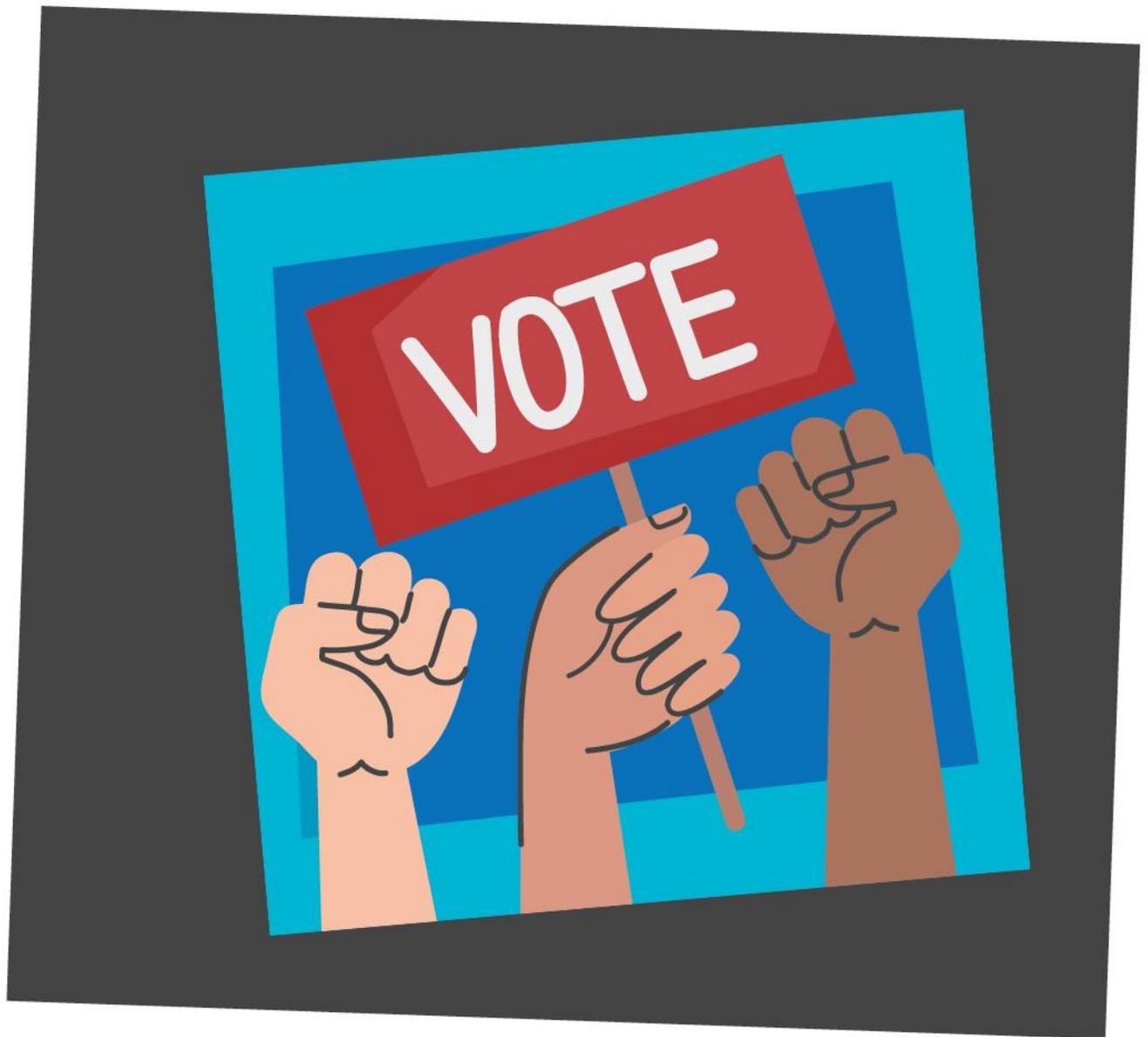


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

CALIFORNIA



Democracy **Capacity**

 **BOLDERADVOCACY**
A program of Alliance for Justice

Q: How should we think about using this Practical Guidance resource?

