

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

MISSISSIPPI

Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in Mississippi 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 Mississippi?

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	An individual influencing or attempting to influence legislative action through oral or written communication (including soliciting others to influence) must register if their work meets either of the below triggers: <ul style="list-style-type: none"> Lobbying is a primary or regular function of the individual's job OR <ul style="list-style-type: none"> The individual spends \$200 or more for the benefit of public officials, legislative officials, or public employees in a calendar year
State Executive Branch Officials	Yes	Same as above, regarding executive branch officials and public employees (both the "primary or regular" test and expenditures on executive branch officials are considered cumulatively with legislative and local officials).
Local Legislators or Local Executive Branch Officials	Yes	Same as above, regarding local officials and public employees (both the "primary or regular" test and expenditures on local officials are considered cumulatively with legislative and executive branch officials).

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN MISSISSIPPI:

- **Grassroots lobbying:** Soliciting others to influence legislative or executive action (including local actions) is considered lobbying in Mississippi.
- **Local lobbying is regulated by the State:** State lobbying law in Mississippi covers efforts to influence local officials at the county, county-district, multicounty district, municipal, or school district level.
- **Most nonprofits will not be required to register:** Only persons whose "primary or regular function" is lobbying must register, unless the person spends \$200 or more in a calendar year for the benefit of public officials, or public employees, in their lobbying efforts. If your organization does not have full-time lobbyists, and you avoid spending for the benefit of public officials and public employees, you should not need to register your staff or your organization as lobbyists.
- **If you do need to register, reporting is infrequent but detailed:** If you do trigger registration, you will need to make detailed reports that include prorated staff compensation and office overhead allocations. You will need to set up robust staff time-tracking and expense-tracking systems in order to comply with these reporting requirements.

This resource is current as of November 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 advocacy@afj.org or 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 and on the Additional Resources page of this Guide.

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 the Bolder Advocacy resource library at <https://bolderadvocacy.org/>

Q: What activities count as lobbying?

In Mississippi, **lobbying** is influencing or attempting to influence **legislative action** or **executive action** through oral or written communication. Grassroots communications (i.e., encouraging others to attempt to influence legislative or executive action) also counts as lobbying in Mississippi.

Mississippi also defines lobbying as simply paying (or promising to pay) anything of value that is directly or indirectly related to legislative or executive action. Only expenditures made for the benefit of public officials trigger lobbyist registration. See the FAQ on registration triggers below for more detail.

- **Legislative action** is:

- The preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by either the Mississippi State Legislature or a member or employee of the Legislature
- An action taken by the Governor to approve or veto a bill or other action of the Legislature
- An action by the Legislature to override or sustain a veto, or the consideration of an executive appointment of the Governor

- **Executive action** is the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by a state or **local** governmental entity of a rule, regulation, order, decision, determination, or other quasi-legislative action or proceeding.

The Secretary of State has provided guidance that routine matters by agencies and local governments which do not require an official order or other official action are not generally considered executive action, and attempting to influence such actions is therefore not considered lobbying. Similarly, executive branch activities that are quasi-judicial in nature are not considered executive actions subject to lobbying regulations.

- **Local** is all entities of government at the county, county-district, multicounty district, municipal or school district level.

IMPORTANT NOTE: While the statutory definitions of legislative action and executive action do not explicitly include **local legislative actions**, the State’s written guidance appears to assume that the lobbying of local legislatures is covered by the State statute. Lobbying of local executive branch officials is explicitly covered by the State statute.

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

In order to trigger lobbyist registration in Mississippi an individual generally must lobby as a **primary or regular function** of their employment (or of their engagement if they are a contractor).

Individuals can also trigger lobbyist registration by paying, promising to pay, offering to pay, or causing to be paid, individually or on their organization’s behalf, to public elected officials, legislative officials, or public employees, any thing or things of value with an aggregate value (across all such officials and employees) of \$200 or more, during any calendar year. “Public employees” include employees of the state university system or the state community and junior college system.

While the statute does not explicitly define what “primary or regular function” means, the Mississippi Office of the Attorney General has given some guidance in Ethics Opinion No. AO 95-0091. In that opinion, the AG’s office considered a case where staff members for the Public Employees’ Retirement System were frequently asked to provide information to the organization’s Board regarding its legislative agenda and to interact with individual legislators regarding the organization’s legislative agenda, budget, and other related matters. The AG’s office determined that the staff members were not lobbying as a “primary or regular function” of their employment and did not need to register as lobbyists. The full opinion can be viewed at <https://govt.westlaw.com/msag/Index> (search term “AO 95-0091”).

