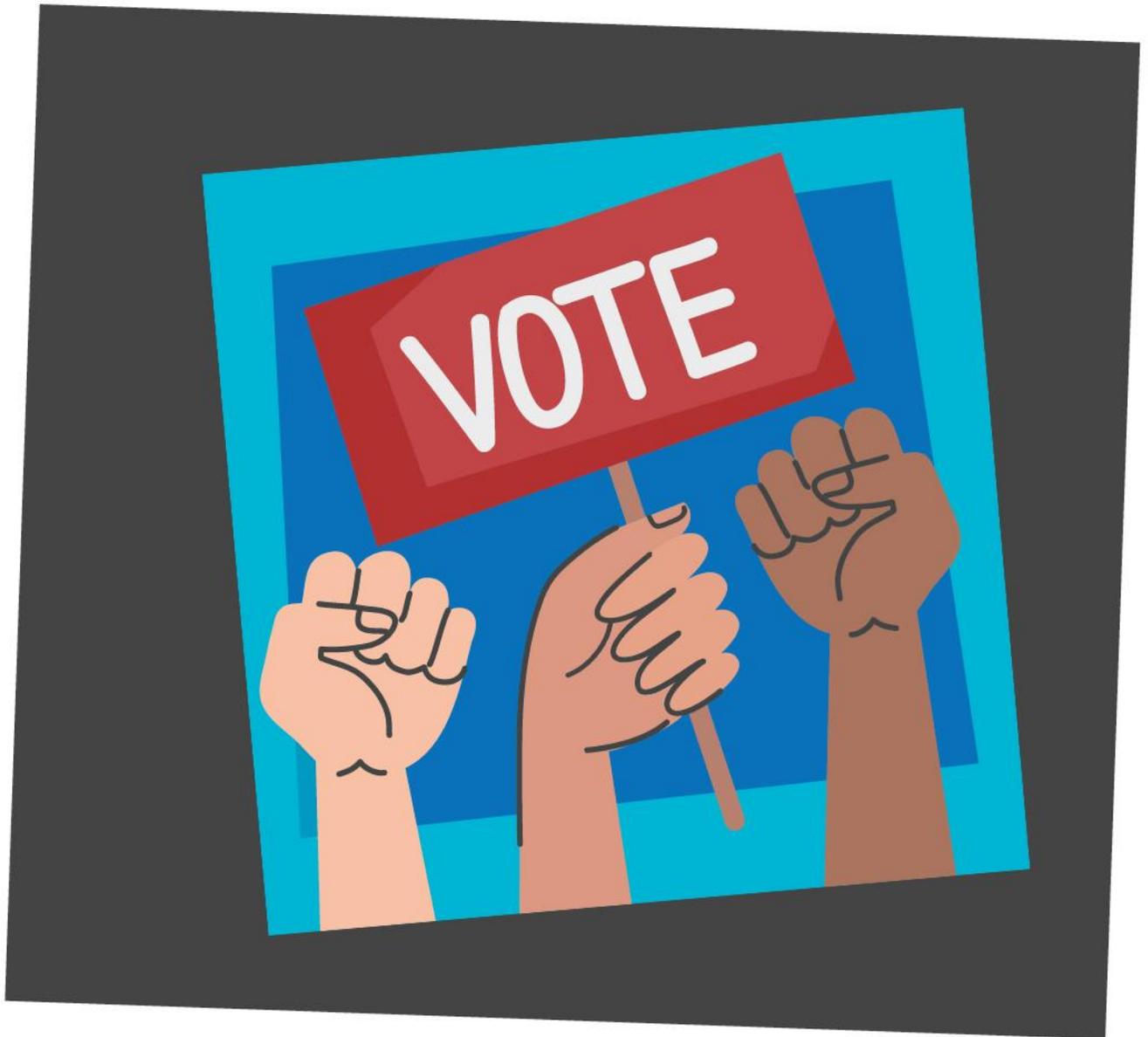


PRACTICAL GUIDANCE

Nonprofit Voter Assistance

WISCONSIN



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.

Wisconsin Elections Commission: Wisconsin's elections are overseen by the Wisconsin Elections Commission. Their voter-facing information page is <https://elections.wi.gov/voters> and information is available in both English and Spanish.