This Practical Guidance – Nonprofit Voter Assistance resource is designed to help your organization determine how state or local regulations might apply (or not!) to your existing or proposed voter engagement and Get Out the Vote (GOTV) work in your state.

For each FAQ in this Practical Guidance, we have provided links where you can find additional information to familiarize yourself with the applicable rules.

We've also provided links to some helpful fact sheets and best practices toolkits that other organizations have created, to help you save time and avoid repeating work.



Practical Tip

- Where appropriate, we make practical suggestions about how you might make the operational task of complying with these state rules easier.



Watch Out

- Some voter engagement activities involve some measure of risk for nonprofit organizations doing the work. There are certain actions you will need to avoid, but as long as you read up on the rules before you begin, you should be able to successfully navigate these voter engagement and GOTV activities in your state.



Danger Zone

- Some activities are much more dangerous for nonprofits because the relevant rules are vague, in rapid flux, unpredictably enforced, or all of the above. It may be best to avoid including these activities in your programming, unless you have a good lawyer on speed dial to help you!
- There are also some activities that are prohibited under current law. We highlight where nonprofits are advised to steer clear.

In giving you concise and accessible information about relevant laws in your state we hope that this Practical Guidance will help you choose activities that make the most sense for your civic engagement and GOTV programming. Knowing about the details of the rules can also help you make your programs bolder, more effective, and operationally easier to carry out.

We wish you every success in your work!



Q: What federal rules do we need to remember to think about?

In addition to any state and local rules that might apply to your organization's civic engagement and GOTV work, you also always need to keep in mind the federal tax law that applies to nonprofit organizations, federal election laws that are applicable when federal candidates are on the ballot, and federal telecom rules relating to calling or texting.

IRS regulations for 501(c)(3) public charities: If you are a 501(c)(3) organization, you must always remain nonpartisan and never do or fund work that could be deemed to support or oppose candidates for public office (electioneering activities).

IRS regulations for 501(c)(4) social welfare organizations: You can support or oppose candidates for public office, but this work cannot be your primary purpose. This generally means that more than half of your work must be nonpartisan and be designed exclusively to promote social welfare.

Federal elections and voting laws: In elections where there is a federal contest on the ballot, it is a crime to knowingly or willfully pay, offer to pay, or accept payment for registering to vote or for voting. Any type of incentive can be considered a "payment" (e.g., something as seemingly innocent as giving out cupcakes) if they are tied to registering or voting. Federal law also prohibits making or offering to make an expenditure to any person, either to vote or withhold their vote, or to vote for or against any candidate. For more details see: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>

Federal communications laws: There are many federal laws relating to how you may communicate via landline or mobile phones. We give some practical tips on how to deal with these laws in the FAQ on other GOTV activities in this Practical Guidance.



Practical Tip: Read up on how 501(c)(3)s stay nonpartisan

- **Comparison of 501(c)(3) and 501(c)(4) permissible activities:**
<https://bolderadvocacy.org/resource/comparison-of-501c3-and-501c4-permissible-activities/>
- **Keeping nonpartisan during election season:**
<https://bolderadvocacy.org/resource/keeping-nonpartisan-during-election-season/>
- **How to stay nonpartisan while conducting a voter registration drive:**
<https://bolderadvocacy.org/resource/want-to-conduct-or-fund-a-voter-registration-drive/>
- **Social media:** It is sometimes particularly hard to recognize when social media postings might cross the line into supporting or opposing a candidate for public office. This is especially true if you are a 501(c)(3) organization affiliated with, or working in a coalition with, a 501(c)(4) organization. See: <https://bolderadvocacy.org/resource/influencing-public-policy-in-the-digital-age>



Watch Out

- **No exceptions for 501(c)(3)s:** There are no exceptions and no minimum amount of electioneering that you can do without jeopardizing your tax-exempt status if you are a 501(c)(3) public charity or private foundation!

Q: Can we put out information about how to register and vote?



Sure! Just be careful how you do it.

