

PRACTICAL GUIDANCE

What Nonprofits Need to Know About Lobbying in

DISTRICT OF COLUMBIA

New in This Update:

This Practical Guidance resource updates the March 31, 2023 version. Updates include:

- Updated links to D.C. resources

Inside This Guide:

This Practical Guidance resource is designed to help your nonprofit organization determine if lobbying rules in the District of Columbia 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 D.C.?

DIRECT LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
District Legislators	Yes	Your organization will need to register as a lobbying entity if you spend \$250 or more in any consecutive three-month period on direct communication with any official in the legislative branch of the D.C. government for the purpose of influencing any legislative action. Spending includes prorated employee compensation for time spent on the direct communication. Compensation or other expenditures on grassroots lobbying does not count towards the registration trigger. If your organization uses a lobbying firm or an independent contractor lobbyist, you will instead need to register as a lobbyist client .
District Executive Branch Officials	Yes	Same as above, with respect to direct communication with any official in the executive branch of the D.C. government for the purpose of influencing any administrative decision.
Local Legislators or Local Executive Branch Officials	Yes	In D.C., there is no separate municipal government – the city and D.C. governments are identical, so the above triggers apply to all lobbying.

Grassroots lobbying: Grassroots lobbying (calling on members of the public or other organizations to contact elected officials) will not trigger registration under D.C.'s lobbying laws, which focus on direct communications. However, if your organization is already registered based on direct lobbying activity, you will need to report any expenditures associated with your grassroots lobbying activities.

KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN D.C.:

- **It may be difficult to avoid registration if your paid employees do any direct lobbying:** Most organizations will find that prorated employee compensation will cross the registration threshold (spending \$250 or more over three months) very quickly.
- **If your organization does register, D.C.'s reporting requirements are quite detailed:** If you decide that your organization wants to engage in advocacy that will require you to register, you should look carefully at whether your recordkeeping and operational resources are sufficient to support the required reporting, and invest in enhancing your capacity if they are not.
- **If your organization does register, it will need to report all communications with government officials, both written and oral:** This requirement is a very unusual aspect of D.C.'s rules. You will need to have special processes in place to track and report the details of **all** communications with public officials, even a single e-mail or text message!

This resource is current as of January 2024. 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?

Lobbying means communicating directly with any **official in the legislative or executive branch** of the D.C. government for the purpose of influencing any **legislative action** or **administrative decision**. Lobbying in D.C. is regulated by the Board of Ethics and Government Accountability (“**BEGA**”).

- **Legislative action** means any activity conducted by an **official in the legislative branch** in the course of carrying out their official duties, and relating to the introduction, passage, or defeat of any legislation in the Council of the District of Columbia (the “Council”), including measures that review or consider any contract, grant, reprogramming (i.e., certain kinds of larger budget modifications), or procurement decision.
- **Official in the legislative branch** means any candidate for Chairman or member of the Council in a primary, special, or general election, the Chairman or Chairman-elect or any member or member-elect of the Council, officers, and employees of the Council, and employees of the Council that are members of the **Excepted Service** (senior policymaking government employees).
- **Administrative decision** means any activity directly related to action by an **executive agency** or **official in the executive branch** to:
 - Propose legislation
 - Issue a Mayor's order
 - Make nominations to the Council, the President, or Congress
 - Make any contract, grant, reprogramming, or procurement of goods or services
 - Cause a rulemaking proceeding (that does not include a formal public hearing) under the Administrative Procedure Act to be undertaken
- **Executive agency** means a department, agency, or office in the executive branch of the D.C. government under the direct administrative control of the Mayor, the State

FAQS

Board of Education, the University of the District of Columbia, the Elections Board, any professional licensing board, or the Campaign Finance Board.

- **Official in the executive branch** means the Mayor, an officer or employee in the Executive Service, members of certain specific boards and commissions, and executive branch employees who are members of the **Excepted Service** and paid at or above the DS-13 level in the D.C. civil service schedule.
- **Excepted Service** means employees of the D.C. government who report directly to agency heads or whose primary duties are of a policy determining, confidential, or policy advocacy nature. An overview of the Excepted Service, along with a list of executive branch positions that are part of it, is available here: <https://dchr.dc.gov/page/appointed-positions-excepted-and-executive> For more on the Excepted Service, see D.C. Code § 1-609.01 – 609.08, available here: <https://code.dccouncil.gov/us/dc/council/code/titles/1/chapters/6/subchapters/IX>

If you are unsure whether a public official with whom you are meeting is a covered official of the executive or legislative branch, it's probably easiest to just ask them.

