564-7954 or by email to ethicsfiler@ky.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/