

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

ALASKA

Inside This Guide:

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

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
State Legislators	Yes	A person receiving payment (or reimbursement) to communicate directly with state legislative officials for the purpose of influencing legislation for more than 10 hours in any 30-day period in a calendar year. Preparation, travel, and wait time are not counted towards the 10-hour trigger. Persons who hold themselves out as being in the business of lobbying must also register (before doing any lobbying).
State Executive Branch Officials	Yes	Same trigger for lobbying executive branch officials to take administrative actions. The 10-hour threshold is cumulative with legislative lobbying time.
Local Legislators or Local Executive Branch Officials	Maybe	State law does not cover lobbying of local public officials, but some local jurisdictions, including Anchorage, have their own local lobbying ordinances.

Grassroots lobbying: Soliciting others to communicate directly with state-level public officials does not trigger registration, but counts for disclosure purposes.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN ALASKA:

- The registration trigger is relatively high:** Individual staffers who are compensated by your organization to lobby for you, but are not professional lobbyists, must spend a significant amount of time on direct lobbying communications with public officials before triggering registration. The 10 hours in any 30-day period in a calendar year does not include any preparation, travel, or wait time. Grassroots lobbying does not count towards the registration threshold either.
- If your staff is required to register, reporting requirements are detailed:** Alaska requires that both individual lobbyists and the organization on whose behalf they lobby file periodic reports. The organizational reports require details of expenditures made to support lobbying such as your cost to engage vendors or contractors that support your lobbying work. Grassroots lobbying expenses are also included in the periodic reports, even though those activities are not counted towards the registration trigger.
- Representational lobbyists:** Lobbyists who receive no compensation from you, other than expense reimbursements, need only file a simple one page registration form, but will trigger the full reporting obligations for your organization, as if you had regularly registered lobbyists.
- Significant restrictions on personal political activity:** Registering as a lobbyist entails significant restrictions on the kinds of political activities the individual registered lobbyist is allowed to do in their own personal capacity. Individual staff members contemplating crossing the registration threshold should be made aware of these restriction

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

In Alaska, **lobbying** is **communicating directly**, or using an agent to communicate directly, with public officials for the purpose of influencing **legislative** or **administrative action**.

- **Communicating directly** means speaking with a legislator, legislative employee, or public official:
 - By telephone
 - By two-way electronic communication (including e-mail, text messaging, and other electronic messaging)
 - In person
- **Legislative action** means:
 - the preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, defeat, or rejection of any bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the legislature, or by a standing, interim, or special committee of the legislature, or by a member or employee of the legislature acting in an official capacity
 - The action of the governor in approving or vetoing a bill or the action of the legislature in considering, overriding, or sustaining that veto and the action of the legislature in considering, confirming, or rejecting an executive appointment of the governor
- **Administrative action** means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by any **state agency** of any rule or regulation, or any other quasi-legislative or quasi-judicial action or proceeding. Administrative action does not include actions taken under existing policies such as permitting, licensing, or enforcing. Administrative action also does not include procurement activity by the agency or an award of a grant contract.

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- **State agency** means a state-level department, division, commission, board, office, bureau, institution, corporation, authority, organization, committee, council or board in the executive branch, or independent of the executive branch, of state government.

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

In Alaska, lobbyist registration and reporting can be triggered in two ways:

- **Professional lobbyists:** Persons who represent themselves as engaging in the influencing of legislative or administrative action as a business, occupation, or profession always need to register. It does not matter how much time they spend lobbying.
- **Other compensated lobbyists:** Persons who are paid by you to communicate directly with any state-level public official for the purpose of influencing legislative or administrative action only need to register if they lobby for more than 10 hours in any 30-day period in a calendar year.

Only time spent in direct lobbying communication with public officials counts towards the threshold. Preparation, travel, and wait time do not count towards the 10-hour threshold. Generally, direct communication will mean time spent in meetings (in person or on zoom) or on the phone. While e-mails and texts are considered direct communication, those activities will not generally count towards the 10-hour threshold because the time spent writing the e-mails or texts do not count (since it is preparation time), and the time spent directly communicating (by clicking send) is so small. Note that the direct communication activities leading up to the 10-hour trigger threshold will need to be reported on the first report after a staff person registers.

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

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

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

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

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

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

Q: Are there exceptions to what counts as lobbying?

