

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

OREGON

Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Oregon might apply to your state or local work. It includes:

- Summary of registration and reporting triggers
- Key takeaways for nonprofit organizations
- FAQs
- Case study for a hypothetical small student voting rights organization
- List of helpful additional resources

What Lobbying Activities Trigger Registration Requirements in Oregon?

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	<p>Employee (or member) lobbyists:</p> <ul style="list-style-type: none"> Spending more than 24 hours in a calendar quarter lobbying directly or via grassroots communication (preparation, travel, and wait time do not count) OR Spending more than \$100 in a calendar quarter for the benefit of public officials <p>Paid professional lobbyists:</p> <ul style="list-style-type: none"> Persons paid specifically to lobby for you must register within three days of being engaged, and do not get the 24-hour or \$100 trigger allowance
State Executive Branch Officials	Yes, but for legislative actions only	<p>Same triggers as above (cumulative), for lobbying of executive branch officials regarding legislative actions.</p> <p>Lobbying of executive agency rulemaking is not regulated in Oregon and will not trigger registration.</p>
Local Legislators or Local Executive Branch Officials	Maybe	<p>The Oregon state lobbying statute does not regulate local lobbying. Some local jurisdictions, including the city of Portland and the Metro regional government, have their own municipal lobbying ordinances.</p>

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN OREGON:

- Generous lobby time threshold:** For your employees, Oregon’s lobbyist registration trigger threshold is quite generous for time spent lobbying – registration is only required after 24 hours of lobbying in a calendar quarter. This trigger is calculated counting only time spent lobbying, not preparing, travelling, or waiting to lobby. Note, however, that time spent creating goodwill with officials also counts towards the 24-hour per quarter threshold.
- Low expense threshold:** The \$100 per quarter trigger threshold for lobbying expenditures is quite low, but only funds spent for the benefit of public officials count towards the threshold, and such expenditures are easy to avoid if you are trying to avoid the compliance burden of registration and reporting.
- Grassroots lobbying:** Grassroots lobbying (calling on members of the public to ask public officials to take action in favor or against legislative actions) is considered lobbying in Oregon and subject to the same rules regarding registration. That said, many activities involved in grassroots lobbying fall into the preparation category that does not count against the trigger threshold.
- Executive agency rulemaking is not regulated:** Oregon does not regulate lobbying of executive agency rulemaking. Lobbying executive branch officials only counts towards the registration trigger if a person is lobbying such officials in connection with **legislative action**.

This resource is current as of December 2022. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at advocacy@afj.org or at info@democracycapacity.org with any comments.

This resource is meant to convey the basic principles of sections of state law that are most relevant for nonprofit advocacy and does not cover all aspects or all details of the state statutes. Please refer to the full text of the law for more details. This resource also does not cover details of federal lobbying disclosure law, IRS regulations related to lobbying, or any separate county or municipal regulations that may apply to lobbying-related activities. In some states there is an ongoing movement towards the enactment of additional local county and municipal level lobbying regulations, and organizations are urged to check with the appropriate local jurisdiction before undertaking local lobbying activity.

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

This Practical Guidance – What Nonprofits Need to Know About Lobbying resource is designed to help your nonprofit organization determine if state or local regulations might apply to your existing or proposed advocacy work. The answer is surprisingly often – **YES!** – but there are also often many advocacy activities that do not require state lobbyist registration or reporting.

This Guide will help you identify which of your state or local activities might trigger registration and reporting, and also give you potential alternative program design ideas that would allow your program to be in compliance with the regulations but not require registration and reporting.

If you do need to register and report with the state, this Guide will also give you practical tips about what information needs to be included in your reports, and how to try to minimize your operational burden while remaining in compliance with the rules.

While this Guide does provide some information about the federal IRS rules that apply to nonprofit lobbying, it is designed to cover state and local regulations. Links to resources containing more information about federal IRS rules can be found in the federal lobbying FAQ below.

We also hope that this Guide will prove useful to legal counsel and other advocacy advisors who are working to assist nonprofit advocacy organizations, as well as the funders who generously support this work. Advisors and funders are invited to use the free Bolder Advocacy Technical Assistance Hotline and the written legal resources available in Bolder Advocacy’s resource library at <https://bolderadvocacy.org/>.

Q: What activities count as lobbying in Oregon?