✓ **Practical Tip: Use official sources**

- Generally, it's best to link to either the official voting authority sources in your state or city, or to a trusted aggregator of voting-related information with dedicated legal staff working to confirm the information is always current and accurate.
- It's just too easy to include a typo or an accidental miscommunication if you try to reproduce the information yourself.

Secretary of State: California's elections are overseen by the Secretary of State. Their voter-facing information page is here: <https://www.sos.ca.gov/elections>

The Secretary of State also has this online California Voter Information Guide to the 2022 Election Cycle: <https://voterguide.sos.ca.gov/>. A pdf version of this 2022 guide is available here: <https://vig.cdn.sos.ca.gov/2022/general/pdf/complete-vig.pdf>

County Clerks/Registrar of Voters: Each county has its own elections officer. In smaller counties, it is the county Clerk. In larger counties, it is the Registrar of Voters. You can find their contact information and links to their websites here: <https://www.sos.ca.gov/elections/voting-resources/county-elections-offices>

Some counties have great information on their sites and may include well-produced voter guides, posters, or other useful information that you can link to. For example, Contra Costa County's Registrar of Voters website has this helpful online voter information tool: <https://www.cocovote.us/registration-and-voting-options/my-voting-information/#VoterLookupandSampleBallotSearch>

Election Protection: Election Protection's website <https://866ourvote.org/states/> is regularly updated and reviewed by lawyers, and lawyers staff the Election Protection Hotline available by both phone and text at 1-800-OUR VOTE (1-866-687-8683). There are also multiple assistance hotlines for non-English speakers. See the additional options available here: <https://866ourvote.org/about/>

Watch Out

- **TYPOS! TYPOS! TYPOS!** Do you really want your group to be the one that accidentally tells voters that the polls close an hour later than they do? Don't try to reproduce the information yourself. Use links to official information and established websites instead!
- **County Clerks and Registrars of Voters sometimes apply laws differently:** In California each county elections office may have its own way of doing things. It is worth taking the time to check the websites of the county election offices where you will be doing your work.

Q: What rules do we need to follow to run a voter registration drive?

California does not require organizations planning to put on voter registration drives to receive training, but strongly encourages it – groups may contact their local election officials to request training. If you request more than 50 voter registration cards, you must submit a distribution form that (among other things) requires you to summarize your distribution plan. The form is here: <https://elections.cdn.sos.ca.gov/vrdis.pdf>

You are not allowed to use photocopied blank voter registration cards and must instead obtain originals from election officials (call the Secretary of State at (916) 657-2166 or your local county official). You must give a blank card to anyone who asks for one, and you cannot give voters any incentive – even food or prizes – to persuade them to register. You may not assist a voter in completing their card unless the voter asks for help; the person providing the help must disclose that they helped by filling out and signing a section of the card.

Organizations may collect and return cards on behalf of voters, but the person who received the completed card must fill out and sign a section of the card, with details about themselves and your organization, and give the voter the attached receipt. You must return all registration cards whether they are complete or not, but you should separate the complete and incomplete cards and attach a cover sheet for each bundle. You must return the cards within three business days of receiving them (or earlier if the registration deadline is earlier); **failure to do so is a crime.**

California has strict rules for paying drive workers. You must maintain a list of the names, and contact information of everyone paid to register voters. You must also maintain in your records for three years written acknowledgements that you gave each paid worker a written statement of their obligations under California law. Finally, California is one of the very few states that permit you to pay workers per registration. If you choose this method (which is not best practice), you may only pay for registrations that comply with the requirement that the worker provide their name and contact information and give the voter a receipt. **Failure to comply with any of these requirements is a crime.**

California voter registration drive guide:

<https://www.sos.ca.gov/elections/publications-and-resources/guide-vr-drives>

Fair Elections fact sheet: The Fair Elections Center also has a good summary fact sheet here: <https://www.fairelectionscenter.org/voter-registration-drive-guides>



