

MISSISSIPPI

**LOBBYING
DISCLOSURE FAQs**



Summary

Nonprofits working to shape legislation or executive action at the state and local level will likely need to register and file an annual. The registration and reporting requirements are **NOT** burdensome or expensive. Nonprofits will also need to track their lobbying for IRS reporting purposes. An accompanying chart at the end of this guide illustrates some of the differences.

Nonprofit employees may not need to register and report their expenditures as lobbyists depending upon whether lobbying is a **“primary and regular function of their job”** and how much they pay, or promise to pay, to public officials for their employer’s lobbying efforts. Nonprofits will still be required to report all of the nonprofit’s state-defined lobbying expenditures even if their employees are considered **“non-lobbying employees.”**

Nonprofits will need to track and report:

- Salaries or compensation for services paid to lobby,
- A portion of overhead or administrative support to support lobbying,
- As well as direct expenditures paid to covered government officials to influence legislative or executive action.

****Grassroots Lobbying:** Nonprofits are required to track and report both direct and grassroots lobbying activities and expenditures in Mississippi.

Exceptions: Several exceptions apply. Two of the most common that might apply to nonprofits are:

1. Nonprofits who lobby local government only are exempt from filing lobbying reports.
2. Nonprofits who limit their lobbying to public testimony before legislative and executive bodies and who register their appearance are not required to register as a lobbyist or report their activities or expenditures to the state.

However, many of these exceptions for state purposes will still count and need to be reported to the IRS as lobbying. Other state exceptions may also apply and are described within the guide.

Please note: Training for the health, safety, and welfare of the community is not considered “lobbying” activity by the Secretary of State’s Office. For example, training provided to local government employees on utility line safety is not considered lobbying. (Ex. From the [Mississippi Secretary of State’s Lobbying Guide](#), p. 12)

Q: What activities count as lobbying?

Mississippi defines **lobbying** as one of three activities:

- Influencing or attempting to influence legislative or executive action through oral or written communication;
- Solicitation of others to influence legislative or executive action;
- Paying or promising to pay anything of value directly or indirectly related to legislative or executive action. (Miss. Code Ann. § 5-8-3(k))

Executive action is defined as the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by a state or local governmental entity of a rule, regulation, order, decision, determination, or other quasi-legislative action or proceeding. Miss. Code Ann. §5-8-3(d). Lobbying to school boards may trigger registering and reporting requirements under influencing “executive action.”

School Boards: We wrote to the Mississippi Secretary of State’s Office to ask whether lobbying to a local school board to influence official action counted and needed to be reported as “lobbying.” School boards have the authority to set policy and do so by adopting orders, resolutions, or ordinances. The Mississippi Secretary of State explained that “Mississippi school board decisions could fall under the definition of executive action but that would be a factually specific question.”

Example: If your nonprofit engaged with a local school board to persuade them to adopt a gender-neutral dress code by adopting an order or resolution, you’d be engaged in “lobbying” for Mississippi reporting purposes unless other exceptions apply. However, for IRS purposes, your activities to influence school dress codes at the school board level would not count as lobbying for IRS purposes.

Legislative action is defined as:

- Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment or other matter by the Mississippi State Legislature or a member or employee of the Legislature acting or purporting to act in an official capacity;
- Action by the Governor in approving or vetoing a bill or other action of the Legislature;
- Action by the Legislature in Overriding or sustaining a veto by the Governor; or 2. Considering, confirming or rejecting an executive appointment of the Governor. Miss Code Ann. § 5-8-3(i).

FAQS

Q: What triggers registration as a Mississippi Lobbyist?

A nonprofit that pays an employee or contract lobbyist to lobby on their behalf must register as a “**client lobbyist.**”

Q: Must all nonprofit employees that lobby for their employer register as well?

Not necessarily. If a nonprofit employee’s primary or secondary job responsibilities are lobbying, then they must also register and file expenditure reports as a “**lobbyist.**” If, however, a nonprofit employee engages in a small amount of lobbying for their employer but lobbying is not the employee’s “regular and primary function of their employment position” AND the employee pays less than \$200/year to a public official for lobbying efforts, the employee does **NOT** need to register as a lobbyist and does **NOT** need to file expenditure reports.

See “**Persons Excluded from Definition of Lobbyist**” MS Code Ann. Sec. 5-8-7(d). The MS Attorney General has issued an opinion that says if an employee’s lobbying is not a primary or even secondary part of their job, AND they pay or promise to pay less than \$200/year to a public official for their lobbying efforts, then the employee need not register and report.