In Oregon, **lobbying** is defined as:

- Influencing, or attempting to influence, **legislative action** through oral or written communication with **legislative officials**
- Attempting to obtain the **goodwill** of legislative officials
- Solicitating of **executive officials** or other persons to influence or attempt to influence legislative action
- **Legislative action** is defined as:
 - The introduction, sponsorship, testimony, debate, voting, or any other official action on any measure, resolution, amendment, nomination, appointment, or report, or any matter that may be the subject of an action by either house of the Legislative Assembly, or any committee of the Legislative Assembly
 - The approval or veto of any legislative action by the Governor
- **Legislative official** is defined as any member (or member-elect) of the Legislative Assembly, any member of an agency, board, or committee that is part of the legislative branch, or any staff person, assistant, or employee thereof.
- **Goodwill** is defined as kindness, friendliness, benevolence, or generosity by a person or entity directed toward a legislative official that could cause the legislative official to have a favorable impression of, or thankfulness to, the person or entity.
- **Executive official** is defined as any member (or member-elect) of an **executive agency**, and any member of the staff or an employee of an executive agency. A member of a state board or commission who is not a full-time state employee does not count as an executive official for the purpose of this definition.
- **Executive agency** is defined as a commission, board, agency, or other body in the executive branch of state government that is not part of the legislative or judicial branch.

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

There are two different types of lobbyist registrations that might potentially apply to nonprofit organizations.

- **Employee/member (representative) lobbyists:** The State calls individual employees or members of your organization who lobby for you “representative lobbyists.” Your employee or member lobbyists will only trigger registration after they spend more than 24 hours in a calendar quarter lobbying (including generating goodwill) **or** spend more than \$100 for the benefit of public officials on lobbying activities.
 - **24-hour lobbying time trigger:** The 24 hours of lobbying in a quarter trigger only applies to time spent actually lobbying or soliciting someone else to lobby. You do not need to count preparation, travel, or waiting time. This trigger is quite generous, and many of your organization’s lobbying activities will likely not be counted towards the trigger.
 - **\$100 expenditure trigger:** This trigger applies only to funds spent by the lobbyist on food, refreshments, entertainment, or gifts for the benefit of a public official. It does not include the personal living or travel expenses of the lobbyist, any general overhead costs of your organization, or any other kind of lobbying expenses of your organization.
- **Contract (professional) lobbyists:** A person who holds themselves out as available for hire to lobby for clients does not have a trigger threshold and must register as lobbying for you within three days of being engaged. It is probably easiest to either use your own employees to lobby for you (and get the generous trigger threshold) or use true professional lobbyists (who will know how to handle their registration requirements) as opposed to using independent contractor staff who might do some lobbying and some other work for you but could potentially trigger immediate lobbyist registration.

Q: How does the trigger threshold work if we are a fiscally sponsored project?

You will need to be sure you are communicating transparently and in a timely fashion with your fiscal sponsor if you plan to undertake activities that might potentially count as lobbying activities!

Each fiscal sponsor will have its own ways of working with projects who wish to take on lobbying activities.

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project’s independent contractors or employees, the lobbyist registration trigger must be divided between all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how to track your portion of the available threshold.

IMPORTANT NOTE: In states where registration is required very shortly after the registration threshold is reached, or periodic lobbyist disclosure is due shortly after the end of a reporting period, special procedures may need to be worked out in order to process your project’s registration or reporting on time. You should connect with your account manager as soon as you begin planning any potential lobbying strategy!

Q: Are there exceptions to what counts as lobbying?

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

- **Executive branch lobbying:** The only executive branch communications that count as lobbying are communications with executive officials **about legislative action**, not

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about executive action. There is no requirement to register as a lobbyist if you are only lobbying executive branch officials about agency rulemaking.

- **Volunteer public testimony:** Individuals testifying in a public session of a legislative committee or state agency (with respect to legislative action), without any compensation or reimbursement, are not lobbying as long as they register their name in the formal records of the proceeding.
- **Other volunteer lobbying activity:** Using unpaid and unreimbursed volunteers to lobby for you in scenarios other than public testimony will also not trigger any lobbyist registration. If the volunteer expenses are reimbursed, however, then your volunteers are also subject to the 24 hours in a quarter registration trigger.
- **Factual information only:** Communications with public officials that provide objective factual information without advocating for or against legislative action is not lobbying.

Q: How does this work together with federal IRS lobbying regulations?