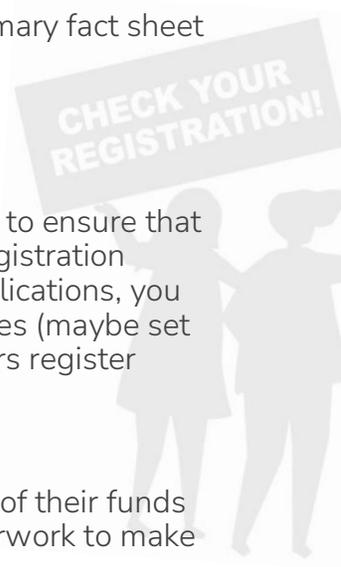
Practical Tip:

- Your organization will need to create strong processes and controls to ensure that you comply with all of the obligations that California imposes on registration drives. If you do not wish to take on the challenges of returning applications, you could distribute forms but have voters return applications themselves (maybe set up near a mailbox) or use tablets or computers to help eligible voters register online.



Watch Out

- **Potential funder restrictions:** Some funders do not allow the use of their funds for voter registration drives. You will need to check your grant paperwork to make sure that you are using funds that are available for this work.



Q: How can our organization help people vote by mail?

California is an “all mail” election state, which means that every county is required to mail a ballot to every active registered voter. Active registered voters do not need to request mail ballots. Accordingly, there is no need for nonprofits to help voters apply for a mail-in ballot.

Nonprofits can help voters return their completed ballots but are subject to strict rules. If you decide to do this programming, you will need to create strong processes and controls to ensure that you comply with all of your obligations under the law.

If your organization decides to collect and submit ballots, you can deliver them in person to the correct county elections office, to a drop box, or through the mail. You must deliver a ballot by the earlier of three days after receiving it or by the time the polls close on Election Day. For every ballot you collect and return, the voter must authorize a specific person from your organization to return their ballot by completing a written authorization on the ballot envelope. **The person who submits the ballot must be the same person who collects it.** No other person should touch the ballots collected by that staffer.

All mail-in ballot envelopes come stamped with return postage in California, so there is no need to pay postage.



Practical Tip: Focus on information instead of action

- Given the logistical demands required to collect and submit ballots you might consider focusing on getting your constituents trustworthy official information about the vote-by-mail process instead of running a full assistance program.
- Since all voters receive mail-in ballots in California, there is no separate vote-by-mail page on the State’s website. The state’s general election information page is here: <https://www.sos.ca.gov/elections>



Watch Out

- **You need a very strong process for ballot submission:** Because the same person who collected mail-in ballots must be the one to submit them, you need a process that does not involve any other person touching the ballots. Some organizations use a system where a staffer collecting ballots meets a supervisor at the end of the shift at least 100 feet away from the deposit location, such as a drop box (the 100-foot perimeter is to ensure compliance with a ban on loitering near a deposit location). The supervisor confirms that all of the ballots collected by the staffer have the appropriate written authorization, and then accompanies the staffer to the deposit location to ensure that the ballots are submitted.
- **You cannot pay by the number of ballots collected:** You cannot pay staff based on the number of ballots they collect (unlike in the registration drive context).



