

PRACTICAL GUIDANCE

What Nonprofits Need to
Know About Lobbying in

INDIANA

Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	Any organization or individual, including a nonprofit or its employees, who receives or spends \$500 or more to communicate with state legislators and their staffs for the purpose of influencing legislative action, must register with the Indiana Lobby Registration Commission ("ILRC"). Giving or receiving a grant earmarked for lobbying counts towards the trigger threshold, as does prorated employee compensation for direct lobbying communications (but not preparation, planning, or travel).
State Executive Branch Officials	Yes	Communicating with the Governor for the purpose of influencing action on pending legislation is subject to the same triggers as above. The \$500 threshold is cumulative for expenditures on both the General Assembly and the Governor. Separately, any individual who receives more than \$1,000 in a year in prorated compensation to lobby a state agency about rulemaking (among other agency functions) must register with a different agency, the Indiana Department of Administration ("IDOA"), once a lobbying contact occurs. There is no organizational registration requirement for state agency lobbying.
Local Legislators or Local Executive Branch Officials	Maybe	Local lobbying is not covered by the state lobbying statute, but some local jurisdictions, including Indianapolis, have their own lobbyist registration ordinances.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN INDIANA:

- Grassroots lobbying generally does not trigger registration or reporting:** Grassroots lobbying (calling on members of the public or other organizations to take action) generally does **not** trigger lobbyist registration or reporting in Indiana. The exception is if a grassroots communication provides a "direct communication link" between a member of the public and a legislative lawmaker. For more on this narrow exception, please see the "What activities count as lobbying?" FAQ below. Grassroots lobbying of the executive branch does not trigger registration or reporting, even if there is a direct communication mechanism in the communication.
- Separate registration for legislative and agency lobbying:** Indiana has separate rules and separate regulators for lobbying the legislature or Governor about legislation, and lobbying executive branch administrative agencies about rulemaking. The legislative lobbying reports are quite detailed, while executive agency lobbying reporting is much simpler.

This resource is current as of April 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@afi.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?

Indiana regulates legislative lobbying and executive branch lobbying under different regimes. As background, Indiana enacted a statute to regulate legislative lobbying long ago. Executive branch lobbying, however, was unregulated until 2004, when an Executive Order established the separate rules for executive branch lobbying.

Legislative lobbying

Indiana law defines legislative lobbying as communicating by any means, or paying others to communicate by any means, with any **legislative person** with the purpose of influencing any **legislative action**.

- **Legislative person** means any of the following, or their close relatives (parent, spouse, or child)
 - A member of, officer of, candidate for, or consultant employed by the General Assembly
 - Any other employee of the legislative department of the state government
- **Legislative action** means any matter before the General Assembly. The definition includes actions by the entire General Assembly, either house, any committee, or any member or employee of the General Assembly acting in their official capacity. It also means the action of the Governor in approving or vetoing any bill.

The fact that the lobbying definition includes paying others to communicate means that organizations that make grants earmarked for lobbying activity may be deemed to be paying for others to lobby and potentially trigger the need to register and report.

Executive branch lobbying

Indiana separately regulates executive branch lobbying, which is defined as an attempt to influence the decision of an executive agency with respect to an **executive branch action**.

- **Executive branch action** means:

- The proposal, drafting, development, consideration, promulgation, amendment, repeal, or rejection of state agency rules
- The expenditure of state funds with respect to the award of a contract, lease, or other financial arrangement (grant applications do not count)

Detailed guidance on the agency functions covered by the executive branch lobbying rule (and the exceptions to it) can be found in the IDOA's Executive Branch Lobbying Manual, which is available here: https://www.in.gov/idoa/files/EBLR_Manual_090911_.pdf

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

Registration for legislative and executive branch lobbying is triggered separately. The trigger for each one is as follows:

Legislative lobbying

Any individual, or any organization, that receives or spends \$500 or more in a calendar year to communicate with legislative persons for the purpose of influencing legislative action must register as a legislative lobbyist. For the \$500 registration trigger, prorated employee compensation counts, including the prorated value of employee benefits, but overhead (including office rent) and personal expenses (like meals and lodging) do not. When calculating how much time an employee spends on lobbying, time actually communicating with legislative persons counts, but preparation, planning and travel time does not. The registration year (including for the for purposes of the \$500 threshold) runs from November 1 of each year to October 31 of the following year.