All tax-exempt organizations must follow both federal tax law (regulated by the IRS) **and** any state and local lobbying laws that apply to their work.

The IRS rules regulate how much lobbying a nonprofit organization can do, while state and local regulations are transparency rules designed to help the public understand what funds are being spent to influence decision making and by whom. As a result, federal tax law rules related to lobbying and state lobbying regulations are quite different, and state lobbying regulations also vary greatly state to state.

In general, the IRS requires 501(c)(3) organizations to report on their annual Form 990 legislative lobbying at the federal, state, and local levels, but does not count as lobbying advocacy activities relating to executive branch or administrative officials at any level. There is no additional requirement for organizations or individuals to “register” with the IRS to report lobbying activities.

Nonprofits that are public charities under IRS exemption 501(c)(3), including grantmaking public charities like community foundations, can lobby within the generous limits allowed by federal tax law. The amount of lobbying is determined by either using the insubstantial part test or the 501(h) expenditure test.

See: <https://bolderadvocacy.org/resource/public-charities-can-lobby-guidelines-for-501c3-public-charities-2/>

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying. See: <https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>

Your organization will need to ensure that you are keeping track of your lobbying staff time and your expenses in a way that works for both your IRS reporting, and for any required state or local reporting, since the information required in each regime will be different.

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities. Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with substantial lobbying activities and expenses to file. For more information see: https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

Q: Does supporting or opposing a ballot measure count as lobbying?

It depends where in the process the ballot measure is.

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If you are lobbying the legislature to refer (or decline to refer) a measure to the ballot – which is the process with constitutional amendments – then the lobbyist registration analysis discussed in this Guide applies.

Once a measure is already on the ballot, however, Oregon regulates activity to support or oppose the measure under the state’s campaign finance laws. Nonprofit organizations considering working on ballot measures that have reached the ballot in Oregon should seek additional legal advice on how to comply with any applicable state or local campaign finance reporting requirements, including potential donor disclosure requirements.

Q: If we are required to register, how does the process work?

Registration is free, straightforward, and done online using the Oregon Government Ethics Commission’s electronic filing system: <https://apps.oregon.gov/OGEC/EFS>

An excellent video tutorial that walks you through the process is available at: <https://www.oregon.gov/ogec/Pages/Lobbyist-%26-Client-or-Employer-Tutorials.aspx> or <https://youtu.be/peTa8-Je1aA>

• **Registration:**

If any of your lobbyists trigger the registration threshold, both your individual lobbyist(s) and your organization must register and submit quarterly reports. Your individual lobbyist must register first, naming your organization as the “Client/Employer” and providing contact information. This action will trigger an e-mail that requires your organization to confirm that the lobbyist is authorized to represent you, and you will then complete additional information to register your organization.

Note that your organization’s designated contact person can also be registered as a lobbyist. You will simply need separate usernames for the two roles.

• **Registration changes, terminations, and expirations:**

Any changes in registration or updates should be done through the same electronic filing system. Clerical changes, such as changes in contact information, should be made within 30 days.

If a registered lobbyist leaves the organization, or they stop lobbying, either the lobbyist or your organization must terminate their registration via the system within three days (on the “registrations” tab of the dashboard).

Lobbyist registrations expire on December 31 of the next odd-numbered year, but they can be renewed by repeating the process outlined above.

• **Mandatory training:** Starting in 2021 registered lobbyists must complete at least two hours of annual Respectful Workplace Training provided by the Oregon Legislative Equity Office. The training does not need to be completed prior to registration.

Q: When are periodic lobbying reports due?

Separate quarterly expenditure reports for each of your individual lobbyists and for your organization are due by the 15th day of the month following the end of the calendar quarter: April 15 (for January 1–March 31), July 15 (for April 1–June 30), October 15 (for July 1–September 30), and January 15 (for October 1–December 31 of the previous year). Both individual lobbyists and organizations receive an e-mail reminder when it’s time to file.

There are penalties for missing the filing deadline, and no grace periods, so you will have only 15 days after the end of the quarter to file the report for that quarter, even if the 15th falls on a weekend or holiday. You will need strong staff time tracking and financial reporting systems to prepare the required reporting information in this short time frame.

As long as your organization and your individual lobbyists remain registered, you must file reports every quarter, regardless of whether any of your lobbyists did any lobbying or

had any lobbying expenses during a specific quarter. You must also submit the quarterly expenditure reports, even if you were only registered for part of a quarter.