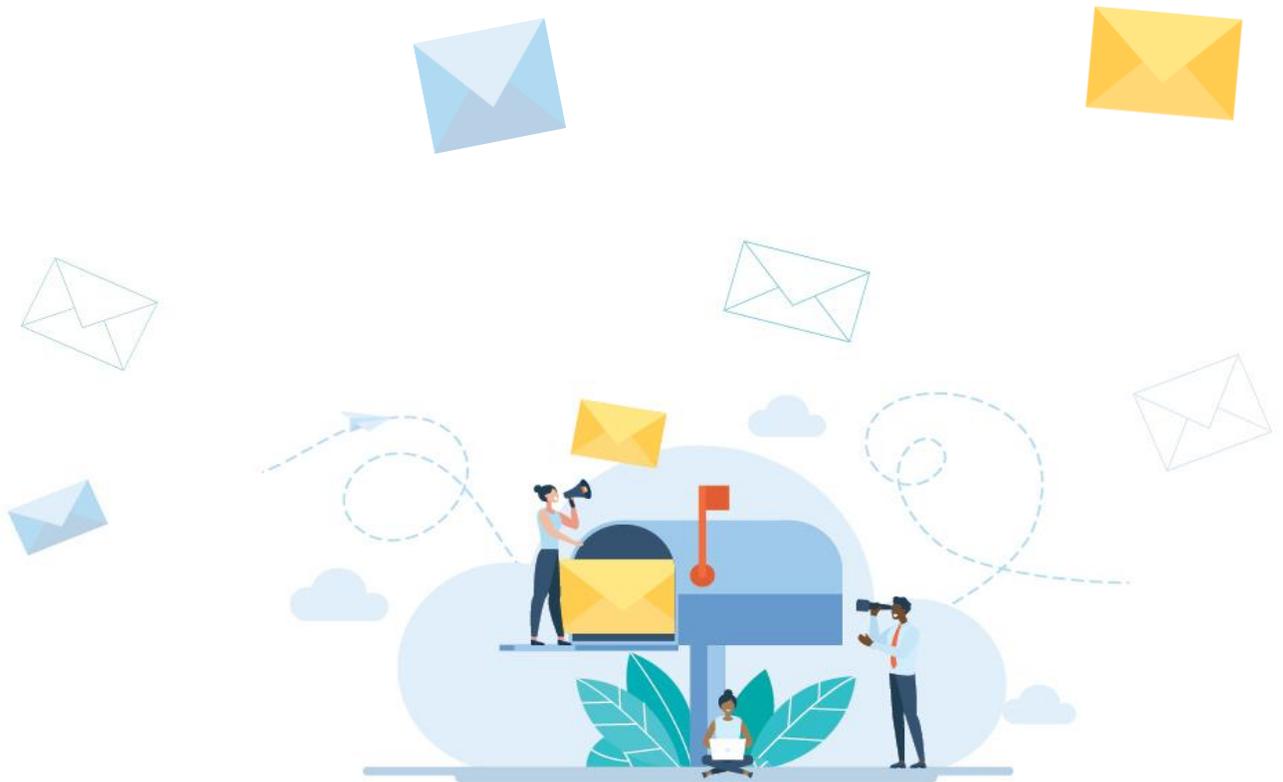
Q: Can we help voters fix problems with their vote-by-mail ballots?

Running a full vote-by-mail “cure program” (where organizations help track down voters whose ballots have been rejected and help them “cure” the ballots) can be complicated and is usually beyond the capacity of smaller organizations. That said, it can be enormously helpful for you to educate your constituents about how to track their own ballots, and how to contact their election official’s office if they need to cure their ballot.

Although California law specifies a procedure for a voter to fix a signature mismatch on the ballot envelope, there are no other specific processes for curing other mistakes that may cause a ballot to be rejected. The state will inform the voter of a rejected ballot through the online tracking system and give instructions on how, if at all, the voter can fix the problem.

✓ **Practical Tip: Use official sources of information**

- In California, voters can check the status of their vote-by-mail ballot here: <https://voterstatus.sos.ca.gov/>
- The contact information for the Clerk or Registrar of Voters office for each county if additional information is required can be found here: <https://www.sos.ca.gov/elections/voting-resources/county-elections-offices>



Q: Can we help with a rides to the polls program?

It is currently legal to give voters rides to the polls in California.

While California is an all-mail election state, some voters still choose to vote at a polling place, and some groups may want to run a rides to the polls program.

✓ **Practical Tip: Consider partnering with existing programs**

- You don't necessarily need to organize a rides to the polls program on your own. You might consider partnering with another organization that is already doing this work. Many of the major rideshare companies offer free or discounted ride codes to help facilitate voting. Other organizations also help coordinate carpools to the polls.