The bottom line is that if you and your staff refrain from giving anything of value to public officials, then the only individuals who should need to register as lobbyists are any of your staff or contractors who are hired (or otherwise engaged explicitly) to lobby on a relatively full-time basis.

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 the 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 count as lobbying for the purposes of state-level lobbyist registration triggers. The exceptions that often apply to nonprofits include:

- **Public testimony:** Making formal testimony on the record before a public meeting of a legislative body or executive agency (or any committee, division, or department of such a body or agency)
- **Religious organizations:** Lobbying exclusively on behalf of a federally tax-exempt religious organization

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 sustained 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?

The state legislature may adopt, amend, or initiate constitutional amendments to be placed on the ballot. Lobbying the state legislature to adopt, amend, or reject the placing of such a measure on the ballot should be examined using the same lobbying analysis discussed above.

Supporting or opposing a Mississippi ballot measure once it is already placed on the ballot is not regulated as a lobbying activity under Mississippi law (even though the IRS counts it as a lobbying activity at this stage). Instead, Mississippi regulates activity to support or oppose a ballot measure already on the ballot under the state’s campaign finance laws. Nonprofit organizations considering working on ballot measures already on the ballot in Mississippi should seek additional legal advice on how to comply with any applicable state or local campaign finance reporting requirements.

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

If you do have any staff who trigger registration, then they will need to register with the State as a “Lobbyist” within five days of triggering the requirement.

The State has a very good step-by-step guide to walk you through the registration process, complete with illustrative screenshots. You can find the guide at <https://lobbying.sos.ms.gov/elec/HelpDocument/LobbyistUserGuides/MS-Elections-WebUserGuide-Lobbyist.pdf>

Once your organization has a registered lobbyist, you will also need to register your organization as a “Lobbyist Client.”

Since organizations do not need to register unless they have a registered lobbyist, you should first have your staff register as a lobbyist, then register the organization as the lobbyist’s client.

Registration is annual, and the fee is \$25 per year. Registrations must be completed online.

Q: When are periodic lobbying reports due?

Individual lobbyists must file three reports a year, and your organization as the “Lobbyist Client” must file one report a year.

Report	Due Date	Filed By
First Legislative Expenditure Report	February 25	Individual lobbyists
Second Legislative Expenditure Report	10 days after end of legislative session	Individual lobbyists
Annual Report	January 30	Individual lobbyists Organization

Lobbyists who exclusively lobby local officials are exempt from the two legislative expenditure reporting requirements (but not the registration requirement or the annual report requirements).

Your registered lobbyist staff and your organization are required to maintain records of all lobbying-related expenditures for at least two years.

There is a grace period for filing reports late, but starting on the tenth day after the deadline, the Secretary of State will assess a civil penalty of \$50 per day until a valid report is filed (up to a maximum of \$500 per late report).

Q: What information do the periodic lobbying reports include?

Unlike the registration trigger, which only looks to expenditures made for the benefit of public officials, once a staffer is registered as a lobbyist, they must make periodic reports that require additional detailed disclosure, including your organization’s internal lobbying expenses. You will need to disclose prorated compensation paid to your lobbyists, prorated allocated costs of office and support personnel, and expenses connected to both your direct and grassroots lobbying, including the costs of print mailings and digital advertising.

The reports must also disclose the details of any expenditures made for the benefit of public officials or employees in furtherance of lobbying activity.

These disclosures will require that you have good employee time-tracking systems, as well as robust and timely expense-tracking systems in place so that you can comply with these requirements.

Q: What is considered a reportable “expenditure”?

For periodic reports to the State, expenditures must be broken out into the following categories:

- **Lobbyist compensation:** Compensation and reimbursements made to your lobbyist staffers (prorated for the share of the staffer’s time spent on lobbying out of their overall time working)
- **Office expenses:** Office expenses such as rent, utilities, compensation paid to support staff, and other overhead expenses attributable to lobbying (again, prorated for the percentage of your staffers’ time spent on lobbying activity vs. all staff time)
- **Direct lobbying expenses:** Expenses in support of direct lobbying activities, such as the cost of research supporting your lobbying efforts
- **Grassroots lobbying expenses:** Expenses that support your grassroots lobbying, such as print mailings or paid social media
- **Food, travel, and entertainment:** Any payments or reimbursement for food, beverages, travel, lodging, entertainment, and sporting activities, whether made for the benefit of your own staff, volunteers, or for public officials or public employees
- **Other expenses:** Any other payment, gift or thing of value made for any lobbying-related purpose

For each public official and public employee who was given or paid (or promised to be paid) anything of value from your lobbyist staff or from your organization, the report must also include:

- The name of the public official or public employee who received the gift, payment, or promise
- A description and the monetary value of what was given, paid, or promised
- The name of the person who gave, paid, or promised to pay

While the cost of an event in which the entire Legislature is invited is reportable, you do not need to itemize the names of all of the attendees on the report (as you would need to do if you spent money on just one or several legislators).