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

If you use any employed staff lobbyists

Your organization will need to register as a “Lobbyist Entity” in D.C. if you spend \$250 or more in any consecutive three-month period on direct communication with legislative or executive branch public officials for the purpose of influencing any legislative action or administrative decision.

The spending that will count towards this threshold includes:

- **Prorated staff compensation:** staff compensation based on the percentage of time spent communicating directly with public officials.
- **Other specific lobbying costs:** other office or organizational expenditures you would not have made but for your lobbying activities. For example, the cost of travelling specifically to meet with a public official would count, but expenditures for commuting into D.C. for a series of meetings, only one of which was with a public official, would not be counted.

Grassroots lobbying time and expenses do not count towards this threshold.

As a practical matter, most organizations that use paid employees to do direct lobbying will find it difficult to avoid crossing this threshold, and will need to register as a Lobbyist Entity. Your employee lobbyists do not have to independently register as individual lobbyists, but will be listed on your organization's registration and their compensation and spending will be included in your organizational report.

If you only use a lobbying firm or an independent contractor lobbyist

If you spend \$250 or more in any consecutive three-month period to engage a lobbying firm, or an independent contractor lobbyist, your organization will also need to register, in this case as a “Client.” Your lobbyist firm will also be responsible on their side for registering as a Lobbyist Entity, and your independent contractor, if they are an individual, will need to take care of their own “Lobbyist” registration.

If you use both staff and outside lobbyists, your organization should register as a Lobbyist Entity and report the additional outside lobbyist expenses on your Lobbyist Entity reports.

A potential nonprofit exception

The D.C. lobbying statute states that certain nonprofits – defined as organizations “not organized for profit but operated exclusively for the promotion of social welfare [...] and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes” are exempt from registration if their “activities do not consist of lobbying, the result of which shall inure to the financial gain or benefit of the entity.”

FAQS

However, in 2019, BEGA issued an advisory opinion that took a very narrow view of this exception. BEGA has since provided guidance that any organization that thinks the exception might apply to it should first contact BEGA, which will assess the facts and either grant or deny a waiver under the exception (which BEGA characterizes as quite difficult to get). BEGA has also cautioned that organizations should **not** assume they qualify for the exception and decide not to register based on a self-assessment.

The BEGA Advisory Opinion entitled “Lobbying requirements for a Non-profit Organization and its Executive Director” can be found here:

<https://bega.dc.gov/sites/bega/files/publication/attachments/Lobbying%20Requirement%20for%20a%20Non-Profit%20Organization%20and%20its%20Executive%20Director.pdf>

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.

In D.C. in particular, your account manager will also be able to investigate if your fiscal sponsor has successfully applied for a nonprofit registration exemption.

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 lobbyist registration or reporting. The exceptions most relevant to nonprofit organizations are:

- Giving testimony to the Council (or a committee of the Council) that becomes part of the public record
- Supplying information in response to written inquiries by an executive agency, the Council, or any public official
- Inquiries into the status of specific actions by an executive agency or the Council
- Communicating through a newspaper, television, or radio of general circulation
- Communicating through a publication whose primary audience is your organization’s membership
- Grassroots lobbying (indirectly seeking to influence legislative action or administrative decisions) does not trigger lobbyist registration, but once your organization is registered, then the costs of your grassroots lobbying efforts that are not exempt under the above mass media exception are reportable in your periodic reports

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?

Under D.C. law, voters can use the petition process to place proposed legislation (both initiatives and referenda) on the ballot and bypass the Council. The process requires advocates to propose a measure to the Board of Elections, and then to obtain sufficient signatures to place it on the ballot. The City Council can also refer measures to the ballot.

If you are supporting or opposing a decision of the City Council to refer a measure to the ballot, then this would be considered lobbying.

Activities related to getting a citizen-initiated measure on the ballot, or advocacy supporting or opposing a ballot measure once certified for the ballot, will generally be regulated under D.C.’s campaign finance laws, not its lobbying laws (although the IRS does count it as a lobbying activity).