Because the registration requirement is extended to parties that **receive** as well as **spend** more than \$500 to lobby, generally both an employee who lobbies and their employer must register. Your employee will register as a **“Compensated Lobbyist”** and your organization will register as a **“Employer Lobbyist.”**

If your organization receives funds that are earmarked for lobbying, then you might need to register twice, both as a Compensated Lobbyist of the donor who is paying your organization to lobby, and also as an Employer Lobbyist, that pays your employee to lobby. This arrangement can present potential donor disclosure issues, which you can avoid by not soliciting or accepting grants specifically earmarked for lobbying.

Grassroot legislative lobbying as a potential registration trigger

As a general matter, the costs of grassroots lobbying activities do not count towards the legislative lobbying registration trigger in Indiana. There is an exception, however, for grassroots legislative lobbying communications made to the public that provide (or offer to provide) a **"direct communication link"** to a state lawmaker. The direct communication link exception is fairly narrow – examples include the costs of sending pre-printed and pre-addressed postcards for the recipient to mail to their Representative, or a phone bank program that offers to connect members of the public directly to a Representative's office. By contrast, the costs of a mailer that merely urged recipients to write to their representative, or a phone bank program that asked the recipients to call their representative, would not count towards the registration trigger. The test, as expressed in an ILRC advisory opinion, is whether the grassroots communication lowers the barrier for the recipient to communicate to a sufficient degree that the lobbyist is essentially communicating with the legislative person through the public. You can review this Advisory Opinion (AO 2016-1) here: <https://www.in.gov/ilrc/files/FAO-2016-1-Final-Pub-IN-Register.pdf>

Executive branch lobbying

Any **individual** who receives \$1,000 or more in a calendar year in prorated compensation to lobby executive agency officials on executive branch actions must register. Unlike the legislative lobbying rules, under the executive branch lobbying rules only **individuals**

FAQS

need to register – there is **no** organizational registration requirement. There is also no grassroots communication trigger.

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 trigger state-level lobbyist registration.

Legislative lobbying

The exceptions in the legislative lobbying law that are most relevant to nonprofit organizations include:

- Any person who is not compensated for their lobbying activity
- Any individual invited by a member of the General Assembly to testify before the General Assembly, or any legislative committee

Executive branch lobbying

Under the executive branch lobbying rules, certain categories of communication with executive branch agencies are not considered lobbying. The exceptions most relevant to nonprofit organizations include:

- Paid advertising intended to influence public opinion (grassroots campaigns)
- Grant applications and negotiations, including responses to commercial solicitations like requests for proposals
- Communications with the Indiana Economic Development Corporation relating to a development project
- Any participation in a public agency hearing (both written and oral), or other testimony invited by an agency
- Any individual who represents a religious organization for the purpose of protecting the organization's First Amendment rights

Notably, as the Executive Branch Lobbying Manual explains, the exception for paid advertising directed at the public is specifically intended to exclude grassroots lobbying from the registration and reporting requirement. This categorical exclusion is different from the legislative lobbying law, which does sometimes require persons engaging in grassroots lobbying to register (under certain narrow circumstances where the grassroots communications are facilitating direct communications with lawmakers).

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?

Indiana does not have citizen-initiated ballot measures. However, it does allow the legislature to refer constitutional amendments to the ballot.

Any attempt to influence a government official in connection with the legislature’s vote on a **proposed** amendment is likely to be considered lobbying. However, once an Indiana constitutional amendment is on the ballot, supporting or opposing it is not regulated as a lobbying activity under Indiana law (even though the IRS does count it as a lobbying activity). Instead, Indiana regulates activity to support or oppose a constitutional amendment under the state’s campaign finance laws.

Thus, nonprofit organizations considering working on persuading the General Assembly to put a proposed constitutional amendment on the ballot should treat that activity as lobbying for purposes of their (and their employees’) registration and reporting obligations. In contrast, those supporting or opposing a proposed amendment that is already on the ballot 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?

As noted above, there are separate registration processes for legislative lobbying and executive branch lobbying.