Their nonprofit employer, however, must still register and report the lobbying expenditures made on behalf of the organization. See MS Attorney General opinion 1995-0336.

This means employees that lobby for their employer must still track their lobbying efforts and report them to their employer for both IRS and state reporting purposes. It simply means that some employees may not have to register as a “lobbyist.” The employer will bear the responsibility for reporting for those employees who only do occasional lobbying.

Q: Are there other exemptions from registration and reporting?

Yes. The following is an incomplete list of those who are **NOT** required to register or report as a lobbyist:

- An individual who limits lobbying solely to formal testimony before a public meeting of a legislative body or an executive agency and registers the appearance in the records of the public body. (**Note:** This exception might be useful to nonprofits);
- An individual representing only themselves, who has no pecuniary interest in the legislative or executive action, and receives no compensation for lobbying;
- An individual lobbying on their own business interest who spends less than \$200 a year in lobbying expenses;

FAQS

- An individual lobbying on behalf of an association of which they are a member, where such lobbying is not a primary or regular function of their position in the association, if the individual spends less than \$200 a year in lobbying expenses; and
- An individual who engages in lobbying activities exclusively on behalf of a religious organization which qualifies as a tax-exempt organization under the Internal Revenue Code.

Q: Does supporting or opposing a ballot measure or initiative count as lobbying for MS purposes?

No. Supporting or opposing a Mississippi ballot measure is **not** regulated as a lobbying activity under state law (even though the IRS does count it as a lobbying activity). Instead, Mississippi regulates activity to support or oppose a ballot measure under the state's campaign finance laws. Nonprofit organizations considering working on ballot measures in Mississippi (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 as a state lobbyist, how does it work?

Every nonprofit (**lobbyist client**) and employee who lobbies as a primary part of their job on the nonprofit's behalf (**lobbyist**) or contract lobbyist is **required to electronically file a registration statement with the Secretary of State's Office within five calendar days** after becoming a lobbyist, becoming a lobbyist's client or beginning to lobby for a new client.

Registration forms and additional information is available online at the Secretary of State's website. Lobbyists pay a **\$25.00 registration fee** and registration is valid for **one** calendar year, beginning January 1 and ending December 31 of each year, regardless of when in the year you file.

Filing a registration statement on January 1 of each year is **recommended** for those who lobby (or are represented by a lobbyist) on an ongoing basis.

Miss. Code Sec. 5-8-5.

Q: What are the reporting requirement for lobbyists in Mississippi?

Like registration forms, **all lobbying reports must be filed electronically with the Secretary of State's Office.**

Mississippi law requires all registered lobbyists to file three reports during the lobbying cycle:

- Legislative Mid-Session Report due on February 25th

- Legislative End-of-Session Report due within ten (10) days after sine die
- Annual Report of Expenditures due **no later than January 30th**

Miss. Code Sec. 5-8-11(5)(6).

Registered lobbyists' clients (ie the nonprofit) file only an Annual Report, with the Secretary of State's Office.

If a nonprofit's employees meet the definition of "**non-lobbyist employee,**" the employees and nonprofit will track the lobbyist expenditures and file just one annual report no later than January 30th following the year in which they lobbied.

Reports **must** include:

- Payments to a lobbyist (i.e. nonprofit employee) for salary, fee, compensation for expenses;
- Payments for those portions of office rent, utilities, supplies, and compensation of support personnel attributable to lobbying activities (often referred to as **overhead** and **administrative costs** of lobbying);
- Payments in support of or assistance to a Lobbyist or the Lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the Lobbyist;
- Payments for direct lobbying to executive, legislators, public officials, or public employees, where payment is made at the request of the nonprofit; and
- Payments or reimbursement for food, beverages, travel, lodging, entertainment, or sporting activities.

Miss. Code Sec. 5-8-9.

Q: Which activities count as lobbying for IRS purposes?

It depends upon how your nonprofit has elected to track its lobbying activities. 501(c)(3) public charities have two different ways to track their lobbying activities: (1) using the insubstantial part test, they are called a nonelecting public charity; or (2) using the expenditure test, they are called an electing public charity.

Bolder Advocacy has **free resources** that help nonprofit determine which activities count as lobbying and how to maximize your nonprofit's ability to engage in advocacy using exceptions to the definitions of lobbying.

