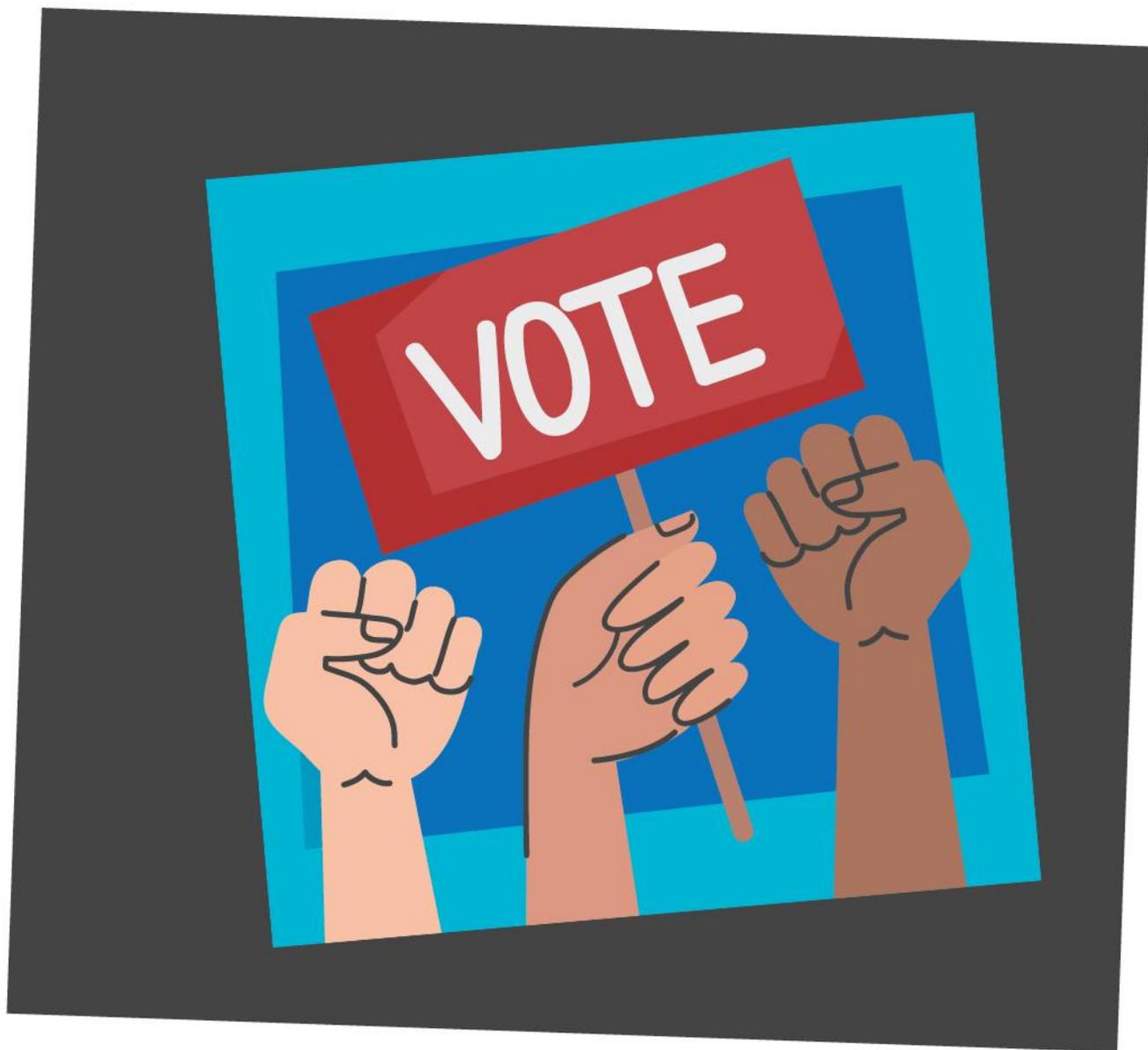


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

NEW HAMPSHIRE



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: New Hampshire's elections are overseen by the Secretary of State's Office. Their voter-facing information page is here: <https://www.sos.nh.gov/elections/voters>

Town Moderators/Municipal Clerks: Elections in New Hampshire are run by municipalities, not counties. The Town Moderator is typically the local elections officer, but the office that runs elections is the office of the Municipal Clerk. You can find contact information, polling locations, and links to each Municipal Clerk's website here: <https://app.sos.nh.gov/statelistclerkandpolling>

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!
- **Town Moderators/Municipal Clerks might sometimes apply laws differently:** In New Hampshire each municipality may have its own way of doing things. It is worth taking the time to check the websites or call the Municipal Clerks in the municipalities where you will be doing your work.