Legislative lobbying

Lobbyist registration is done electronically. The application (with instructions) is available at www.in.gov/ilrc

The home page for filing is the Lobbyist Dashboard, which uses drop-down menus to provide filing options such as registration or activity reporting. There are three basic steps to the online registration:

- Sign up for an account with IN.gov, the state government's online portal
- For new registrations, complete and submit a Memorandum of Understanding to the ILRC (see below for more on this step)
- File the registration statement for your organization and employee(s) online through the ILRC's Lobbyist Registration Portal at <https://secure.in.gov/apps/ilrc/lobbyist/public> (see below for more on this step)

The annual registration fee for 501(c)(3) and 501(c)(4) nonprofit organizations and their employees is \$100. You will be required to upload your IRS tax exemption letter to prove your status. The fee is \$200 for all other lobbyists.

The registration should be filed by the first day of the reporting year, which begins on November 1st. For an organization or employee that begins lobbying for the first time during a given registration period (if, for example, they crossed the \$500 expenditure threshold unexpectedly), they must register within 15 business days after the person becomes a lobbyist. Remember that this only occurs when you engage in lobbying **and** spend or receive at least \$500 (including prorated employee compensation) for doing so.

The memorandum of understanding requirement

Before you can complete your registration, you must complete, sign and submit a Memorandum of Understanding ("MOU") form that identifies the individual registering – or, if you are registering your organization, an individual with the authority to speak for the organization – and serves as evidence that the registering person agrees to be bound by the electronic signature on the lobbyist registration and reporting system. The MOU form for employee (in-house) lobbyists is here: <https://www.in.gov/ilrc/files/in-house-interactive-update.pdf> (There are other versions of the form, for lobbying firms or professional lobbyists, which are linked under "Step 2" here: <https://www.in.gov/ilrc/>) The MOU form should be printed and hand signed (do not use an electronic signature), and then returned to the ILRC at the e-mail address provided on the form. The ILRC states that the MOU will be activated in the online system within 24 hours of its receipt.

If you are registering for the first time, once you submit the MOU, you will have 15 days from submission to file your registration. You should, however, plan to complete your registration as soon as the MOU becomes activated, since if you do not file on time, you could be assessed a late fee of \$100 per day, up to a maximum of \$4,500.

The lobbying start date on your MOU and registration should match. If you have previously registered, the system will default to a start date of November 1st for the new annual registration.

Individual lobbyist registration

The registration for an individual employee, which Indiana calls a "Compensated Lobbyist," requires the following information:

- Contact information for the individual – since the lobbyist contact information is public, best practice would be to provide business and not personal contact details

- Business contact information for your organization (as the organization that pays the employee)
- The lobbyist's primary occupation
- The subject matter of the anticipated lobbying
- There is also a question about what kind of conflict of interest procedures the individual lobbyist uses. Your employee lobbyists should answer by going to the drop-down menu and choosing the option that the lobbyist is not required to file conflict of interest procedures (because they only lobby for your organization).

Organizational lobbyist registration

The registration for an organization, which Indiana calls an "Employer Lobbyist," requires the following information:

- Your organization's contact information, including the full name of the person responsible for communications relating to your organization's lobbying
- The full name and business contact information for any lobbyist employed by your organization to lobby
- The subject matter of the anticipated lobbying
- If your employee lobbyist is in a "close relation" to any member of the General Assembly, you'll also need to disclose that relationship
- There is also a question asking what kind of conflict of interest procedure your organization uses. You should answer by going to the drop-down menu and choosing the option that your organization is not required to file conflict of interest procedures (because your organization lobbies only for itself).

Note that the Portal also allows you to search and review other lobbyists' registration filings, all of which are public. The information displayed there reflects the same fields you will have to fill out in your own registration (and activity reports), so it can be useful to review past filings by similar organizations. For example, you can filter public filings by subject matter, so that you can find organizations that may be similar to yours and use their employees as lobbyists in a similar way.

Obligation to update information and to terminate registration

Once your organization and your employee have registered, you are both obligated to update any material changes to the information listed in the registration statement within 15 days of becoming aware of the changes. When the lobbying relationship ends, both should file a notice of termination within 15 days, accompanied by an activity report that provides information on reportable expenditures made between the last activity report and the termination date. **Note:** if you do not affirmatively terminate your registration, Indiana will expect a renewed registration statement and fee by the beginning of the next lobbying year (on the next November 1st).

Failure to file any of these required notices on time can expose you to late fines of \$100 per day, up to a maximum of \$4,500.