Nonprofit organizations considering working on ballot measures in D.C. should seek additional legal advice on how to comply with any applicable D.C. regulations and reporting requirements.

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

All registration and reporting in D.C. is done through the Lobbyist Registration & Reporting (“LRR”) e-filing system. The system, which was introduced in 2019, is geared towards professional lobbying firms that lobby for many clients, so it is frequently an awkward fit for smaller organizations whose employees do some lobbying, but have other job responsibilities as well.

Registering involves multiple “layers” that you will need to create, many involving duplicate information. You should be very careful to make sure you are entering the same information consistently at each stage – for example, make sure the organization name is identical in each case, and that individuals are always referred to by the same name (for example, don’t use both “Christine” and “Christy” in different places). You will also need to enter information into the system in particular places, and in a particular order, that does not track the statute neatly. For that reason, the extremely detailed “Lobbyist E-Filing System Instructions” guide that BEGA published is much more useful than looking at the statute or the rules. The guide is available as a link on BEGA’s Lobbying Guidance page here: <https://bega.dc.gov/page/lobbying-guidance>

You may also want to watch a recorded training that was offered when the new system first went live – it is somewhat focused on the needs of professional lobbyists, so there are segments that will be less relevant, but it is generally a useful addition to the written guide. It’s available here: https://www.youtube.com/watch?v=jgxpiVp9S_c (Both resources were first created in 2019, but because the laws have not changed since, they are up to date as of the publication date of this Guide.)

Registering your organization when you use internal (employee) lobbyists

If your organization engages in lobbying using your own staff, then D.C. law considers your organization a “Lobbying Entity” that is its own client. If you register properly, your organization will only need to register once, and the system will automatically pull your organization’s data into the required periodic reports.

Note that the system is designed with professional lobbyists, that usually handle registration and reporting for their clients, in mind. If you are considering engaging an external lobbyist or lobbying firm, you should discuss with them how they can support your organization in meeting its obligations as a registered client. The discussion below assumes that your nonprofit organization is using one or more employees to do its own lobbying activity, and that your organization will need to handle your own registration and reporting.

Creating an LRR account

To register, you must have an account on the LRR system – if you don’t have one already, you can create one by going to <https://efiler.bega.dc.gov/LobbyistAccount/Login>. If you’re not sure whether you do or not, you can type your e-mail address into the box and click “next,” which will tell you whether that address is already associated with a registration. If the address does have a registration, you can try to log in – if you forgot your password, click on the “Contact Support” link at the bottom.

If there’s no account, click the “Create New User Login” link, then fill in the requested information and hit “submit.” You’ll get a system generated e-mail asking you to confirm that you wish to create an account by clicking a link (note that the link is time-sensitive and will expire if not used promptly). Once you click the link in the e-mail, the account will have been created and you can log in to LRR.

After you log in to LRR, you’ll be taken to the “My Registrants” page, where you can register your organization as a Lobbying Entity.

Registering your organization as a Lobbying Entity

To register, start at the “My Registrants” page and follow these steps:

- Click the blue “Create New Registrant” button.

FAQS

- Select “Add New Lobbyist” from the dropdown menu.
- On the resulting “Create Registrant: Lobbyist” page, input your organization’s name into the text box.
- Under “Registrant Type,” select the “Lobbying Entity” radio button.
- Under “Are you representing yourself as a client?” select the “**Yes**” radio button. **(This step is important.)**
- Use the “Nature of Business” pulldown menu and pick the option that most accurately describes your organization (if none apply, you can click the red “+add new” button to enter an individualized description of your organization’s business).
- If your organization is recognized by the IRS as having 501(c)(3) status, under the “IRS Tax Status” question, click the “501(c)(3) Non-Profit Registrant” button. The system will prompt you to enter your organization’s EIN (which it refers to as the organization’s “IRS number”).
- Enter contact information for your organization, including e-mail, telephone, and physical address. You can enter more than one telephone number, e-mail address, or physical address, but you must supply at least one of each. You can also designate one method as your preferred method of contact. Since this information will be public, you should use business contacts, not personal.
- Once all the information has been added, use the green “Save Registrant Profile” button to finalize. As with all information you enter into the LRR system, the registration is not final **until** you click the green “Save” button.

Adding your organization as a client of itself

Because the system is designed to require every lobbying entity to create a profile for any and all clients for which they lobby, you now need to set up a client profile for your own organization.