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

New Hampshire requires all voters to register in person, including via the option of same-day registration at the polls on election day. (There is a narrow exception for disabled voters and voters who are temporarily out of the state, who can contact their Municipal Clerk or the Secretary of State's Office directly and request an absentee ballot and registration form.) The in-person requirement means that there is very little room for third-party registration and voter registration drives in New Hampshire.

New Hampshire's guide for how to register to vote: A voter-facing guide to registering to vote is here: <https://www.sos.nh.gov/elections/voters/register-vote>

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

✓ **Practical Tip: Focus on information instead of action**

- Even though there's little or no role for a nonprofit organization to run a direct voter registration drive in New Hampshire, you can still help your constituents by providing accurate information to applicants on how to register.
- Voters must be able to meet certain identification requirements (or complete an alternative affidavit). You can help educate them about this requirement before they go to register. You can find more information about the identification requirements here: <https://www.sos.nh.gov/sites/g/files/ehbemt561/files/documents/Election%20Documents/registering-to-vote-in-new-hampshire.pdf>



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

New Hampshire requires voters who wish to vote by absentee ballot to provide an acceptable reason, such as religious observance, disability or illness, employment commitments, or other absence from the voter's town.

In July 2022, the Secretary of State clarified that certain pandemic related modifications to absentee ballot voting have expired and addressed the conditions under which COVID-related concerns can still sometimes be an acceptable reason to vote absentee under the "disability" reason for certain persons. The mere existence of the COVID pandemic is no longer a blanket reason for being able to vote absentee. See: <https://npr.brightspotcdn.com/0c/5e/1dd268ee4b62b89a86636336cfbd/town-and-city-website-content-absentee-voting-7-11-22.pdf>

Assistance with absentee ballot applications: Nonprofits may help voters obtain an absentee ballot application and return it, but there are strict rules surrounding this aid.

- Your organization must only distribute the official state application and must identify your organization in your mailing or other mass distribution.
- If you are giving voters an absentee ballot application as part of a partisan GOTV initiative you will need to add a political advertisement disclaimer to your application mailing.
- You may not assist voters in completing the application, but you are permitted to collect and return it once complete.
- The law is unclear as to whether any third party can pre-fill part of the applications or provide postage but there are related laws that make such activities potentially risky. You should consult with counsel if you are interested in doing either.

Assistance with returning absentee ballots: Organizations are strictly prohibited from collecting or returning completed absentee ballots on behalf of voters.

✓ **Practical Tip: Focus on information instead of action**

- Given the limited pool of voters eligible to vote absentee, and New Hampshire's restrictions on the ability of nonprofits to help voters vote by absentee ballot, it may be wiser to focus on getting your constituents trustworthy official information about the absentee voting process instead of running a full assistance program.
- The New Hampshire Secretary of State's voter-facing page on absentee ballots is here: <https://www.sos.nh.gov/elections/voters/absentee-ballots>
- Additional information (including links to necessary documents) is available here: <https://www.sos.nh.gov/elections/voters/absentee-ballot-instructions-and-applications>

✗ **Danger Zone**

- **Collecting and returning absentee ballots is prohibited:** Nonprofits may collect and return absentee ballot **applications** but may not collect or return **actual absentee ballots**.



Q: Can we help voters fix problems with their absentee ballots?