As of the date of this Guide, a step-by-step PowerPoint overview of the electronic filing system was available at <https://www.in.gov/ilrc/files/ONLINE-FILING-2016.pptx>

This overview can be also found on the ILRC's home page under the heading "TRAINING."

Executive branch lobbying

The executive branch lobbying registration process is separate and simpler. The online registration can be accessed via your IN.gov login, but the IDOA maintains a separate portal for executive branch lobbying registration.

An employee of your organization will need to register as an executive branch lobbyist if they are communicating with an executive branch agency with the purpose of

FAQS

influencing agency action, **and** they anticipate that their prorated compensation for this lobbying activity will be more than \$1,000 for the calendar year (as calculated for direct communication time only, and not for preparation, travel, or wait time). To register, they will need to provide their name and contact information, your organization's name and contact information, the subject matter about which they will be lobbying, the agency (or agencies) they will lobby, and the date they first made contact with the agency.

The fee for executive branch lobbyist registration is \$50. Executive branch lobbying registrations and reporting do not follow the November to October cycle used by the ILRC.

They should register within 15 days of **first making contact** with the relevant agency. In other words, they do not register until they actually start lobbying. The IDOA discourages what it calls "anticipatory" registration – registration before you've actually started lobbying.

As with legislative lobbyists, registered executive branch lobbyists are also required to update their registration to reflect any material changes, and to file a notice of termination if their lobbying engagement ends. Both should be filed within 15 days or you can be subject to late fees of \$100 per day (up to a maximum of \$4,500).

More information about how to register for executive branch lobbying can be found here: https://www.in.gov/idoa/files/EBLR_Manual_090911_.pdf

Q: When are periodic lobbying reports due?

Legislative lobbying

Legislative lobbying reports are due **twice** per year, in May and November.

The first report is due on May 31st. This report covers the period from November 1st through April 30th. The second report is due on November 30th and covers the period from May 1st through October 31st.

For each reporting deadline there will be two reports – one filed by your organization, and one filed by your employee lobbyist. If you have more than one lobbyist, each lobbyist will file their own employee lobbyist report.

Failure to file legislative activity reports on time can expose you to late fines of \$100 per day, up to a maximum of \$4,500.

Executive branch lobbying

A single annual report for executive branch lobbying is due on January 15th of each year. Only your employee lobbyist is required to file the annual report – your organization itself has no reporting obligation.

Q: What information do the periodic lobbying reports include?

Legislative lobbying

The ILRC's semi-annual activity reports for legislative lobbying require you to report the general subject matter of each bill or resolution about which you lobbied during the relevant period, and the reportable expenditures you made during the period.

Reportable expenditures include gifts and entertainment made for the benefit of legislative persons, prorated employee compensation on time spent directly lobbying, and reimbursements of lobbying expenses of your lobbyist employees.

Internal office expenses, staff time of nonregistered lobbyists, and personal travel, lodging and meals of your registered lobbyists do not get reported. For more details, please see the next FAQ below.

There is also a question on the semi-annual report requiring disclosure of the name of any legislative person who has provided the lobbyist with an affidavit under Section 2-2.1-3-3.5 of the Indiana statute. This affidavit is only required if a lobbyist provided a legislative person with more than one-third of their non-legislative income for the

previous year. Your nonprofit organization will likely have nothing to report, in which case the question can be left blank.

Executive branch lobbying

The IDOA's annual report for executive branch lobbying requires the lobbyist to provide any updates to the information contained in their registration statement (e.g., contact information, subject matter of lobbying, agencies lobbied), and report their prorated compensation on time spent directly lobbying executive branch officials on executive branch actions (not including preparation, travel, or wait time).

Q: What is considered a reportable “expenditure”?

The legislative lobbying law and the executive branch lobbying rule cover different categories of expenditures. As discussed below, the executive branch rules are much simpler and require only that lobbyist compensation be reported.

Legislative lobbying

The focus of Indiana's legislative lobbying reporting requirements is on the party that **pays** for lobbying or pays someone else to lobby. Thus, employees who **are paid** to lobby register and file activity reports on any expenditures they make, but they are not responsible for reporting the compensation or reimbursements they receive. It is their employer – your organization – that is responsible for reporting your expenditures on employee compensation and reimbursement.