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

- **Representational lobbyists:** Individuals who are not your employees and are not paid to lobby for your organization, but receive expense reimbursements for their personal living and travel expenses to lobby for you (for example, a Board member who you ask to attend a lobbying meeting with you) are not required to do a full lobbyist registration, pay fees, or submit reports. They are only required to submit a simple notification-style registration form. This form must be submitted before the lobbyist begins to lobby (i.e., there is no 10-hour trigger threshold for representational

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lobbyists). Note, however, that registration of a representational lobbyist does trigger the need for your organization to submit full periodic lobbying reports.

- **Volunteer lobbyists:** Individuals who lobby for you and are both unpaid and do not receive any expense reimbursements do not need to register or file a representational lobbyist registration form. The statute expressly says that volunteer lobbyists who appear before public sessions of the legislature, committees or state agencies do not need to register, but even if your unpaid and unreimbursed volunteers are doing other lobbying activities with you, they still will not need to register.
- **Invited legislative testimony:** Any person who appears by invitation before the legislature or a legislative committee does not need to register, so long as the invitation is by formal resolution. Note that there is no equivalent exception for invitations to appear before hearings of the executive branch.

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

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

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

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

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

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

Organizations that are tax-exempt under 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (trade associations) can do unlimited lobbying.

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

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

Note that there is also a federal law called the Lobbying Disclosure Act that requires some organizations to register and report their federal level lobbying activities.

Organizations that have only occasional contacts at the federal level (having occasional meetings with members or staff or sending occasional letters to Congress) will not need to register under the LDA. The thresholds are designed to require only those organizations with substantial lobbying activities and expenses to file. For more information see:

https://bolderadvocacy.org/wp-content/uploads/2018/06/Understanding_the_Lobbying_Disclosure_Act.pdf

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

It depends where in the process the ballot measure initiative is.

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If you are lobbying the legislature regarding a vote to put an initiative on the ballot – the process for both constitutional amendments and bonds issuances – then the lobbyist registration analysis discussed in this Guide applies.

Once a measure is on the ballot, however, Alaska regulates activity to support or oppose the initiative under the state’s campaign finance laws. Nonprofit organizations considering working on ballot measure initiatives that have reached this stage should seek additional legal advice on how to comply with any applicable state or local campaign finance reporting requirements, including potential “true source” donor disclosure requirements.

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

• **Compensated lobbyists:**

If any of your employed or contract staff (assuming they are not professional lobbyists) go over the 10-hour registration trigger threshold, they will need to register. The process involves completing a mandatory ethics training, registering as a lobbyist, and abiding by certain limitations on their political activities, even those undertaken in their personal capacity (see the FAQ on other lobbyist restrictions below).

Once your organization has any registered lobbyists, both your registered staffers and your organization will need to file periodic reports. Your organization does not need to separately register, but once your lobbyist’s registration is set up in the online system, your organization, as the lobbyist’s employer, will receive an e-mail to sign on and certify your lobbyist’s registration.

○ **Manual of instructions:** The Alaska Public Offices Commission (APOC) has published a step-by-step guide called the Manual of Instructions for Lobbyists and Employers of Lobbyists that walks you through the process.

<https://doa.alaska.gov/apoc/FilerResources/lobbying.html>

○ **Registration fee:** The registration fee is \$250 per lobbyist per year.

○ **Mandatory ethics training:** A link to the mandatory ethics training is here:

<https://doa.alaska.gov/apoc/training/lobbying-ethics.html>. Each individual that registers will need to complete the training, as will at least one representative of your organization.

• **Representational lobbyists:** “Representational Lobbyists” are persons who lobby for you but are not compensated for their services, other than reimbursements for their personal living and travel expenses while lobbying. They only need to complete a simple representational lobbyist registration form. None of the other reporting requirements, registration fees, or prohibitions on personal political activity apply to representational lobbyists. The simple registration form is available here:

https://doa.alaska.gov/apoc/forms/forms_lobbyist.html

Your organization will still be asked to authorize the representational lobbyist and to file periodic lobbyist employer reports, even if the only people who lobby for you are representational lobbyists who are not your employees.

Q: When are periodic lobbying reports due?

Individual lobbyist reports are generally due once a month while the legislature is in session, and then quarterly for the rest of the calendar year.

Your organizational reports (as the lobbyist employer) are filed quarterly.

See the detailed due dates calendar available here:

<https://doa.alaska.gov/apoc/FilerResources/lobbyistCalendar.html>

Late reports will incur a civil fine of \$10 per day per report.

Individual representational lobbyists are not required to file reports, but your organization will still need to file a quarterly lobbyist employer report as the entity reimbursing a representational lobbyist.