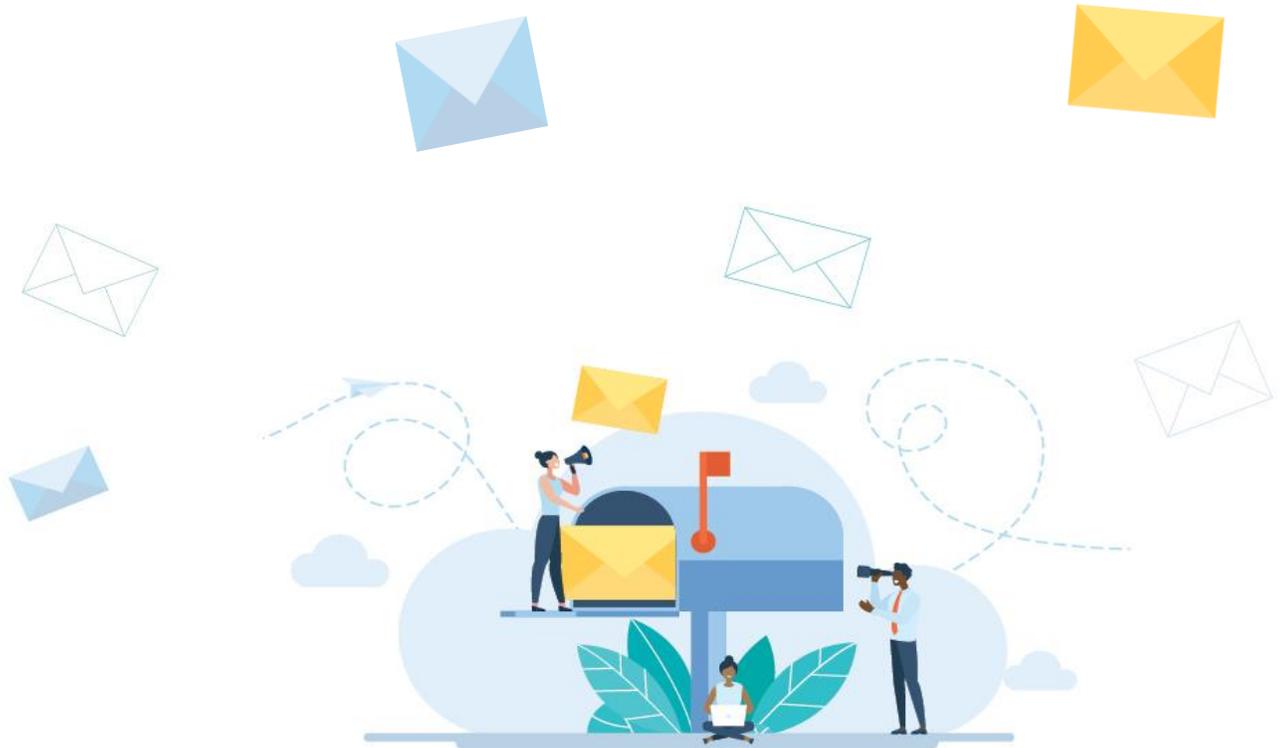
Running a full absentee ballot “cure program” (where organizations help track down voters whose ballots have been rejected and help them “cure” the ballots) can be complicated and is usually beyond the capacity of smaller organizations. That said, it can be enormously helpful for you to educate your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

New Hampshire law does not require that election officials give voters an opportunity to cure a rejected ballot, but the state advises Clerks that a curing process is best practice.

Notifying voters about a rejected ballot and offering a chance to cure is therefore a local decision and will vary town by town. If a ballot is rejected, the voter likely won’t know unless the Municipal Clerk decides to notify the voter, or unless they check their ballot status regularly.

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

- In New Hampshire, voters can check the status of their absentee ballot here: <https://www.sos.nh.gov/elections/voters/absentee-ballots/absentee-ballot-status>
- The contact information for the Municipal Clerk’s office for each town and city if additional information is required can be found here: <https://app.sos.nh.gov/statelistclerkandpolling>



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

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



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?

Many nonprofit organizations put on programming designed to provide support and encouragement for voters who may face long lines or tough weather conditions, and to make voting 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.

New Hampshire does not prohibit line-warming activities such as providing food, water, and entertainment to voters waiting in line. The state does mandate, however, that a Town Moderator must establish a neutral zone (“corridor”) inside of which electioneering is prohibited. The corridor must be at least ten feet wide; it begins at the entrance to the building containing the polls and extends along sidewalks and parking lots leading to the polling place as is reasonably necessary to ensure that voters may come and go without being approached by anyone engaged in electioneering.

Outside of the corridor, and outside the polling place itself, electioneering is permitted, as are what the Poll Workers’ Manual calls “civic and social activities” – e.g., line-warming. If you are considering having music or other potentially loud communications, keep in mind that the Poll Workers’ Manual cautions Moderators that they should ensure that the sound level inside the polling place does not interfere with voters’ ability to communicate.