Legislative lobbying expenditures must be reported in specific categories, including the following:

- **Compensation received to lobby:** Generally, under this category your organization will report the prorated compensation you pay to your employee lobbyist, and your employee lobbyist will have nothing to report in this category on their individual filing. Note that the ILRC has interpreted the statute to include a prorated portion of the vested employer contributions to an employee’s defined contribution retirement plan as part of the employee’s total compensation – the ILRC’s analysis rests on whether the employee’s benefit is forfeited upon resignation, or whether the employee has received the benefit irrevocably. The ILRC has given informal guidance that it recognizes that it can be difficult to calculate such information precisely, and only expects organizations to make a good faith effort to estimate the accurate total compensation.
- **Reimbursement expenses:** This category includes reimbursements your organization made for reportable lobbying related expenditures. Much like the previous category, your organization will report any reimbursements you made to your employee lobbyist, but the employee lobbyist will probably have nothing to report on their individual filing.
- **Expenditures for the benefit of public officials:**
 - Receptions for legislative persons
 - Entertainment provided to legislative persons, including meals
 - Gifts provided to legislative persons – note that **all** expenditures on gifts must be included in the aggregate reporting, because there is no exclusion for gifts of minimal value
 - Expenditures made for a function or activity to which all members of a legislative body are invited

You must itemize any gift (or gifts) you give to a specific legislative person in a single day that have an aggregate value of \$50 or more, or gifts during a given reporting year that have an aggregate value of \$250 or more. Such gifts also trigger an obligation to file a separate Lobbyist Gift Report within 15 days of the gift. The ILRC has given

informal guidance that this separate reporting requirement does not apply to entertainment expenses, including food and beverage expenditures.

- **Registration and late fees:** For this category, if your organization paid for both its own registration fee and the registration fees of your employee lobbyists you should put all of those fees on your organizational form (as opposed to on the individual lobbyist forms). Note that while fees are reportable, they do not count toward the \$500 threshold for registration.
- **Other expenses:** The semi-annual reporting form also includes an entry for "all other expenses." Based upon guidance from the ILRC, this category is rarely used but provides a place to report expenditures that do not fit into the other categories. One example might be for a grassroots lobbying campaign where the communication did provide a direct communication link to the legislative person and therefore was reportable. The organization running such a campaign could use this entry to report the advertising or printing expenditures connected with the campaign. If you have lobbying expenditures that neither fit into the above categories, nor the exceptions below, you can contact the ILRC for guidance as to whether they should be reported under this "other expenses" category by calling (317) 232-9860.

Further guidance on expenditures for the direct benefit of lawmakers can be found in the ILRC's Lobbyist Handbook, available here: <https://www.in.gov/ilrc/indiana-lobbyist-handbook/>

Common expenditures that are not reportable:

Note that certain categories of expenditures are **not** reportable on the semi-annual report forms in Indiana, including:

- Lodging, meals, and other personal expenses of the lobbyist
- Compensation for support staff who are not lobbyists
- Overhead and office rent
- Postage and express mail service
- Stationery
- Telephone and fax charges
- Expenditures on electronic communications (e.g., broadband service or zoom accounts)

Legislative lobbyists are required to preserve documentation that substantiates their activity reports for a period of **four years** from the date of each report. Indiana does random audits of at least 5% of registered legislative lobbyists every year, so if you do need to register, it will be important that you have the capacity to maintain accurate records.

Executive branch lobbying

The only reportable expenditure in connection with executive branch lobbying is the prorated compensation of the lobbyist for time spent actually directly lobbying executive branch officials (not for preparation, travel, or wait time).

Unlike legislative lobbyists, executive branch lobbyists are not subject to specific record retention rule. The IDOA conducts random audits, however, and since the state keeps all filings for four years, it would be best practice to maintain your own records for four years in case you are audited.

Gift ban: 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

In Indiana, beyond the lobbyist gift reporting rules summarized above, you should know that **all** public officials (in all three branches of government) are subject to gift limits and prohibitions, with fact-specific exceptions. Most nonprofit organizations find it best practice not to give gifts to public officials. More information about Indiana's executive branch gift rules can be found at <https://www.in.gov/ig/ethics-code/gift-rule/>

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

Indiana does not have a straightforward donor disclosure requirement, but as noted above, the requirement that any organization or individual who **pays others** for lobbying has to register could potentially function as an unexpected path to donor disclosure for funders that give grants earmarked for lobbying. You can manage this risk by generally not soliciting or accepting grants that are restricted to lobbying activities.