You are required to file all reports, even if there are no activities or expenditures to report in the period!

Q: What information do the periodic lobbying reports include?

Generally, the individual lobbyist reports include details of the lobbyist’s prorated compensation, reimbursements for personal living and travel expenses, and any spending made by the lobbyist for the benefit of public officials. The report also requests information about the employer and the interests being lobbied.

Note that individual lobbyists must also file a report within 30 days of making a permitted political contribution to a candidate for legislative office (allowed only for candidates in the lobbyists’ home district – all other contributions are prohibited), even when made in their own personal capacity. The report requests basic information about the lobbyist and the contribution made to the candidate, and can be accessed via the online reporting system.

Your organizational reports will include information about your spending on your registered lobbyists, and also details about your internal organizational expenses related to lobbying. You will also be required to outline your lobbying interests, and the general nature of your business.

Alaska does not require you to prorate portions of organizational overhead for reporting purposes. For example, assuming you use your office and copier for activities other than lobbying, you are not required to report a portion of your office rent or photocopying as lobbying expenses.

Q: What is considered a reportable “expenditure”?

- **Individual lobbyist reports:** Individual lobbyist reports include information about the following types of expenditures:
 - **Lobbyist compensation:** Prorated lobbyist compensation for time spent lobbying and reimbursements for food and beverages, living accommodation, and travel related to lobbying
 - **Spending on public officials:** Gifts and exchanges between the lobbyist and a public official or their family, or between the lobbyist and business entities owned or controlled by public officials
- **Organizational lobbyist employer reports:** Your organizational reports include more information about the full scope of your lobbying costs. Some of the information reported will mirror the informational reported in the individual lobbyist reports. You will need to file these reports even if you only use representational lobbyists. The information required can be quite detailed!

Categories of reporting include:

- **Lobbyist compensation and reimbursements:** Prorated lobbyist compensation for time spent lobbying, and reimbursements for food and beverages, living accommodation, and travel related to lobbying
- **Internal support for lobbying activities:** Prorated salaries and expenses of employees or contractors who assist with the preparation for lobbying activities, even if they have not themselves triggered lobbyist registration
- **Outsourced support of lobbying activities:** Details of vendors, contractors, and other non-employees that provide support for your organization’s lobbying activity

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- **Payments made for the benefit of public officials:** Activities such as sponsoring a legislative reception, entertaining public officials, and paying for trips of public officials
- **Grassroots expenses:** Costs of soliciting or urging others to enter into direct communication with public officials, such as advertising, or the costs of a text or phone banking campaign

Record retention: All records necessary to substantiate the lobbyist and organizational reports must be retained for **six years** from the date of filing and made available for inspection upon request.

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 and can result in criminal penalties. 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. It is usually easier to refrain from giving any gifts to public officials and to give information about your organization instead.

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

No. While there is a section in the Alaska lobbying statute (Section 24.45.116 – Disclosure of Contributions) that makes it look like some organizations might need to disclose donor information in their lobbying reports, we have confirmed with APOC that this piece of the statute only applies to activities that are regulated under the campaign finance statute, and is not implicated by lobbying.

The amendments to the campaign finance statute enacted under Alaska’s 2020 Measure 2, which require disclosure of the “true source” of campaign funds, also do not apply to lobbying disclosures.

Remember, however, that work on ballot measures that have already been certified for the ballot can implicate the Alaska campaign finance statute. You should be sure to seek additional legal advice, including about “true source” donor disclosure requirements, if you are planning to work on any ballot measure initiatives in Alaska.

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

Alaska does not require lobbyists to wear a lobbyist badge or to identify themselves in any other special way while lobbying, but it always best practice to identify yourself and your organization when speaking with public officials.

Lobbyists may submit photographs to be included in the official lobbyist directory.

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

- **Lobbyist compensation:** A lobbyist cannot receive compensation that is contingent upon the outcome of any lobbying efforts.
- **Limitations on campaign contributions:** In Alaska an individual required to register as a lobbyist cannot contribute to candidates for the legislature, other than a candidate for their own home district, from the time they are required to register until a year after they were last required to be registered. If the lobbyist does make any contributions to candidates in their own home district, then they must report them on Form 15-5A, which is available through the online reporting system. This prohibition does not apply to representational lobbyists or volunteer lobbyists.
- **Limitations on political roles in individual capacity:** A registered lobbyist may not (even if their own personal capacity) do any of the following in relation to a legislative campaign or a campaign for governor or lieutenant governor:
 - Serve as a campaign manager or director

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- Serve as a campaign treasurer or deputy campaign treasurer on a finance or fundraising committee
- Host a fund-raising event
- Directly or indirectly collect contributions for or deliver contributions to a candidate
- Otherwise engage in the fund-raising activity of a legislative campaign or a campaign for governor or lieutenant governor

They also may not serve as a member of a state board or commission if the lobbyist's employer organization could economically benefit from such service.