Wisconsin's election process is highly decentralized, and the State uses both county election clerks and municipal election clerk offices to perform various roles in Wisconsin elections.

Milwaukee's Election Commission: The City of Milwaukee has a city Election Commission. Their voter-facing information page is here: <https://city.milwaukee.gov/election>

County Clerks: You can access the links for each county clerk's website here: <https://elections.wi.gov/wisconsin-county-election-websites>

Most county clerk sites simply point to election results, but some have voter facing information that you might want to link to if you work in that region, for example, this Clark County site: <https://www.clarkcountymi.gov/elections>

Municipal Clerks: You can access the full list of municipal-level clerks here: <https://elections.wi.gov/clerks/directory>. Or search via voter address here: <https://myvote.wi.gov/en-us/My-Municipal-Clerk>

Election Protection: Election Protection's website <https://866ourvote.org/states/> is regularly updated and reviewed by lawyers, and lawyers also 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 Supervisor of Election Offices sometimes apply laws differently:** In Wisconsin, the county and municipal clerks' offices may sometimes have their own ways of doing things. It is worth taking the time to check in with the clerk's office in the county and/or municipalities where you will be focusing your work.

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

Since Wisconsin implemented its online voter registration system in 2017, it has become hard to run a successful voter registration drive using paper registration applications, since the law requires a physical copy of a proof of residence document containing both the voter's name and current address be submitted **with any paper voter registration form**.

Fair Elections Fact Sheet: The Fair Elections Center has a good summary fact sheet called Conducting a Voter Registration Drive in Wisconsin that you can access here: <https://www.fairelectionscenter.org/voter-registration-drive-guides>



Practical Tips:

- **Registration drives using the online system:** If you believe your constituents can effectively register or update their registrations using the online registration system (i.e., most of your targeted population will have a current valid driver's license or state identification number that could be used to access the online registration system) then a registration drive with tablets or computers could potentially work. When using the online registration option, voters with a current valid driver's license or state identification number that can be located by the online system are not required to submit a physical copy of their proof of residence document. <https://myvote.wi.gov/en-us/Register-To-Vote>
- **Informational programming:** Alternatively, you could work to inform your constituents about what they would need to bring to do in-person voter registration at their municipal clerk's office (up until the Friday before an election), or to the polls to do same day voter registration on Election Day.



Watch Out

- **Don't pay your drive workers by the piece:** It's prohibited in Wisconsin to compensate based on how many registrations are collected. Pay by the shift or by the hour instead.
- **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 absentee vote?

Many states have rules and regulations about what third parties – whether individuals or organizations – can or cannot do to assist voters with this task. These rules are constantly changing and come up in many different activities related to voting by mail.

Under Wisconsin law, there are some ways that nonprofits can help voters request and return an **absentee ballot application**. Under a recent Wisconsin State Supreme Court case, organizations can no longer collect and return for voters their **completed ballots**.

Practical Tip: Focus on information instead of action

- Nonprofit organizations wishing to help voters in obtaining absentee ballot applications can print forms in English, Spanish, or Hmong from the Wisconsin Elections Commission website here: <https://elections.wi.gov/wec-form/absentee-ballot-request-el-121-121h-121s>
- Your group can also help provide voters with trusted information about the process and their options for absentee voting using these official websites: <https://myvote.wi.gov/en-us/Vote-Absentee-By-Mail> or <https://myvote.wi.gov/en-us/Vote-Absentee-In-Person>. Voters can also email or call their municipal clerk's office for more information.
- Once a voter has requested an absentee ballot, they can track their request by using the "View my absentee request" button here: <https://myvote.wi.gov/en-us/Vote-Absentee-By-Mail>



Watch Out

- **It is better not to pre-fill absentee ballot request applications:** There is a Wisconsin law that prohibits making any false statements for the purpose of obtaining an absentee ballot. It is of course easy to have some outdated voter information in your constituent lists.
- **Note that voter ID requirements for absentee ballot requests are convoluted:** If a voter has not already provided an acceptable ID when requesting an absentee ballot in the past then they will need to provide one when requesting the absentee ballot, or when returning the complete absentee ballot. If you are assisting voters with this task, be sure to carefully study the details of this requirement on the form.
- **Do not give voters postage to return the application:** Wisconsin's election bribery statute deals with offering to give, or giving, a voter anything of value in order to vote (as opposed to influence them to vote in a particular way). This means in Wisconsin, it is riskier than in some other states to give stamps or pre-pay postage for voters.