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

There is no special requirement to wear badges or ID cards while lobbying in Indiana, but it is a good practice to identify yourself and your organization when meeting with a lawmaker or state agency for the first time.

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

Indiana law does not allow any person to be a legislative lobbyist for any compensation dependent upon the success of their lobbying efforts, or upon any contingency connected with the legislative or executive branch action in question.





Certain individuals are prohibited from registering as a lobbyist, including people who have been convicted of a felony and who have been in prison or on probation within the past year, people with certain outstanding tax warrants, and people who were members of the General Assembly or were state officers, employees, or special state appointees within the last year.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about House Bill 1001 currently pending in the Indiana 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 1001 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 1001.
- Having an employee engage with the Mayor of Indianapolis about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>This effort (as well as the Lobby Day and proposed testimony) will be directed at legislators, not agencies, so only the state legislative lobbying law is implicated.</p> <p>This grassroots lobbying campaign will not trigger registration unless the communication in question provides a direct link between the students and their representatives. (If it did, the activity would still be subject to the \$500 expenditure test.) Volunteer phone bankers will not be required to register.</p>
 <p>Lobby Day</p>	<p>If paid staff of Students Vote Now are involved in organizing this event, they and the organization will be required to register if they cross the \$500 trigger threshold. Prorated staff compensation (for direct communication only, not preparation, travel or wait time) will likely be the most important number – transportation, lodging, and meals for volunteers or employees will not count towards the trigger. The organization may be required to register even if no individual staff person reaches the \$500 compensation threshold if together the prorated staff compensation is more than \$500. The cost of a zoom account or other communication overhead, even if it is acquired expressly for lobbying, does not count towards the registration trigger threshold.</p> <p>Any “swag” gifts to legislators will lead to reportable expenditures. Students Vote Now can simplify its reporting burden by giving the legislators information about the organization instead.</p>
 <p>Committee Testimony</p>	<p>Testifying by invitation before a committee of either chamber of the General Assembly is not lobbying. As long as the testimony was invited, it will not trigger registration. If it is part of an “open mic” event, however, any paid staff member’s prorated compensation for time spent testifying (but not preparation, travel, or wait time) would count towards the trigger.</p>
 <p>Mayor</p>	<p>Indiana does not regulate lobbying directed at local and county officials, so this activity does not trigger state-level registration. However, Indianapolis separately requires lobbyists who receive more than \$1,000 in prorated compensation for city lobbying to register.¹</p>
<p>Bottom Line</p>	<p>Students Vote Now can avoid having to register based on its grassroots lobbying by not providing a direct connection in its communications. For Lobby Day, if Students Vote Now has paid staff organize the event, it should track its spending carefully, as it will likely be easy to cross the registration threshold.</p>

¹ Information about registration in Indianapolis can be found at: <https://www.indy.gov/activity/lobbyist-registration>

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 e-mailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

INDIANA STATE RESOURCES:

- **Indiana Lobby Registration Commission**

The ILRC regulates legislative lobbying. Its homepage is found at: <https://www.in.gov/ilrc/>

- **Indiana Department of Administration**

The IDOA regulates executive agency lobbying. Its lobbying resources can be found at: <https://www.in.gov/idoa/executive-branch-lobbying/>

- **Full Text of Indiana Lobbying Statutes and Rules**

The full text of the Indiana state legislative lobbying statute can be found at the General Assembly's website, found at: <https://iga.in.gov/legislative/laws/2022/ic/titles/002#2-7>

The full text of Title 25, Article 6 of the Indiana Administrative Code, which governs executive branch lobbying, can be found here: <http://iac.iga.in.gov/iac/T00250/A00060.PDF?>

- **ILRC Lobbyist Handbook**

The ILRC provides on its website a thorough Lobbyist Handbook that was last updated in 2018. The statute has not been amended since, and the ILRC considers the Handbook current guidance.

The handbook is available here: <https://www.in.gov/ilrc/indiana-lobbyist-handbook/>

- **The IDOA's Executive Branch Lobbying Manual**

https://www.in.gov/idoa/files/EBLR_Manual_090911_.pdf

- **Additional Questions**

You can ask the ILRC questions about lobbyist registration and reporting by calling (317) 232-9860.

Questions about executive agency lobbying can be directed to the IDOA by e-mail at ebf@idoa.in.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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