Begin with your organization’s “Registrant Profile” page, which is the starting point for most of the tasks you will want to perform on LRR.

- If you clicked yes on “Are you representing yourself as a client?” when creating your organization’s registration, you should now see a blue button labeled “Add New Client (Using my profile info).”
- Click that button, and the system will add your organization to the “client” field automatically, and you won’t have to re-enter your information.

Key contacts

Once you have added your organization as a client of itself, you must designate at least one individual as a “**Key Contact**” for your organization. There are four categories of Key Contacts:

- **Lobbyist:** a person who communicates directly with government officials on the organization’s behalf
- **Primary Point of Contact:** the primary person who is authorized by your organization to receive communications from BEGA
- **Point of Contact:** any other person who is authorized by you to receive communications from BEGA
- **Certifier:** a person who is authorized by your organization to attest formally to the accuracy of materials submitted

The designations are flexible – if you have a small staff, one person might be the Lobbyist, and also the Primary Point of Contact and Certifier.

The Lobbyist key contact is important because that step is how you identify for BEGA who will actually be lobbying on your behalf. Once you’ve identified the employee (or employees) who will lobby for you, the system will connect the lobbyist to the

compensation reporting that you'll need to do quarterly. If you don't identify a lobbyist, or you don't list all the employees who will be lobbying for you, you won't be able to do your reporting correctly later. You can update this designation any time, so if one employee stops lobbying and a new person takes their place, you should update your information to reflect the change.

The Certifier category is also important, because your organization won't be able to complete its registration, or submit any quarterly reports, without the Certifier logging in and attesting that the submission is accurate.

To add a Key Contact, start with your organization's "Registrant Profile" page, and click on the "Registrant Key Contact" button. When the "Key Contacts" page opens, click "Add New Key Contacts" and enter the relevant information in the text boxes that open.

Terminating an employee's Key Contact designation

If your employees change responsibility, and the person designated as your lobbyist is no longer lobbying on your behalf, you should terminate that designation without terminating your organization's overall registration. It is not very clear, however, how to do that within the LRR system. BEGA has given the guidance that you can amend the organization's registration to add the new contact and write in the notes field of the updated registration "[Individual's name] is no longer lobbying on behalf of [organization] effective [date]" to remove the previous lobbyist. You can also contact BEGA for guidance on how to make these updates.

Registration fee

The registration fee is \$250 per registration, or \$50 for entities recognized by the IRS as a 501(c)(3) organization. Note that other kinds of nonprofit organizations, including 501(c)(4)s, are not eligible for this reduced rate.

Lobbyist registration report – one additional step needed to finish registration!

After you've completed your profile and paid the registration fee, your organization will be registered as a Lobbying Entity, but you will still need to file a Lobbyist Registration Report to notify BEGA that you will be lobbying in the coming year.

Begin with your organization's "Registrant Profile" page, and select the light blue "File Reports" button. Click on the blue "Add New Registration Report" button, and follow the prompts to fill in the necessary information. The system will auto-populate much of it from your organization's Registrant Profile.

Compensation tab

Note that the system will not let you submit a Lobbyist Registration Report if the "Compensation" tab on the Registrant Profile page is not already filled in – it's a key step in setting up the basic background of your registration.

To fill in the compensation tab, start with your organization's "Registrant Profile" page, and click on the "Manage Profile" button. Then select the compensation tab, and click on the blue "Add New Compensation" button. A dialog box will appear. Find the "Compensation Resource" pull-down menu. If earlier in the registration process you correctly entered as your Lobbyist Key Contact the employee (or employees) who will actually lobby, you will see their names here. Select the first employee's name. Then find the "Type of Report Compensation" pull-down menu just below that, and select "Registration Report."

Below that menu you must enter the start and end dates for that employee's expected lobbying activity. Most organizations will just list the full calendar year (i.e., January 1 – December 31) but if you know the lobbying will only take place during part of the year, you could list other dates, as appropriate.

Below the date fields, find the "Compensation Amount" and "Compensation Type" fields. Because virtually all nonprofit organizations using only employees as lobbyists will not know in advance the exact amount of time their employees will spend on lobbying (and

therefore the percentage of the employee's compensation attributable to lobbying), you should click the "Compensation Amount is not known at the time of registration" button. Doing so will set the "Compensation Amount" field to be blank, and auto-fill the "Compensation Type" pull-down menu to say "Amount is unknown." As the year progresses, and you have more information about your employee's lobbying time, you will add updated information each quarter in preparation for doing your quarterly reports (see the "What is considered a reportable 'expenditure'?" FAQ, below.)