Danger Zone

- **Do not collect completed ballots:** Under a recent Wisconsin state supreme court case groups can no longer assist voters in returning their absentee ballots. In fact, whether or not someone other than the voter can even physically help put their ballot in a USPS mailbox is also subject to litigation! Steer clear of any work collecting completed ballots.

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

Unlike some other states, Wisconsin does not use signature matching to verify an absentee ballot voter's identity. There are, however, many points in the absentee by mail process where a voter can make a small error that results in their ballot not being counted.

- The return envelope must be sealed, and not have been opened and resealed.
- The Certification of Voter section must be signed, and the voter's name and address where they are registered to vote must be completely filled in.
- **A witness signature and the witness' full address must also be provided on the return envelope!** This has historically been the most common reason ballots are rejected in Wisconsin. It is especially important for nonprofit organizations to educate their constituents on this point.
- A copy of ID may need to be included in the envelope, depending on how the absentee ballot request was made.
- A copy of the original signed absentee ballot request form must be included in the envelope if the absentee ballot request form was sent in via fax or email.

Although running a full absentee ballot "cure program" (where organizations help track down voters whose ballots have been rejected and help them "cure" the ballot issue) can be complicated and is usually beyond the capacity of smaller organizations, it can still be enormously helpful for you to educate your constituents about how to track their own ballots and contact their municipal clerk's office if they need to cure their ballot. Voters also have the option to potentially "spoil" (officially cancel the original absentee ballot) and get a new absentee ballot or vote in person instead if it is difficult to manage the cure process and there is still time to use the spoil process (five days before the election).

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

- In Wisconsin, voters can check the status of their absentee ballot here: <https://myvote.wi.gov/en-us/Track-My-Ballot>
- The contact information for the voter's municipal election clerk's office can be looked up here: <https://myvote.wi.gov/en-us/My-Municipal-Clerk>



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

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



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.
- The League of Women Voters Wisconsin has pulled together this list of organizations already providing services in Wisconsin: <https://my.lwv.org/wisconsin/article/rides-polls-wisconsin>



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.

In Wisconsin, there are prohibitions against electioneering activities inside a polling place, and within a perimeter of 100 feet from the door of a polling place. Under the Wisconsin statute, “electioneering” means any activity which is intended to influence voting in an election.

The election bribery statute both restricts activities that might influence **how** a voter might vote, but also **if** a voter votes by influencing someone to “go to or refrain from going to the polls” or to “vote or refrain from voting” by offering them “anything of value” which includes “any amount of money, or any object which has utility independent of any political message it contains and the value of which exceeds \$1.”



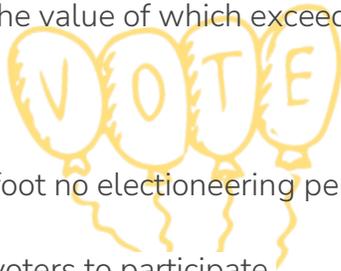
Practical Tips

- Stay well outside the 100-foot no electioneering 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: Most states have fairly strict rules for what kind of observers are allowed into the polling area while people are voting, and what they are allowed to do while inside. In general, nonprofit organizations usually find that running an observer program is complicated, and it may be better to focus on other civic engagement and GOTV work in their communities that can be more effective.

State rules about lawn signs and road signs: Generally, the Wisconsin Department of Transportation enforces safety rules related to road and lawn signs alongside the roadways, or in the medians between two sides of a road. There is some good information about these rules in this link: <https://wisconsin.gov/Pages/doing-bus/real-estate/outdoor-adv/improp-placed-signs.aspx>. Counties, cities, villages, and townships may also have their own rules regulating the placement of signs and it is best to check with the municipal clerk in each area where you are thinking about doing a road/lawn sign program before beginning your program.

Partisan or nonpartisan GOTV clothing and buttons: Partisan and nonpartisan clothing and materials (e.g., hats, buttons, T-shirts, etc.) worn by voters are allowed within the 100-foot no electioneering perimeter in Wisconsin, so long as they aren't used to try to influence voters.

Selfies in or near the polling place: In Wisconsin, voters may take photos of themselves and their ballots inside the polling place as long as they are not interfering with voting. They may also take photos of others if they have their permission.