These rules do not prohibit a lobbyist from making a political contribution to a legislative candidate in their own district, as described above, or from personally advocating on behalf of a candidate.





These prohibitions also do not apply to representational lobbyists or volunteer lobbyists.

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 Alaska House of Representatives

STUDENTS VOTE NOW IS CONSIDERING:

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

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Grassroots lobbying efforts do not count towards the 10-hour registration trigger threshold, but if Students Vote Now triggers registration through any of its other work, then the grassroots lobbying expenses will need to be reported in their quarterly reports.</p>
 <p>Lobby Day</p>	<p>Time spent meeting with legislators, in person or by Zoom, is direct communication time, and counts towards the trigger threshold. Remember that preparation, travel, and waiting time does not count. Especially if staffing of the meetings is appropriately spread between Students Vote Now staff, it is unlikely that any staff will go over 10 hours of direct communications with legislators in a single Lobby Day.</p> <p>Student volunteers who are not paid for the Lobby Day and do not receive expense reimbursement do not have to register. Students Vote Now should avoid giving the students a stipend, but may pay for the bus and provide the students meals for the trip and those expenditures would not count as student expense reimbursements that would require the volunteers to register as representational lobbyists.</p> <p>Students Vote Now should refrain from giving swag gifts and instead give out information about the organization.</p>
 <p>Committee Testimony</p>	<p>Paid staff testifying before a committee of the House of Representatives does not count as lobbying, if it is officially invited testimony.</p> <p>If Students Vote Now has not been formally invited, then the time spent actually testifying (not waiting or listening) would count towards the 10-hour trigger threshold of the staff member who was speaking.</p> <p>Volunteer student speakers could be used if staff were close to the 10-hour trigger, and they would not need to register so long as they are unpaid and unreimbursed.</p>
 <p>Mayor</p>	<p>Alaska state law does not cover lobbying local officials, but Anchorage has its own ordinance, which Students Vote Now should review¹. The city ordinance only requires registration by staff that lobby for a substantial or regular portion of their job.</p>
<p>Bottom Line</p>	<p>Student Vote Now should likely be able to engage in this level of lobbying activity without any of their staff needing to register as a lobbyist by carefully keeping each staff members' time spent actually lobbying to below 10 hours in a 30-day period.</p>

¹ Information about the Anchorage ordinance can be found here: <https://www.muni.org/departments/assembly/clerk/pages/lobbyist.aspx>

ADDITIONAL RESOURCES

BOLDER ADVOCACY'S TECHNICAL ASSISTANCE HOTLINE:

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

ALASKA STATE RESOURCES:

- **Alaska Public Offices Commission**
Alaska's regulation of lobbying is administered by the Alaska Public Offices Commission ("APOC"). Their website can be accessed here: <https://doa.alaska.gov/apoc/FilerResources/lobbying.html>
- **Full Text of Alaska Lobbying Statute and Regulations**
The full text of the Alaska state lobbying statute and the related regulations can be found in the links cited on APOC's information page here: <https://doa.alaska.gov/apoc/FilerResources/lobbying.html>
- **APOC Manual of Instructions**
APOC's Manual of Instructions for Lobbyists and Employers of Lobbyists has great step-by-step instructions for how to register and file required reports electronically here: <https://doa.alaska.gov/apoc/FilerResources/lobbying.html>
- **Mandatory Ethics Training**
Individual lobbyist and lobbyist employers must both complete a mandatory ethics training. Links are available here: <https://doa.alaska.gov/apoc/FilerResources/lobbying.html>
- **Additional Questions**
Any questions about lobbyist registration and reporting can also be directed to APOC's staff by phone at 907-465-4864 or by e-mail at doa.apocjnu@alaska.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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This resource was created by the Democracy Capacity Project, a special project of NEO Philanthropy, Inc., with the support of Alliance for Justice, the assistance of Nielsen Merksamer Parrinello Gross & Leoni, LLP, and with thanks to the many, many advocates and activists who do this critical work every day.