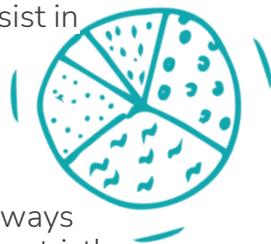


Practical Tips

- Stay well outside the 10-foot no solicitation corridor with all of your line warming activities. Voters are permitted to come to you to get food or water. Keep in mind that the exact dimensions and scope of the corridor are left to the judgment of individual Town Moderators.
- 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: New Hampshire distinguishes between “Challengers,” who are appointed by political parties, and “Observers,” who are members of the public and who have the right to observe voting. 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: Although New Hampshire law prohibits signs on public property (including highway road signs or utility poles), it permits signs on private property with the owner’s consent, and permits signs on state-owned right of ways so long as they do not obstruct safe flow of traffic. Cities and towns are permitted to regulate campaign materials, including signs, but cannot prohibit them. Signs should be removed no later than the second Friday following an election (except successful candidates in a primary election may leave their signs up for the general election). See also the FAQ on campaign finance rules below.

Partisan or nonpartisan GOTV clothing and buttons: In New Hampshire, clothing and other materials (e.g., T-shirts, buttons, etc.) that refer to candidates, parties, or ballot issues at issue in that election are considered electioneering and therefore generally prohibited in the no-solicitation corridor or polling place. Voters wearing prohibited clothing will be asked to cover or remove it. If it is not possible to remove or cover the clothing, however, voters will still be allowed to vote.

Selfies in or near the polling place: New Hampshire law forbids showing your marked ballot to anyone, including by taking a ballot selfie, but enforcement of that law has been blocked by federal court order since at least 2016. Consider whether it is more prudent to ask voters to take and post 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 New Hampshire, N.H. Rev. Stat. §§ 664 *et seq.* outlines the state level campaign finance regulations that might apply to your work.

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIII-664.htm>



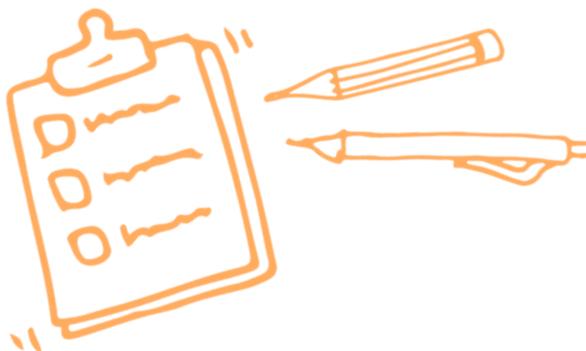
Practical Tip

- **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 New Hampshire, 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 New Hampshire 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 workers – called “Inspectors of Elections” in New Hampshire – must be 18 years old and registered to vote at the polling place where they serve. Recruitment is handled by each Municipal Clerk’s office.

You can find contact information, polling locations, and links to each Municipal Clerk’s website here: <https://app.sos.nh.gov/statelistclerkandpolling>

✓ 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. New Hampshire has many local lobbyist registration ordinances in place at the county and city levels, 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. See our Practical Guidance – What Nonprofits Need to Know About Lobbying in New Hampshire for further information: <https://www.democracycapacity.org/nh-lobbying>



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 New Hampshire laws:

- **Voter Registration:** N.H. Rev. Stat. §§ 654:7 - 654:23:
<https://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIII-654.htm>
 - **Assistance with Absentee Ballots:** N.H. Rev. Stat. § 657:24:
<http://www.gencourt.state.nh.us/rsa/html/lxiii/657/657-mrg.htm>
 - **Line Warming/Clothing in Polling Places:** N.H. Rev. Stat. §§ 652:16-h, 659:43:
<http://www.gencourt.state.nh.us/rsa/html/LXIII/652/652-16-h.htm>
<https://www.gencourt.state.nh.us/rsa/html/LXIII/659/659-43.htm>
- See also** N.H. Election Proc. Manual: 2022-2023, at 283-88:
https://www.sos.nh.gov/sites/g/files/ehbemt561/files/inline-documents/sonh/epm-2022_2023-ada.pdf
- **State Rules About Lawn and Road Signs:** N.H. Rev. Stat. § 664:17:
<https://www.gencourt.state.nh.us/rsa/html/LXIII/664/664-17.htm>
 - **Ballot Selfies:** N.H. Rev. Stat. § 659:35; *but see Rideout v. Gardner*, 838 F.3d 65 (1st Cir. 2016) (affirming injunction blocking enforcement of law).
 - **Campaign Finance:** N.H. Rev. Stat. §§ 664 et seq.:
<https://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-LXIII-664.htm>

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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