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

- **Avoid giving discounts or anything of value to voters showing their ballot selfie or I Voted stickers:** You don't want to bump up against the election bribery statute!
- **Don't use the phone or text banking program to do something you can't do in person:** For example, don't try to log in as a voter to request an absentee ballot for them using their information they give to you over the phone.

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 Wisconsin, Chapter 11 of the Wisconsin Statutes outlines the state level campaign finance regulations that might apply to your work:

<https://docs.legis.wisconsin.gov/statutes/statutes/11>



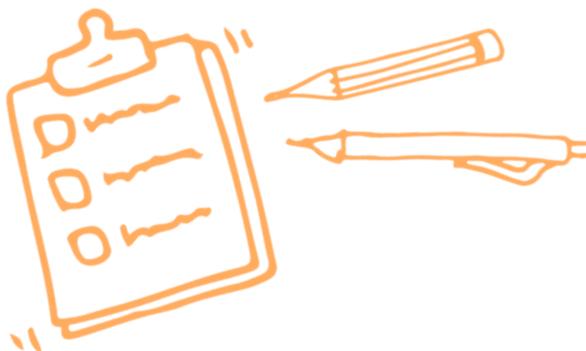
Practical Tip

- **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 Wisconsin, the campaign finance regulations are located in Chapter 11 of the Wisconsin Statutes, and you should seek additional legal advice if you are not sure what parts of the campaign finance regulations might apply to your work. <https://docs.legis.wisconsin.gov/statutes/statutes/11>
- **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 Wisconsin by each municipal clerk.

- Each poll worker must be qualified to vote in the county in which they are applying to be a poll worker (i.e., an adult citizen of the United States who has resided in the election district for 28 consecutive days and is not otherwise disqualified to vote), be able to read and write fluently in the English language, and is not a candidate for any office to be voted on at the polling place at that election.
- There is also a special high school poll worker program where students 16 and 17 years old may be eligible.
- More information can be obtained here: <https://elections.wi.gov/poll-workers-observers/working-polls> and here: <https://myvote.wi.gov/en-us/Become-PollWorker>

Some municipalities run special poll worker recruitment programs. For example, Milwaukee runs this Adopt-a-Voting Site poll worker program: <https://city.milwaukee.gov/election/Helpmilwaukeevote/AdoptAVotingSite>



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 municipal clerk's 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. Wisconsin does have some 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 Wisconsin for further information: <https://www.democracycapacity.org/wi-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 emailing 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 Wisconsin Laws:

- **Voter Registration:** Wis. Admin. Code EL § 3 – Voter registration. https://docs.legis.wisconsin.gov/code/admin_code/el/3
- **Absentee Voting:** Wis. Stat. Chapter 6, Subchapter IV – Voting absentee. <https://docs.legis.wisconsin.gov/statutes/statutes/6/iv>
- **Prohibited Election Practices:** Wis. Stat. § 12 – Contains sections relating to false statements; election bribery; line warming activities; ballot selfies; GOTV clothing/hats/buttons; communication of political messages. <https://docs.legis.wisconsin.gov/statutes/statutes/12>
- **Election Day Manual:** Poll Worker Manual (2020). Pages 79-89 contain sections on perimeter rules; ballot selfies; GOTV clothing/hats/buttons. <https://elections.wi.gov/resources/manuals/election-day-manual>
- **Road and lawn signs:** <https://wisconsin.gov/Pages/doing-bus/real-estate/outdoor-adv/improp-placed-signs.aspx>
- **Campaign Finance:** Wis. Stat. § 11 – Campaign Financing. <https://docs.legis.wisconsin.gov/statutes/statutes/11>

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 and 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.

This work is licensed by the Democracy Capacity Project, a special project of NEO Philanthropy, Inc., under a Creative Commons Attribution-Non Commercial-No Derivatives 4.0 International License.



This work was produced by the Democracy Capacity Project, with the support of the Bolder Advocacy program of the Alliance for Justice, Inc., and the assistance of the amazing volunteer lawyers of We The Action, a program of Civic Nation, Inc. Design by Heidi Flynn Barnett of Flynn Design www.flynnndesign.us.

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.



Democracy **Capacity**

 **BOLDERADVOCACY**
A program of Alliance for Justice