Q: What information do the periodic lobbying reports include?

- **Lobbyist reports:** Lobbyists must report expenditures on food, refreshments, or entertainment for the benefit of public officials (or their staff or families) made for the purpose of lobbying, if any. The lobbyist reports do not include any personal living or travel expenses, or any organizational overhead or costs.
- **Organization (client/employer) reports:** Organizations must report all of their organizational lobbying expenses including a prorated portion of more general expenses such as a portion of office rent. This reporting requirement means that if you need to register any lobbyists, your organization will need to maintain robust systems that enable you to keep track of both expenditures and time spent on lobbying do you can prorate your overhead on a timely basis for the report.

Q: What is considered a reportable “expenditure”?

- **Lobbyist expenditures:** The individual lobbyist reports include only expenditures on food, refreshments, or entertainment made for the benefit of public officials (or their staff or families), if any, for the purpose of lobbying. The reports also include any such expenses that were reimbursed to your lobbyist from your organization. The lobbyist reports do not include any expenses paid or reimbursed to the lobbyist for their own food, beverage, living, or travel expenses. See the additional note on spending on public officials below.

Note that your lobbyists’ and your organization’s reports must be still submitted on time each quarter, even when no expenditures are listed!

- **Organizational expenditures:** Your organizational reports include a broader range of reportable expenditures.
 - **Compensation:** Prorated staff compensation for their time spent lobbying, not including time spent preparing to lobby, travel, or wait time.
 - **Reimbursements:** Reimbursements made to your individual lobbyists for expenditures they made for the benefit of public officials (or their staff or families), if any (see the additional note on spending on public officials below). Reimbursements for the lobbyists own personal living and travel expenses are not included.
 - **Organizational expenses and overhead:** These expenditures include overhead costs, office space, equipment, printing and postage, telecommunications costs and compensation or reimbursements paid to support staff, prorated to account for the portion of the expense allocated to your organization’s lobbying efforts.
- **A note about expenditures made for the benefit of public officials:** The rules relating to expenditures made on public officials can get very complicated. It is often best practice for smaller nonprofit organizations to simply avoid making any of these types of expenditures.
 - **Gift ban:** Almost all spending on public officials is actually prohibited! Only certain exceptions are allowed. You should be certain that you understand the intricacies of both the lobbying rules and the State gift ban rules before giving any gifts to, or paying expenses for, any public officials at the state or local level. See the Oregon Government Ethics Commission’s “Guide to Lobbying in Oregon,” listed below under Additional Resources, for more information.
 - **Detailed itemization required:** Any expenditures made on public officials, their staff, or their family (that are not prohibited under the gift ban) for the purposes of lobbying require detailed itemization if the expenditure is over \$50.

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- **Notices to public officials:** You must give public officials a written notice of the amount of the expense you will report within 10 days of incurring the expense. You must also upload a copy of the notice with your next quarterly report.

Q: Do our organization's donors need to be disclosed on any lobbying reports?

No. Oregon does not require organizations to disclose donors in lobbying reports.

Q: How are our lobbyists required to identify themselves while lobbying?

There are no special lobbyist badge or other requirements for how lobbyists must identify themselves while lobbying. When meeting with a public official for the first time, it is good practice for lobbyists to identify themselves and the organization they represent.

Q: Are there any other restrictions on lobbyists that we should be aware of?

- Tying a lobbyist's compensation to the success of their lobbying activities is prohibited.
- Lobbyists may not attempt to influence a legislator by promising financial support for them during an election or by threatening to finance opposition to their candidacy.
- Lobbyists must not make any intentional false statements or provide any false information or materials as part of their lobbying work. If they realize they made a false statement to an official they should notify the official in writing and retract or correct the statement before the official acts or relies on the statement.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 101 currently pending in the Oregon House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