👁️ **Watch Out**

- **Staying nonpartisan:** If your organization is a 501(c)(3) public charity, all of your work must remain strictly nonpartisan. In the context of a rides to the polls program, this means you must offer rides in a nonpartisan way. You should not turn away voters because you think they are likely to vote for a particular political party or candidate. You should also avoid targeting your services to local communities based on partisan criteria.
- **Auto insurance and driver's licenses:** If you do decide to put together your own rides to the polls program you should contact your organization's insurance broker to make sure that your insurance program covers the use of staff cars or volunteers' cars for this purpose! You should of course also ensure that all of your drivers (both employees and volunteers) are themselves licensed and insured in accordance with the rules of your state before they participate in your program.



Q: How can we help voters who are already at the polls?

Since California is an all-mail election state, less people choose to vote at a polling place, but some nonprofit organizations may still want to put on programming designed to provide support and encouragement for those voting in person to make it a fun and festive occasion. These activities are often referred to as **“line warming.”** Nonprofits participating in line warming activities need to carefully think through which state and local laws may apply to them. In today’s environment, these rules are also constantly changing, so it’s worth checking on the current status of the law before you begin planning any line warming program.

California does not specifically prohibit line warming activities such as providing food, water, and entertainment to voters waiting to vote. It does, however, prohibit electioneering within 100 feet of the entrance to a building containing a polling place or within 100 feet of an outdoor site where a voter can drop off a ballot, such as a curbside voting area or a drop box. A guidance issued by the Secretary of State states that electioneering activities are also prohibited within the “immediate vicinity” of a person in line to cast their ballot, which could apply even outside the 100-foot non-solicitation perimeter: <https://elections.cdn.sos.ca.gov/pdfs/electioneering-prohibitions.pdf>



Practical Tips

- Stay well outside the 100-foot no solicitation perimeter with all of your line warming activities!
- Allow both voters and nonvoters to participate.
- You can call Election Protection if you need assistance with what is happening at your polling place: 1-866-OUR-VOTE (1-866-687-8683). Election Protection also tries to staff volunteer lawyers on the ground on election day who can assist in person if needed.



Watch Out

- **Remember IRS rules still apply:** IRS rules for nonprofit organizations always apply - even to your state level work. 501(c)(3) organizations must remain strictly nonpartisan in all of their line warming activities.
- **Federal election and bribery rules may also apply:** In any election where federal candidates are also on the ballot, federal election rules also apply. See: <https://bolderadvocacy.org/resource/can-a-nonprofit-provide-incentives-to-encourage-citizens-to-register-to-vote-or-vote/>



Q: What other state rules might apply to our GOTV work?

Observers inside the polling area: California allows third-party observers as long as they do not interfere with either a voter's right to cast a secret ballot or a poll worker's duties. Nonprofit organizations usually find that running an observer program is complicated, however, and it may be more effective to focus on other civic engagement and GOTV work in their communities.

State rules about lawn signs and road signs: California permits temporary political signs to be placed along roadways if the sign encourages a particular vote in a scheduled election, is placed no sooner than 90 days before the election and removed within 10 days after, is no larger than 32 square feet, and a Statement of Responsibility is filed with the CA Department of Transportation. Lawn signs are regulated at the local level. See also the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: Buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information are prohibited within 100 feet of a polling place (and inside the polling place). The Secretary of State interprets this to mean materials that advocate voting for a specific person or ballot question and recommends that poll workers ask any voter wearing such material to cover up or change. More general political messages that do not relate to that day's election should be acceptable.

Selfies in or near the polling place: In general, voters are permitted to use handheld electronic devices at a polling place, and are allowed to take a photo of their ballot if they wish. However, the law prohibits taking photos of voters while they are voting without their consent. Rather than encouraging your constituents to post ballot selfies, it might be prudent to consider posting selfies with the "I Voted" sticker instead.

Phone and text banking: As we discussed earlier in this Practical Guidance, you will need to comply with federal telecom rules applicable to phone and text banking programs in all states. In general, these rules cover how you are allowed to reach out to landline or mobile phones depending on whether or not you have consent from the phone owner, and what rules apply if the communication is automated (e.g., robocalls, autotexting, etc.). In addition, partisan communications will likely have additional disclaimer requirements.



