

# PRACTICAL GUIDANCE

What Nonprofits Need to  
Know About Lobbying in

# RHODE ISLAND

## Inside This Guide:

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

DIRECT OR GRASSROOTS LOBBYING OF:	CAN THIS TRIGGER?	TRIGGER
<b>State Legislators</b>	Yes	Paying any external person to lobby the legislative branch on your organization's behalf. Paying or authorizing an internal employee or a volunteer to lobby on your behalf <b>and</b> that person's regular duties include Rhode Island lobbying or government relations.
<b>State Executive Branch Officials</b>	Yes	Same triggers, with respect to lobbying the executive branch.
<b>Local Legislators or Local Executive Branch Officials</b>	Maybe	The state statute does not regulate local lobbying, but Providence does have its own lobbying ordinance. Other localities may have their own requirements, so you should check if the local jurisdiction you plan to lobby has its own lobbying ordinance.

**Grassroots lobbying:** Grassroots lobbying (calling on members of the public, or other organizations, to take action in favor or against legislative or executive action) falls within the statutory definition of lobbying in Rhode Island and can trigger registration and reporting requirements.

### KEY LOBBYING TAKEAWAYS FOR NONPROFIT ADVOCACY ORGANIZATIONS IN RHODE ISLAND:

- **Paying an external lobbyist will always trigger registration:** If your organization pays a lobby firm or an external independent contractor to lobby on your behalf, then your organization will always need to register.
- **Your internal staff will trigger registration only if their “regular” duties include lobbying Rhode Island officials:** The threshold for registration for your internal paid employees (or your organization's volunteers) is more forgiving than for external lobbyists. Internal staff will not trigger registration if the person's regular duties do not include Rhode Island lobbying or government relations.
- **If you do need to register, reporting is frequent, and deadlines are tight:** Both your organization and your lobbyists will have to file reports eight times a year. The reports are not very difficult, but the deadlines are tight. It is important to keep good records as you go, to ensure that you can report on time.
- **Rhode Island actively enforces the law:** Rhode Island's Lobbying Reform Act encourages members of the public to report people they suspect of lobbying without registration and authorizes the Department of State to investigate suspected violations. Because the consequences of noncompliance can be significant, you should be careful to comply with your obligations and seek additional guidance when needed.

This resource is current as of July 2023. We do our best to periodically update our resources and welcome any comments or questions regarding new developments in the law. Please e-mail us at [advocacy@afj.org](mailto:advocacy@afj.org) or at [info@democracycapacity.org](mailto: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 Rhode Island, **lobbying** means acting directly, or soliciting others to act, for the purpose of promoting, opposing, amending, or influencing any action or inaction by any member of the legislative or executive branch of state government or by any **public corporation**.

A **public corporation**, in this context, is an entity that is not technically part of a state agency but has been delegated rulemaking privileges under law such that lobbying it is similar to lobbying a state agency. For example, state economic development corporations are often structured as a public corporate entity separate from the state government.

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

**External lobbyists:** Paying any external person to lobby on your organization's behalf triggers registration for both your external lobbyist and your organization.

**Internal staff or volunteer lobbyists:** Paying or authorizing an internal employee or a volunteer to lobby on your organization's behalf **and** that person's regular duties include Rhode Island lobbying or government relations.

If registration is required, it must be done within seven calendar days of being engaged to lobby.

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

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

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

In general, for fiscally sponsored projects that do not have their own legal entity and the fiscal sponsor engages all of the project's independent contractors or employees, the

lobbyist registration trigger must be analyzed together with all of the projects housed at the fiscal sponsor who are doing lobbying activities in the state.

Your account manager at your fiscal sponsor will be able to help you understand how they track the registration threshold.

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

## Q: Are there exceptions to what counts as lobbying?

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

- Internal paid staff or volunteers acting on behalf of your organization, so long as their “regular” duties don’t include Rhode Island lobbying or government relations. The Rhode Island Department of State has not provided definitive guidance on what counts as “regular” duties, but has informally noted that intermittent, incidental, or occasional Rhode Island lobbying would fall within the exception, while lobbying that is consistent or regular would not. The Department of State would be less likely to apply this exception to a staffer who does only a small amount of Rhode Island lobbying, but whose job description is “government relations” or something similar, since that role arguably does encompass lobbying as a “regular” duty.
  - If you are uncertain whether a given staffer’s limited lobbying activity would fall within this exception, you can contact the Department of State for further guidance (their contact information is on the last page of this guide).
- An individual who communicates with public officials solely on their own behalf
- Attending (or participating in) a political rally, protest, or other public assembly
- Producing public policy reports – with data, research, or analysis – that is available to the general public, including news media reports, editorials, commentary, or advertisements
- Responding to a request for information from a legislative or executive branch body (note that the Department of State has provided informal guidance that it interprets this exception fairly broadly to include more informal requests for information, including informal requests from individual public officials)
- Participating in a governmental task force or advisory committee
- Providing testimony as a qualified expert witness in legislative hearing or an administrative proceeding

## 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](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?**

Rhode Island does not have citizen-initiated ballot measures. However, it does allow the Legislature to refer constitutional amendments to the ballot by a majority vote in each house. If you are trying to persuade the Legislature to put a proposed constitutional amendment on the ballot, that activity is treated as lobbying.