- Reaching out to its student constituents, via direct physical mailings, e-mails, and volunteer phone banking, in order to get the students to call their state house representative about the bill.
- Doing an in-person Lobby Day at the state capital about Bill 101 to meet with legislators, or alternatively arranging a virtual Zoom lobby event. The Lobby Day activity might potentially include renting a bus, buying T-shirts for the volunteer participants, and handing out some small swag type items from the organization to the legislators, or if done by Zoom, the purchase of an upgraded Zoom account.
- Testifying before a committee of the House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Portland about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying is regulated in Oregon, but Students Vote Now employees and members (and volunteers, if reimbursed) will not trigger a lobbyist registration requirement unless any person individually directly lobbies for more than 24 hours in a calendar quarter. Only actual lobbying communications counts, and preparation and wait time do not count. The only time in the student engagement program that would count is the time speaking with a constituent in the phone bank, so Students Vote Now should track shifts to make sure no individual goes over the 24-hour limit, including time spent on the other elements of the lobbying program described in this case study.</p>
 <p>Lobby Day</p>	<p>The Lobby Day activities are direct communication activities that will also count towards the 24-hour registration thresholds for the time spend speaking with the legislators (but not the preparation, travel, or wait time). Students Vote Now should plan to avoid giving any swag gifts (or taking any legislators out for a drink or meal) since the registration expenditure trigger is very low (\$100) and gift ban and reporting complications also make such expenditures not worth the operational compliance burden.</p>
 <p>Committee Testimony</p>	<p>Public testimony is an exception from lobbying only for persons who do not receive any compensation or reimbursement for the testimony. Otherwise, the time spent testifying counts towards the 24-hour threshold. If Students Vote Now staff are all close to the trigger threshold, they could consider using an unpaid (and unreimbursed) volunteer such as a Board member.</p>
 <p>Mayor</p>	<p>Oregon's state lobbying law only applies to activity related to state legislation, so engaging with the Mayor of Portland about a local ordinance would not trigger registration at the state level. However, Portland has its own lobbying laws.¹ If Students Vote Now spends less than eight hours lobbying the Mayor, then it appears that their Portland work would not trigger local registration either.</p>
<p>Bottom Line</p>	<p>Because only time spent directly communicating for the purpose of lobbying counts towards the 24-hour registration threshold, Students Vote Now should be able to plan its staffing to avoid lobbyist registration and reporting for all of its proposed work.</p> <p>Students Vote Now should give information about their organization to the legislators and the Mayor instead of swag gifts to avoid the very low expenses trigger or potential violation of any gift ban rules.</p>

¹ <https://www.portlandoregon.gov/auditor/article/110892>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL ASSISTANCE HOTLINE:

Bolder Advocacy's free Technical Assistance Hotline team is always happy to help nonprofits and advocacy attorneys with more specific questions. You can contact their team of experts by e-mailing advocacy@afi.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

OREGON STATE RESOURCES:

- **Oregon Government Ethics Commission**

The Oregon Government Ethics Commission (the "OGE") is responsible for administering Oregon's lobbying law. Lobbyists register and file reports through OGE's helpful website here: <https://www.oregon.gov/ogec/pages/lobbying.aspx>

- **Full Text of Oregon Lobbying Statute and Rules**

The full text of the Oregon state lobbying statute can be found at: https://www.oregonlegislature.gov/bills_laws/ors/ors171.html (the relevant sections are 171.725 through 171.785 and 171.992).

The administrative rules, which provide guidance to help understand and comply with the lobbying law, are available at:

<https://secure.sos.state.or.us/oard/displayChapterRules.action?selectedChapter=143>

- **Guide to Lobbying in Oregon**

The OGE's helpful "Guide to Lobbying in Oregon" is here:

<https://www.oregon.gov/ogec/training/Documents/Guide%20to%20lobbying%20in%20Oregon.pdf>

- **Advisory Opinion on Lobbying**

The State Attorney General's Office has put out an advisory opinion (AG Lobby Opinion 8259) that gives some additional interpretation to the statutory language.

<https://www.oregon.gov/ogec/training/Documents/Training%20Resource%20Charts%20%26%20Materials/AG%20Lobby%20Opinion%208259.pdf>

- **The Oregon Government Ethics Additional Questions**

Questions about lobbyist registration and reporting can be directed to the OGE at 503-378-5105 or mail@ogec.oregon.gov

BOLDER ADVOCACY'S FEDERAL LAW RESOURCES:

While state and local laws regulate which lobbying activities require registration and reporting, the IRS also regulates how much lobbying a 501(c)(3) tax-exempt organization is allowed to do, including at the state and local levels. The way the IRS counts lobbying will almost always be different than how state and local laws count it, and organizations are urged to review our federal law resources to ensure all IRS compliance obligations are being met. See:

<https://bolderadvocacy.org/resource/being-a-player-a-guide-to-the-irs-lobbying-regulations-for-advocacy-charities/>



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