Practical Tips

- If a nonprofit organization is doing text or phone banking, it is often simplest from a practical perspective to have volunteers use a call list, or text banking interface, that is only partially (not fully) automated, so that federal robocall rules are not implicated.
- If your program is nonpartisan, so long as it is not fully automated, it is unlikely that you will implicate state-based telecom robocall rules.



Watch Out

- **Don't use the phone or text banking program to do something you can't do in person!**

Q: When might our work also trigger state campaign finance laws?

State-level campaign finance laws can apply not only to giving cash or in-kind contributions to candidates, but to other activities as well. For example, they also often apply to political-related advertising, political speech on signs and billboards, and to partisan phone or text banking programs.

Nonprofits that are allowed to do partisan electioneering work need to be particularly aware that their support or opposition of candidates will likely trigger campaign finance related reporting to the state.

In California, Title 9 of the California Government Code outlines the state-level campaign finance regulations that might apply to your work:

https://leginfo.legislature.ca.gov/faces/codes_displayexpandedbranch.xhtml?tocCode=GOV&division=&title=9.&part=&chapter=&article=&nodetreepath=34

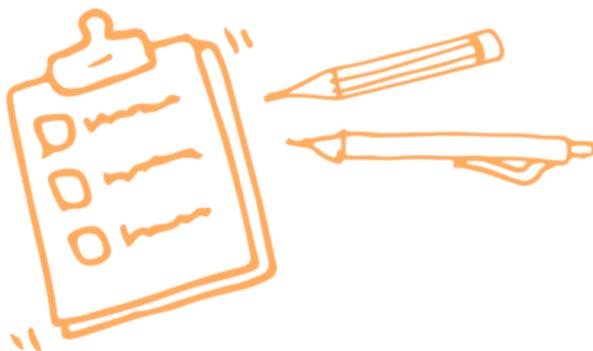


✓ Practical Tip

- **Bolder Advocacy's Technical Assistance Hotline:** Bolder Advocacy's free Technical Assistance Hotline team can help lead you to some current state law resources on campaign finance for your state. You can e-mail advocacy@afj.org or call 866-NP-LOBBY (866-675-6229) during standard business hours.

👁 Watch Out

- **Partisan GOTV work:** In California, these state campaign finance rules may cover, among other things, how disclaimers must be added to political ads, rules relating to when physical political advertisements must be taken down after an election, and text and phone banking rules. If you are doing partisan GOTV work, you will need to carefully examine the California campaign finance statute and consider seeking additional legal advice.
- **Working on ballot measure initiatives:** Ballot measure initiative work can also trigger state campaign finance rules, even for nonpartisan groups. 501(c)(3) organizations are allowed to work on ballot measure initiatives because the IRS considers such work legislative lobbying (as opposed to prohibited electioneering), but state law usually regulates this activity under campaign finance laws.



Q: How can we help recruit poll workers?

Poll worker recruitment is handled in California by each county's Clerk or Registrar of Voters.

Each poll worker must be a US citizen or permanent resident and at least 18 years old, except for high school students participating in a specific civics program.

You can find your county Clerk or Registrar of Voters website here:

<https://www.sos.ca.gov/elections/voting-resources/county-elections-offices>



Practical Tip

- While more poll workers are often urgently needed, it can sometimes be frustratingly slow to get through to the county offices to get started. You may need to start this process early and have some patience with your poll worker recruitment plan.
- If your organization is considering doing a poll worker recruitment drive and has trouble reaching the right person at your county's Supervisor of Elections office, it may be worth considering partnering with an organization that can help manage the initial intake and encourage your potential recruits to be persistent.
- We like the work of **Power the Polls**: <https://www.powerthepolls.org/faq> and you can e-mail them to discuss potential partnering opportunities here: partners@powerthepolls.org



Watch Out

- **Managing volunteer expectations:** This kind of programming doesn't have too many legal compliance issues to deal with – but you'll need to manage the expectations of your volunteers.
 - It may take a bit of persistence to get set up as a poll worker with the county.
 - In particularly contested election districts, there is a possibility of tension at the polls and potential confrontation with members of the public that could make your recruits uncomfortable.