Finally, use the "Lobbying Matters" pulldown menu and select the best description of the subject matter for which the employee will be lobbying. If no appropriate option is available, you can click the "Add new" link to enter a new matter description.

If more than one employee is lobbying on behalf of your organization, repeat the steps in the previous four paragraphs for each additional lobbyist-employee until they are all listed. If a new employee starts lobbying mid-year, you simply add them at that time by following the same steps.

For more information on these steps, including screen shots, see the Lobbyist E-Filing System Instructions at pp 60-62. Link available via: <https://bega.dc.gov/page/lobbying-guidance>

Q: When are periodic lobbying reports due?

Lobbyist activity report

Once your organization files its final step of registration (the Lobbyist Registration Report), it becomes obligated to file Lobbyist Activity Reports ("LARs"), which disclose all lobbying activity for the preceding three-month period, four times a year:

- January 15 – Reporting activity for the period October 1 to December 31
- April 15 – Reporting activity for the period January 1 to March 31
- July 15 – Reporting activity for the period April 1 to June 30
- October 15 – Reporting activity for the period July 1 to September 30

If a deadline falls on a weekend or holiday, it is extended to the next workday. Late filings are subject to a civil penalty of \$10 per day (up to a maximum of \$300).

Your organization, as a registered Lobbying Entity, must file LARs for all four quarters of any year that you are registered. If you have nothing to report, you still must fill out the form and report "\$0.00," "Nothing," or "No Activity" in the various fields, as appropriate.

Your organization is required to keep and maintain records backing up your LAR filings for **five years**. BEGA conducts random audits of lobbying filings, so you should take the time to maintain appropriate records to satisfy an audit.

Q: What information do the periodic lobbying reports include?

The reporting requirements for D.C. are quite varied and detailed, and if you are required to register, you will need to ensure that you have accounting and other recordkeeping systems sufficient to support your reporting obligations.

The first step in preparing your organization's quarterly LAR, is to enter certain information into the LRR system, so that when you generate a draft LAR the system can pull the necessary data. Some of this information can be added any time, and BEGA encourages users to update the information frequently as it becomes known.

If you go to your organization's "Registrant Profile" page, and click on the "Manage Profile" button, you'll see four tabs: Compensation, Communications, Relationships, and Contributions & Gifts.

Compensation

You should have previously set up the Compensation Record for each employee you designated as a Lobbyist Key Contact under this tab (if not, go back to the "If we are

required to register, how does the process work?” FAQ, above, and follow the steps described there).

If, as recommended above, you set up each employee as “Compensation Amount is not known at the time of registration,” you’ll need to enter updated compensation information before you generate a draft LAR. For more on the reporting on this tab, see the next FAQ.

Communications

D.C. has the very unusual requirement that you must report detailed information about all communications with covered public officials. This category includes:

- A listing of **all** covered public officials with whom your organization has communicated as part of its lobbying activities. This requirement extends to both written **and** oral communications, so it covers both e-mail or texts, which generally produce a clear record, but also phone calls or in-person meetings, which may not.
- For each communication, you must report information about the official or their staff member (their name, title, agency, and (if a staffer) for whom they work), and the subject matter of the communications – including the titles of specific bills, resolutions, or contracts under discussion.
- The system maintains a list of most of the officials about whom you are obligated to report your communications (accessible via the “Official” pull-down menu in the “Add New Communication” dialog box), but you should **not** assume it is complete or authoritative. If you are communicating with an official you believe is covered by the reporting requirement, but they are not in the pull-down menu, you should contact BEGA for clarification and guidance.

If your organization plans to lobby in D.C., it is vitally important that you be able to create and maintain accurate and up to date records of communications between your employee lobbyists and officials of the D.C. government.

Below is a sample of the fields for which you will need to input information on this tab, with hypothetical answers:

Official:	Type:	Date:	Purpose:	Additional information: (optional)
Jane Doe, Councilmember	Meeting	February 2, 2022	Communicate about Bill 25-99	
Paula Poe, Parks Commissioner	E-Mail	February 3, 2022	Communicate about Bill 25-99	E-mail response to call from Commissioner Poe’s office.

