

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

MISSOURI

Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	An individual who attempts to influence the actions of legislative public officials, and meets one or more of the following: <ul style="list-style-type: none"> Is an employee of your organization who lobbies for you as a primary part of their job Is a contractor paid specifically to act as a lobbyist for your organization Is otherwise specifically designated by you to act as your lobbyist Spends \$50 or more in total for the benefit of public officials within a calendar year
State Executive Branch Officials	Yes	An employee who attempts to influence the actions of executive branch public officials and meets one or more of the same triggers as above.
Local Legislators or Local Executive Branch Officials	Maybe	The Missouri state statute regulates lobbying of local jurisdictions that have operating budgets over \$10 million, under the same triggers as described above.

Judicial branch lobbying: Missouri also regulates lobbying the state judicial branch **regarding purchasing decisions**, which this Guide does not cover in detail.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN MISSOURI:

- **Grassroots lobbying:** The Missouri statute does not explicitly address grassroots lobbying, and the Missouri Ethics Commission (the “Commission”) has not yet taken a firm stance on whether grassroots lobbying on its own might trigger lobbyist registration. If you intend to do a substantial amount of grassroots lobbying in Missouri, you should seek additional guidance on this point.
- **The Missouri statute appears complex but is relatively simple underneath:** Missouri classifies lobbyists into four categories, depending on which branch or level of government they lobby, which appears very complex at first. However, the definitions are all very similar, and once a lobbyist concludes they need to register, there is only one procedure for registration.
- **Paid employees of your organization who only do some lobbying should not have to register:** An employee of your organization who does some lobbying activity but does not have lobbying as the primary purpose of their job, will not trigger a need to register.
- **Volunteer lobbyists usually do not have to register:** Volunteer (unpaid) lobbyists do not have to register, unless they make expenditures for the benefit of public officials of more than \$50 in a calendar year, or your organization officially designates them as a lobbyist on your behalf.

This resource is current as of January 2023. 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 Missouri, “lobbying” is attempting to influence certain government actions:

- Legislative actions
- Executive branch actions
- Actions of elected officials in local governments with an annual operation budget of over \$10 million
- Judicial branch purchasing decisions

The last category, attempting to influence judicial branch purchasing decisions, will rarely be relevant for a nonprofit organization, so this Guide generally doesn’t discuss this category. If this sort of lobbying activity is part of your plans, please seek additional assistance from local counsel.

Legislative actions include the taking, passage, amendment, delay, or defeat of any official action on any bill, resolution, amendment, nomination, appointment, report or any other action or any other matter pending or proposed in a legislative committee in either house of the General Assembly.

Executive branch actions include the actions of the executive branch of government or any appointed official, employee, department, division, agency, or board or commission thereof.

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

In Missouri, there is a four-part test to determine if any of the individuals who are lobbying on your behalf might need to register as your lobbyist, depending on the situation.

- **Test for employees:** Your employees who lobby for you generally will not have to register unless it is the primary function of their job. We note however, that the Missouri statute differentiates between the various kinds of lobbying as outlined below.

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- **Legislative lobbying:** In order to trigger registration for legislative lobbying the “primary purpose” of the employment must be to “influence legislation on a regular basis” and the requirement to register does not apply to any person who “engages in lobbying on an occasional basis and not as a regular pattern of conduct.”
- **Executive branch lobbying:** An employee only triggers registration for executive branch lobbying if they are “acting in the ordinary course of employment.”
- **Local lobbying:** An employee only triggers registration for local lobbying if they are “employed specifically for the purpose of attempting to influence any action by a local government official elected in a county, city, town, or village with an annual operating budget of over ten million dollars.”

The trigger test for executive branch lobbying by your employees is less clear than those for legislative lobbying and local lobbying. If you intend to do substantial amounts of executive branch lobbying, you may wish to speak with the Commission about your specific facts and circumstances.

- **Test for lobbying contractors:** If you have specifically engaged a lobbying firm or an individual lobbyist as a contractor, then they will need to register as your lobbyist.
- **Test for a “designated lobbyist”:** If you have specifically granted the authority to someone who is not your employee (or your specifically engaged contractor) to lobby on your behalf, then they will need to register. This situation could occur if, for example, you were to send a Board member, or a member of your organization, to lobby on your behalf, and the activity was not otherwise one of the lobbying exemptions discussed below. You should be thoughtful about how much you rely on volunteers to lobby, or hold out volunteers (or non-employee Board members) as your spokesperson for your lobbying activity, to reduce the risk that the State could consider them to have been “designated” as a lobbyist for your organization.
- **Spending on public officials:** Any person who is lobbying on your behalf and spends an aggregate of \$50 or more on behalf of public officials in connection with lobbying within a calendar year will need to register.