Q: How can we advocate for a new polling place?

Asking for a new polling place is often a multi-step process, but some great materials exist that explain best practices for this kind of program!

✓ Practical Tip

- **+1 The Polls Toolkit:** We like the +1 The Polls Toolkit, created by a collaboration between MTV, the SLSV Coalition, Campus Vote Project, and the Alliance for Youth Organizing. It's geared towards student organizers, but its best practices are relevant even if your work is not on campus. <https://slsvcoalition.org/resource/1-the-polls-toolkit-bringing-a-voting-site-to-your-campus/>

👁 Watch Out

- **It's possible this work can trigger lobbyist registration requirements:** In some cases, your advocacy for a new polling place might count as lobbying under state or local lobbyist registration rules. California has many local lobbyist registration ordinances in place at the county and city levels too, so you'll need to check your program plan against both state-level lobbying rules, and the rules of any local jurisdictions you'll be working in. Our Practical Guidance – What Nonprofits Need to Know About Lobbying in California is coming soon! Check here when it is posted: <https://www.democracypolicy.org/about-practical-guidance-lobbying-series>



Q: Where can we get additional help?

Bolder Advocacy's Technical Assistance Hotline: Bolder Advocacy's free Technical Assistance Hotline team can help nonprofits and attorneys with questions about the content covered by this Practical Guidance. You can contact Bolder Advocacy's team of experts by e-mailing Bolder Advocacy at advocacy@afj.org or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

Your state or local nonprofit coordinating group: Most states have several nonprofit coordinating groups that you can seek advice from. Some of these groups coordinate programming with their members and offer free or reduced price access to canvassing tools, voter lists, and more. If you are having trouble locating such a group in your area, please reach out to the Democracy Capacity Project at info@democracycapacity.org for referrals.

Links to some key California laws: The California statutes cited below can be accessed here: <https://leginfo.ca.gov/faces/codes.xhtml>

- **Third-Party Voter Registration:** Cal. Code Regs, title 2, § 20001(g)
- **Assistance with Vote-By-Mail Ballots:** Cal. Elec. Code § 3016.7
- **Line Warning:** Cal. Elec. Code § 319.5
- **State Rules About Lawn and Road Signs:** Cal. Bus. & Prof. Code § 5405.3

See also: DOT Guidance on Political Signs:

<https://dot.ca.gov/programs/traffic-operations/oda/political-signs>

- **Ballot Selfies:** Cal. Elec. Code § 2302

See also: Notice from Secretary of State:

<https://s3.documentcloud.org/documents/4465253/18104jL.pdf>

- **GOTV Clothing/Hats/Buttons in Polling Places:** Cal. Elec. Code § 319.5
- **Campaign Finance:** Title 9 of the California Government Code

While this Practical Guidance is designed to give you information about certain laws and rules, it is not legal advice, and does not create an attorney-client relationship. If you need additional advice about your specific situation, you should seek your own legal counsel.

We do our best to keep these Practical Guidance resources up to date, but new laws are put forward every day in this space, as are new lawsuits challenging those laws! Please refer to the "Last Updated" date for this Practical Guidance and seek further assistance if you believe you may need updated guidance.

We reference and link other organizations and other resources in this Practical Guidance because we believe they may be helpful to your work. These resources are publicly accessible to all users, and to the best of our knowledge the original host of the resources has all rights required to make them publicly accessible and usable by you. Your use of such resources is subject to any terms and conditions noted on those resources or in the terms of use or other policies of the host website. The Democracy Capacity Project, a special project of NEO Philanthropy, Inc., makes no representation or warranty regarding the accuracy or applicability of the substantive content of any such linked resources, their fitness for use in your situation, or the intellectual property rights of the works presented.

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The Democracy Capacity Project and Alliance for Justice are strictly nonpartisan, and nothing in this Practical Guidance or any of the resources linked herein is intended as a partisan or electioneering communication.

You can contact the Democracy Capacity Project at info@democracycapacity.org.



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