Your organization can enter the communications individually, through the portal, or use a BEGA created standardized spreadsheet to upload the information all at once.

For more on the Communications tab, see the Lobbyist FAQs, at pp 7-8 (high level), and the Lobbyist E-Filing System Instructions, at pp 63-70 (extremely detailed instructions, with screen shots) both available via links at: <https://bega.dc.gov/page/lobbying-guidance>

Business or professional relationships

Your organization will need to report the name of any official in the executive or legislative branch, or any member of the official’s staff (including personal and committee staff), with whom your organization has a business or professional relationship, and the nature of the relationship.

Contributions & gifts:

Loans, gifts, or honoraria of \$50 or more to covered public officials and their staff, families, or political committees must also be reported. Because these expenditures must be itemized, they are each entered separately. For more on the reporting in this category, see the next FAQ.

Q: What is considered a reportable “expenditure”?

The quarterly LARs will report expenditures on compensation, other expenses, contributions, and gifts. Note that, as described in the previous FAQ, in addition to expenditures, the LAR **also** captures all communications with any official of the D.C. government and any business or professional relationships your organization may have with government officials or staff.

Updating compensation

The instructions below assume you rely on employees to lobby and are registered as a Lobbying Entity that represents itself. If you’ve engaged a contract lobbyist, or an external lobbying firm, you will need to coordinate with them about how to report, and you may wish to contact BEGA for guidance.

As noted in the previous FAQ, if you set up each employee-lobbyist as “Compensation Amount is not known at the time of registration” when creating a “Compensation Record” for the final step of registration, you’ll now need to enter updated compensation information before you create a draft LAR. The steps are very similar to the steps you took to enter the compensation record while registering.

Again, you start with your organization’s “Registrant Profile” page, and click on the “Manage Profile” button. Then select the compensation tab, and click on the blue “Add New Compensation” button, which opens a dialog box. Select the lobbyist-employee from the “Compensation Resource” pull-down menu.

What’s new at this step is that from the “Type of Report Compensation” pull-down menu, you should now select “**Activity Report.**” For the “Start Date” and “End Date” fields, add the beginning and end dates for the quarter. Under “Compensation Amount,” enter the prorated share of the employee’s compensation that was attributable to lobbying in the relevant quarter. From the “Compensation Type” pull-down menu, select the form of compensation that best describes how your organization pays the employee (annual salary, hourly wage, etc.). Note that many of the types on the lengthy menu will be relevant only to professional lobbying firms, not your organization (e.g., monthly retainer, annual retainer, hourly fee, etc.). Finally, go to the “Lobbying Matters” pull-down menu and select the matter description that matches the one you entered previously. Click the green “Save” button to finalize. If you have multiple employees who are acting as lobbyists and who you identified as lobbyist Key Contacts, then you’ll need to do this step for each employee. If a particular employee did not do any lobbying in the quarter, you should enter their prorated compensation for lobbying for the quarter as zero.

After you click Save, you’ll be returned to the Compensation tab page, where you should see line items for the registration report for each lobbyist, as well as additional line items for each lobbyist for every quarter that you’ve entered.

Entering contributions & gifts

Under this tab, your organization should enter information about any loan, gift, honorarium, or political contribution of \$50 or more you made to a legislative or executive branch official, their staff or family. Contributions to political committees or political action committees for the benefit of D.C. government officials should also be reported here. (If your organization even made any – remember that if your organization is a 501(c)(3) it is not allowed to make campaign contributions.) If any single recipient received or benefitted from aggregate expenditures that were each less than \$50, but total \$50 or more in a year, that aggregate should be recorded as well.

Because D.C. rules require lobbyists to itemize contributions and gifts, the system will require you to enter each reported campaign expenditure separately, and report the amount and date of the expenditure, identify the beneficiary or recipient, and describe the circumstances of the transaction.

When you prepare your organization's LAR, the system will pull the contribution and gifts information through to Schedule A-2 of the LAR filing.

If you entered any information about your organization "bundling" campaign contributions, that will show up on Schedule C of the LAR.

Public officials must report the gifts they receive, so if your organization decides to give a gift, and the value is not readily apparent, best practice is to tell the official (or their staff) to enable their reporting.

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.