Grassroots lobbying: The Missouri statute does not explicitly address grassroots lobbying, but the Commission has published a FAQ on its website that indicates it may analyze grassroots lobbying in the same way it does direct lobbying, which would mean that the triggers would be the same.

The FAQ is here:

<https://www.mec.mo.gov/FAQ/Questions/28?searchWord=grassroots&BU=0>

If your organization would prefer not to have to register a staffer, and you also plan to do a significant amount of grassroots lobbying using employees whose work might trigger registration under the first test above, consider seeking additional advice from the Commission before you begin.

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 analyzed together with 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 they track the registration threshold.

IMPORTANT NOTE: In states where registration is required prior to lobbying, or 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:

- Responding to a request for information from any public official or employee of the legislative or executive branches
- Testifying as a witness before the General Assembly, any committee of the General Assembly, any subdivision (state board, commission, or agency) of the executive branch, or participating in public hearings or public proceedings held by the executive branch
- Preparing or publishing an editorial, a newsletter, newspaper, magazine, radio or television broadcast, or similar news item (whether print or electronic)

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?

Supporting or opposing a Missouri ballot measure is generally not regulated as a lobbying activity under Missouri law (even though the IRS does count it as a lobbying activity). Instead, Missouri regulates activity to support or oppose a ballot measure under the state’s campaign finance laws. The narrow exception is that for measures that are placed on the ballot by the legislative branch, attempting to influence the action of the General Assembly in deciding whether to place a measure on the ballot will still be analyzed under the rules governing lobbying. Attempts to collect signatures to get a measure on the ballot, or supporting or opposing a measure once it is on the ballot, are not lobbying.

Nonprofit organizations considering working on ballot measures in Missouri (either working to get a measure on the ballot or supporting or opposing an existing measure) should seek 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 anyone in your organization is required to register as a lobbyist, the process is simple. The online registration form asks for:

- The staffer’s name and contact information
- Which kind of lobbying they plan to do (lobbying the legislative branch, the executive branch, or local government)
- Whether they personally employ anyone else who also lobbies (if the staffer works for your organization, the answer will be “no”)
- What organization (“lobbyist principal”) the staffer-lobbyist expects to represent (which will be your organization)

The registration fee is ten dollars. Registration lasts for one calendar year and is renewable online by January 5th of the new year. Your organization will not need to separately register.

You can complete the registration online here: <https://mec.mo.gov/LFS/Registration>

Q: When are periodic lobbying reports due?

Lobbyist monthly expenditure reporting: Lobbyists must submit a monthly expenditure report by the 10th of the following month, even if the lobbyist has no expenditures in a given month.

Lobbyist principal and legislative action reporting: In addition to the monthly expenditure reports, twice a year (by March 15th and May 15th) a lobbyist must also file a separate report with the Commission called a List of Principals and Legislative Action Report.

Q: What information do the periodic lobbying reports include?

Lobbyist monthly expenditure reporting: In Missouri, the monthly lobbyist expenditure reports only include expenditures your lobbyists or your organization made **on behalf of elected officials**, or the officials’ employees, spouses, and dependent children. Smaller nonprofit organizations often find it easier to avoid making any such expenditures, which will simplify your reporting greatly.

Lobbyists also must report any direct business relationships, associations, or partnerships the lobbyist has with a public or elected local government official.

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Lobbyists do not have to report any internal lobbying expenditures (such as staff compensation) or any of your grassroots lobbying costs (such as paid social media). The only reportable expenditures are those spent for the benefit of public officials for the purposes of lobbying them.

List of principals and legislative action: This is a simple semi-annual report that requires the lobbyist to describe the organization they are lobbying for (which will be your organization) and which governmental actions were lobbied. The form can be found here: <https://www.mec.mo.gov/WebDocs/PDF/Lobbyist/PrincipalReport.pdf>

Note that although the form's title refers to "legislative action," it covers all four kinds of lobbying activity (legislative, executive, local, and judicial).

Q: What is considered a reportable "expenditure"?