Non-electing public charities can view the activities that count as lobbying

FAQS

in this factsheet entitled [**“Lobbying Under the Insubstantial Part Test.”**](#)

Electing public charities can view activities that count as lobbying at this factsheet entitled [**“What is Lobbying under the 501\(h\) Election.”**](#)



Available Resources

For State Lobbying Assistance

Mississippi Secretary of State's Office

401 Mississippi Street
PO Box 136
Jackson, MS 39205

(800) 829-6786

www.sos.state.ms.us

Lobbying@sos.ms.gov

[Click here to view their Lobbying Guide](#)



Alliance for Justice wishes to thank Mississippi attorneys, **Daniel E. Morris** and **Walter Zinn** for their assistance and help in creating the framework for this guide.

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FOR FURTHER ASSISTANCE

For assistance regarding these resources or for more information about federal law, please contact our attorney one-on-one counseling service:

Email: advocacy@afj.org

Telephone: 1-866-NPLOBBY (675-6229)

Accompanying Charts

Below are some select questions from the Mississippi Lobbying Guide that might be relevant to nonprofits working in the state.

I work for a “good government” organization that encourages its members to contact their legislators to attempt to influence their votes on specific legislation. Should we list this expense on our periodic reports?

Yes.

If something of value is given to a judicial official is that required to be reported?

No. Judges are **not** the object of Mississippi’s lobbying law.

I am a private citizen who wants to contact my local legislators about a bill I am supporting. Must I register as a lobbyist?

Generally, you are exempt if you spend **no more than \$200** in the aggregate on influencing legislators.

If my nonprofit pays for “educational” or “recreational” trips for public officials, are they exempt from reporting?

No. Reports must be made for travel, lodging, and/or entertainment expenses.

I’m an association member, and I took a couple of legislators to dinner before an important committee vote. Must I register as a lobbyist?

You must register as a lobbyist if you spend **more than \$200** in the aggregate per year on public officials.

I'm an association member, and I come to Jackson one week each year, usually spending about \$2,000 meeting with state officials regarding their agencies' decisions. Must I register as a lobbyist?

Yes. If you spend more than \$200 per year in the aggregate to influence decision-making by public officials, you **must** register as a lobbyist.

Are campaign contributions reported on lobbying reports?

No. Lawful campaign contributions are **not** reported on lobbying disclosure reports if they are subject to the campaign finance disclosure laws of Mississippi.

I am an attorney arguing a case before a Mississippi court. Must I register as a lobbyist?

No. The lobbying law applies only to legislative and executive bodies, boards and commissions, including boards of supervisors.

I am a state agency employee, whose job involves working with legislators to promote or defeat legislation of interest to my agency. Must I register as a lobbyist?

Yes, if lobbying is a primary or regular function of your job, or if you give the legislators more than \$200 in the aggregate worth of things of value in a calendar year.

I am a registered lobbyist. If I buy a public official a \$12 lunch, what must I report?

When buying lunch for a public official, you must report the lunch, the value of the lunch, where the lunch occurred, your name, and the name of the official.

Our nonprofit, which is registered as a lobbyist's client, invites the entire Legislature and all statewide officials to a reception each year. Must we itemize the names of all attendees?

No. The law specifically exempts from itemization requirements receptions held for the entire Legislature and all statewide officials. This statute refers to food at such an event as "for immediate consumption," which means it is eaten within the span of one day.

Mississippi vs. IRS

Below is a chart to illustrate whether an activity is considered lobbying for **Mississippi** purposes or **IRS** purposes. The list is not exhaustive, but illustrates the differences between the two systems for reporting purposes.

Activity	Is this Lobbying for Mississippi?	Is this Lobbying for the IRS?
Nonprofit staff communicates with a legislator's staff in order to secure an amendment to a pending bill.	Yes	Yes
Nonprofit staff communicates with an assistant to the Governor and asks for a pending regulation to be modified.	Yes	No
Your nonprofit staff visits the capitol to talk to legislators about a pending bill at a lobby day sponsored by an association you belong to.	Yes	Yes
Your nonprofit staff gathers a group of volunteers to visit the capitol to talk with legislators about a pending bill at lobby day.	Yes	Yes
Your nonprofit staff communicate with a contact at the Department of Health to request information about complying with a particular law on behalf of a client or employer.	No	No
A consultant is paid to create a mailer that is circulated to the general public urging people to contact their legislator to vote "No" on a particular bill.	Yes	Yes
An organization circulates a mailer to the general public urging voters to vote "No" on a question on the ballot.	No	Yes

Need More Guidance?

Bolder Advocacy is here to help! Just call our Technical Assistance hotline at 1-866-NP-LOBBY or complete [this form](#), email us at advocacy@afj.org, or visit our website at bolderadvocacy.org. Please share this with your funders, and encourage them to reach out to us with their questions.



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