Mississippi conducts random audits and compliance checks of filed reports, and if you trigger registration and are required to file periodic reports your organization will need to diligently track your staff time and your organizational expenses in order to comply with these reporting requirements.

Gift ban: Mississippi defines a gift as anything given of value for which no (or lesser) value is returned. Lobbyists are not prohibited from giving gifts, but anything of value given to a public official or public employee must be reported, and you can potentially trip the lobbyist registration threshold even by giving out just small swag gifts.

It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with state and local ethics and “gift ban” laws. Those state and local rules often apply even if your organization has not triggered lobbyist registration, and may apply to a broader range of officials. You should be certain that you understand the intricacies of both sets of rules before giving any gifts to, or paying expenses for, any public officials at the state or local level.

FAQS

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

No.

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

Mississippi does not require lobbyists to identify themselves as such while lobbying, but best practice is to do so. The law does not require lobbyists to wear special identification badges.

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

Paying lobbyists contingency fees based on securing passage or defeat of legislation or executive action is prohibited.





Your lobbyists and your organization are prohibited from misleading any public official or public employee while lobbying them.

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 Mississippi 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 Mississippi House of Representatives regarding the student perspective on Bill 101.
- Having an employee engage with the Mayor of Jackson about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>The student engagement activities are grassroots lobbying efforts, which are regulated in Mississippi.</p> <p>If Students Vote Now does not have any employees or consultants that are doing lobbying in Mississippi as their “primary or regular” job function (which the state has interpreted to mean doing quite a lot of lobbying) then these activities, combined with the other planned activities, should not trigger registration.</p>
 <p>Lobby Day</p>	<p>The same “primary or regular” job function analysis applies to Lobby Day.</p> <p>Here, Students Vote Now also needs to ensure they are not triggering registration by spending \$200 or more giving anything of value to public officials, legislative officials, or public employees.</p> <p>If Students Vote Now does not take any of the legislators or staff out to drinks or a meal, and also does not give out swag, they should be able to avoid this trigger.</p> <p>Any other expenses of the Lobby Day do not count towards the registration trigger, but if they do need to register any staff member as a lobbyist, then the periodic reports would include the expenses of the Lobby Day.</p>
 <p>Committee Testimony</p>	<p>Because public committee testimony is specifically excluded from the definition of lobbying, time spent on these efforts is not considered for the registration trigger analysis.</p>
 <p>Mayor</p>	<p>Mississippi regulates local legislative and executive lobbying, so the State lobbying rules apply to Students Vote Now’s engagement with the Mayor of Jackson.</p> <p>Students Vote Now should refrain from giving anything of value to the Mayor, including swag, since these expenses would count towards a possible registration trigger.</p>
<p>Bottom Line</p>	<p>If Students Vote Now does not have any staff whose primary or regular job function is lobbying and if they refrain from spending for the benefit of any public official, legislative official, or public employee – both at the State and local level – they should be able to avoid registration and reporting requirements for their advocacy on Bill 101.</p>

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 the Bolder Advocacy team of experts by e-mailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

MISSISSIPPI STATE RESOURCES:

- **Mississippi Secretary of State**

The Secretary of State's office oversees the implementation of the Mississippi lobbying disclosure system. Their main website is here: <https://www.sos.ms.gov/elections-voting/lobbying>

- **Full Text of Mississippi Lobbying Statutes**

The full text of the Mississippi state lobbying statute can be found in an appendix to the 2022 lobbying guide published by the Secretary of State's office here:

https://www.sos.ms.gov/content/documents/elections/links/2021%20Lobbying%20Guide_KJedits.pdf

- **User Guides**

The Secretary of State's office publishes several helpful user guides.

- **2022 Lobbying Guide:** General information about the lobbying rules in the state. Also contains the text of the lobbying statute. <https://lobbying.sos.ms.gov/elec/HelpDocument/2022%20Lobbying%20Guide.pdf>
- **Lobbyist User Guide:** Instructions for how individual lobbyists can use the online system to register and report. <https://lobbying.sos.ms.gov/elec/HelpDocument/LobbyistUserGuides/MS-Elections-WebUserGuide-Lobbyist.pdf>
- **Client User Guide:** Instructions for how organizations ("Clients") can use the online system to register and report. <https://lobbying.sos.ms.gov/elec/HelpDocument/LobbyistUserGuides/MS-Elections-WebUserGuide-Client.pdf>

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to the Secretary of State's hotline at (800) 829-6786.

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 Bolder Advocacy's 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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