Reportable lobbying expenditures are any money spent **on behalf of elected officials**, their employees, spouses, and dependent children, including beverages, entertainment, food, gifts, media, printing, publication, other advertising, and travel (in each of these categories, money spent is for the benefit of the official, not your own organizational expenses). The expenditures must be broken out by category. The report also requires the lobbyist to break down whether the expenditure was made by the lobbyist or the lobbyist's employer (the "lobbyist principal"), and whether it was solicited by the public official.

Gift ban: It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with other 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.

In Missouri's case, a 2020 amendment to the state Constitution specifically prohibits gifts to public officials from lobbyists and employers of lobbyists (lobbyist principals).

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?

Lobbyists are required to obtain a state-issued security identification badge from the Missouri Office of Administration.

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





- **Revolving door rules:** Missouri has a number of rules that impose a waiting period before a former elected official may serve as a paid lobbyist. For example, legislators may not serve as paid lobbyists for two calendar years after the end of the legislative session in which they last served. Statewide elected officials, and persons holding office that require appointment by the governor and confirmation from the Senate, must wait until six months after the expiration of their term to lobby.
- **No appearance on house floor:** Persons who engage in lobbying for compensation are not allowed to go onto the floor of either house of the legislature, unless invited.
- **Former candidates for office:** Any person that has control of a candidate committee must dissolve the committee and disburse all money held by the committee if they wish to register as a lobbyist. They can return contributions, donate to a 501(c)(3), or transfer funds to a political party committee. No registered lobbyist can transfer funds from any committee they control to a committee controlled by another candidate or public official.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about HB 101 currently pending in the Missouri 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 HB 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 HB 101.
- Having an employee engage with the Mayor of Kansas City about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Contacting other students to get them to call their legislators is grassroots lobbying, which in Missouri may be subject to the same triggers as direct lobbying. If Students Vote Now employees organize the outreach, so long as lobbying is not their primary job purpose, they will not need to register.</p> <p>As long as Students Vote Now does not compensate the volunteers or designate them as their “lobbyists,” the volunteers will also not have to register.</p>
 <p>Lobby Day</p>	<p>Lobby Day is a direct attempt to influence legislators, but if the paid staff who are involved are not employed for the primary purpose of lobbying, they will not need to register.</p> <p>The volunteers that Students Vote Now bring should also not have to register, but Students Vote Now should be careful in how they characterize them, to avoid communicating that the volunteers have been “designated” as lobbyists for Students Vote Now (as opposed to acting as constituents of the organization there to tell their stories).</p> <p>Missouri has a strict gift ban, so Students Vote Now should not give swag gifts – they could give information about their organization instead.</p>
 <p>Committee Testimony</p>	<p>Missouri specifically exempts testifying as a witness before the General Assembly or any of its committees from being deemed lobbying, so this will not trigger lobbyist registration.</p>
 <p>Mayor</p>	<p>Kansas City, which has an operating budget of over \$10 million, is subject to the state lobbying statute (Elected Local Government Official Lobbying). As above, so long as Students Vote Now does not employ any staff specifically to do this work, they should not have to register.</p>
<p>Bottom Line</p>	<p>Students Vote Now should be able to accomplish most or all of its agenda without any staffer needing to register, on the assumption that the employees engaging in these activities do not lobby as the primary purpose of their job.</p>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL 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 Bolder Advocacy's team of experts by emailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

MISSOURI STATE RESOURCES:

- **Missouri Ethics Commission**

The Missouri Ethics Commission is the agency responsible for administering the lobbyist registration and reporting system in Missouri. Their website is located at:

<https://mec.mo.gov/MEC/Lobbying/Home.aspx>

- **Full Text of Missouri Lobbying Statute**

The full text of the Missouri lobbying statute can be found at:

<http://revisor.mo.gov/main/OneChapter.aspx?chapter=105> (Scroll to section 105.450.).

- **Missouri Ethics Commission 2023 Guidebook**

The Commission also puts out a Guide to Ethics Laws which includes a chapter on lobbying:

<https://mec.mo.gov/WebDocs/PDF/Press/EthicsGuide2023.pdf> (Scroll to page 33.)

This helpful FAQ page is on the Missouri Ethics Commission website as well:

<https://www.mec.mo.gov/FAQ/>

- **Lobbying Training Tutorial**

An online lobbyist training tutorial produced by the Commission can be viewed at:

<https://www.youtube.com/embed/9aG6SR4-gOk>

- **Additional Questions**

Technical questions about lobbyist registration and reporting can be directed to a representative at the Commission by phone at 573-751-2020 or emailed to: helpdesk@mec.mo.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 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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