In D.C., registered lobbyists are prohibited from giving a public official any gift or service with a value of more than \$100, even if they are not currently seeking to influence that public official. (Authorized campaign contributions are an exception to this rule.)

Public officials are further prohibited for **accepting** any gifts from individuals or entities that are seeking official action from a public official (called "prohibited sources"), whether the giver is a register lobbyist or not. (The same prohibition applies to gifts from persons that conduct business with the official's government department, or whose business is regulated by the official's government department.) There are a few limited exceptions to the prohibited source gift rule, including gifts with a value of \$10 or less per gift (so long as the value of all gifts received by the public official from that specific giver is not more than \$20 in a year), and modest offerings of food or refreshment not offered as part of a meal (e.g., coffee or pastries).

Most nonprofit organizations find it easier to refrain from giving any gifts to public officials. Given the detailed reporting requirements in D.C., organizations can reduce their reporting burden by not giving gifts.

Generating the quarterly LAR

Once you have entered updated quarterly compensation information, and entered reportable communications, you are ready to generate a draft LAR.

Once again, start with your organization's "Registrant Profile" page, and click on the "Manage Profile" button. Click the light blue "File Reports" button on the upper right of the screen. On the next screen select the "Activity Reports" tab, and then click the blue "+ Add New Activity Report" button on the right, which will bring up the "Create Report" page. First use the "Report Period" pull-down menu to select the appropriate quarter for which you are reporting. That will auto-populate the Compensation, Communications, Relationships, and Contributions fields with any previously entered information. You should check to make sure you are comfortable with the accuracy of the information that was auto-populated.

Below the Relationships field are five schedules, two of which contain text boxes for you to fill in with your expenditure numbers.

Schedule A

Schedule A requires you to summarize the compensation you reported earlier in the report. If you only use employees to lobby, you should add up the quarterly prorated compensation you paid to all employee lobbyists (as reported in the Compensation section of the report) and enter that number twice, in the "Compensation Paid:

Compensation,” and “Total Paid to all Lobbyist/Lobbying entities: Compensation” text boxes. Leave the “Retainer” text boxes blank.

Schedule A1

Schedule A1 is where you can report other expenditures, if necessary. These expenditures fall into six categories:

- **Office expenses:** These are office expenditures that your organization would not have made but for your lobbying activity
- **Advertising and publication:** BEGA has provided the guidance that, although grassroots lobbying doesn’t trigger registration, if you are already registered and have expenditures on advertising and publication for grassroots lobbying, you should report them here
- **Personal sustenance:** Reimbursements to employees for lobbying-related expenditures on food or drink for the lobbyist
- **Lodging:** Reimbursements to employees for lobbying-related expenditures on lodging
- **Travel:** Reimbursements to employees for lobbying-related expenditures on transportation (airline or train tickets, taxis, rideshare services, etc.)
- **Other expenses:** This category includes, among other things, direct payment of employees’ lobbying-related expenses (as opposed to reimbursement), prorated compensation for non-lobbying employees, and payments for other expenses that would not have been made **but for** the lobbying activities)

Every expenditure of \$50 or more must be itemized with the date of the expenditure, its amount and purpose, and the name and address of the recipient.

Expenditures should be reported on a “cash” basis – i.e., when actually paid, not when promised or incurred. See the Lobbyist FAQs available via a link at:

<https://bega.dc.gov/page/lobbying-guidance>

Schedules A-2, B, and C are auto-populated and don’t require additional inputs.

Finalizing and submitting the LAR

Once you have entered the required information, click the “Save” button at the bottom of the page. You can then review a draft version of the LAR (and, if helpful, download or print a PDF version of the draft). When you are ready to submit, the person you identified in the Key Contacts phase of registration as the authorized Certifier will log in to their account, and click the “Certify and Submit” button to finalize.

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?

There is no special requirement to wear badges or ID cards while lobbying in D.C., but it is a good practice to identify yourself and your organization when meeting with a government official or their staff for the first time.

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

As a general matter, individuals or entities (whether registered or not) are prohibited from intentionally making false or misleading statements to government officials (or knowingly providing an official with a copy of a document containing a false statement without notifying the official of the truth) regarding any pending administrative or legislative action.

Registered lobbyists (even in their own personal capacity), lobbying entities, or clients are not allowed to bundle contributions to campaign committees, exploratory

FAQS

committees, inaugural committees, transition committees, or legal defense committees.

Public officials cannot be employed as lobbyists while still in office.

If a registered lobbyist, or a person acting at the direction of a registered lobbyist, provides legal or other professional services to an official of the D.C. government, those services must be provided at market rates. Nonprofit organization who regularly provide services at no cost are an exception.





Former government officials are prohibited from lobbying their prior agency for varying lengths of time, depending on their degree of prior involvement on the relevant matter.

Case Study STUDENTS VOTE NOW

Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about Bill 25-99 currently pending in the D.C. Council

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 Council representative about the bill.
- Doing an in-person Lobby Day at the Wilson Building about Bill 25-99 to meet with Council members, 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 D.C. Council regarding the student perspective on Bill 25-99.
- Having an employee engage with the Mayor of D.C. about a similar, but separate, executive rulemaking being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p>Student Engagement</p>	<p>Students Vote Now's student engagement efforts are grassroots lobbying, which does not trigger registration in D.C. However, if the organization registers based on other programming, it will need to track and report any prorated staff compensation or other expenditures made specifically for the grassroots campaign.</p>
 <p>Lobby Day</p>	<p>The Lobby Day programming is direct lobbying, so if Students Vote Now's collective expenditures (including the cost of transportation, prorated compensation for paid employees, and any other costs specifically related to the lobbying efforts) are more than \$250 over a consecutive three-month period, the organization will need to register. The preparation, planning, and travel time will not count towards the prorated expenses.</p> <p>An upgraded Zoom account would only count if it would not have been bought "but for" the Lobby Day.</p> <p>Although Students Vote now could probably find a way to give a swag gift whose value is less than \$10, a better practice (which would also ease reporting burdens) would be to give out information about the organization instead.</p>
 <p>Committee Testimony</p>	<p>As long as the committee testimony is on the record, Students Vote Now will not have to count associated expenses (including its employee's prorated compensation) against the registration threshold.</p>
 <p>Mayor</p>	<p>Since the city of Washington and the District of Columbia are one and the same, D.C. executive branch lobbying laws will regulate this activity. Direct communication with the Mayor or the Mayor's staff is direct lobbying, so Students Vote Now will need to calculate the aggregate expenditures on such a meeting. This expenditure must be analyzed in the context of other direct lobbying expenditures, including Lobby Day, to assess the total amount of spending.</p>
<p>Bottom Line</p>	<p>Students Vote Now can engage in grassroots lobbying and can have an employee testify before a committee without triggering registration. As outlined, the Lobby Day programming or mayoral engagement programming will likely result in a need to register.</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 e-mailing advocacy@afj.org, or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

DISTRICT OF COLUMBIA RESOURCES:

- **Board of Ethics and Government Accountability ("BEGA")**
BEGA (the Board of Ethics and Government Accountability), administers D.C.'s lobbying laws. <https://bega.dc.gov>
- **Full Text of D.C. Lobbying Statutes**
The full text of the D.C. lobbying statute can be found here: <https://code.dccouncil.gov/us/dc/council/code/titles/1/chapters/11A>
- **Full Text of D.C. Lobbying Regulations**
The full text of the BEGA Rules governing lobbying (among other things) can be found here: <https://www.open-dc.gov/sites/default/files/BEGA%20Rules.pdf?type=1411>
- **Lobbyist Guidance Materials**
BEGA has published very detailed resources, which currently include Lobbyist E-Filing System Instructions, Lobbyist FAQs, Sample Activity Report, and DC Lobbying Requirements Training. These resources can be accessed via links on BEGA's Lobbyist Guidance page here: <https://bega.dc.gov/page/lobbying-guidance>
- **BEGA Registration Training Webinar**
BEGA has also made available a detailed webinar explain how to use the system to register and generate reports: https://www.youtube.com/watch?v=jgxpivP9S_c
- **Additional Questions**
Any questions about lobbyist registration and reporting can also be directed to BEGA by e-mail at bega.lobby@dc.gov or bega@dc.gov or by calling (202) 481-3411 or (202) 535-1002.

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/>



This work is licensed under a Creative Commons Attribution-Non Commercial-No Derivatives 4.0 International License, which means that you can share it widely, so long as you share it in this format and do not sell it.

The information contained in this fact sheet and any referenced links are being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.

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.