Once the proposed amendment is on the ballot, Rhode Island regulates activity to support or oppose the proposed amendment under the state’s campaign finance laws (even though the IRS continues to consider it lobbying).

Nonprofit organizations considering working on ballot measure in Rhode Island should seek advice on how to comply with any applicable state or local campaign finance reporting requirements.

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

If any of your lobbying activities trigger registration, both your individual lobbyists and your organization will need to register via the online Lobbying Registration Desk, located at <https://lobbytracker.sos.ri.gov/>

Guides to help you with the process are available at <https://www.sos.ri.gov/divisions/open-government-center/lobbying/tutorials>

### **Creating profiles:**

Both your individual lobbyist(s) and your organization will create separate profiles. Note that information in these profiles will be made public, so they should use business, not personal, contact information.

Lobbyists must identify the subjects – and, if known, the bill numbers – of the matters that will be the focus of their lobbying, as well as the executive branch officials or public bodies (e.g., agencies, boards, departments, etc.) they expect to lobby.

Both your organization and your employee lobbyist will also need to report the compensation you expect your employee lobbyist to receive for their Rhode Island

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lobbying activities. You can either make a reasonable estimate of their annual or monthly prorated compensation for time spent on Rhode Island lobbying activities or calculate their hourly rate of compensation derived from their annual or monthly pay. Remember that this information will also be made public. You can view how this appears publicly by looking up examples of registered lobbyist profiles here: <https://lobbytracker.sos.ri.gov/LobbyTrackerSearch/Profiles?FlowType=onLoad>

**Linking profiles:** Once the profiles are created your lobbyists can confirm their engagement with your organization and the profiles will become linked.

Lobbyists must purchase an ID badge for \$10 – if they lose the badge, replacements also cost \$10. There are no other registration fees.

If at some point, the employee lobbyist stops lobbying and no longer needs to be registered, both the organization and the lobbyist should affirmatively terminate the registration in the system within seven days.

If not otherwise terminated, all registrations and lobbyist badges expire at the end of the calendar year and must be renewed each year if your organization is going to continue to lobby.

**Enforcement:** The Department of State may investigate suspected instances of lobbying without registration. An investigation may end up in court and may result in civil penalties as well as being excluded from registration (and lawful lobbying) for up to three years.

## Q: When are periodic lobbying reports due?

If you are required to register, both your organization and your registered lobbyist employee must file periodic reports of lobbying activities and expenditures throughout the year. In the period in which the Rhode Island legislature is in session (January through June), reports are due monthly. For the six months that the legislature is not in session, reports are due quarterly.

The schedule is:

Activity Period	Due Date
January	February 15
February	March 15
March	April 15
April	May 15
May	June 15
June	July 15
July–September	October 15
October–December	January 15

Both your organization and employee lobbyist must file a report even if you have no activities or expenditures to report for the activity period.

Note that if you terminate registration mid-year, both your organization and your lobbyist must file a final report at the time of termination.

Reports are due only fifteen days after the end of an activity period, which can be logistically challenging for many organizations. It is essential that you have good systems and processes to keep and maintain readily accessible records so that you can file the required reports on time.

## Q: What information do the periodic lobbying reports include?

You and your lobbyist must report eight categories of information:

- Compensation paid to/received by lobbyists (prorated portion attributable to Rhode Island lobbying activities)
- Expenditures made for the purpose of lobbying (this does not include regularly occurring office overhead like rent or office supplies)
- Campaign contributions
- Anything of value provided to a state official which in the aggregate exceeds \$250 in the current calendar year
- Subject matters of lobbying
- Bills lobbied about and positions taken
- Public bodies lobbied
- Executive officials lobbied

**Enforcement:** If you or your lobbyist fail to file a required report, or if the Department of State believes that a report doesn't comply with legal requirements, you will be contacted and given twenty days to file or correct the report. Failure to do so can lead to stiff fines and having your registration revoked for up to three years, though a first-time offender may receive a warning.

## Q: What is considered a reportable "expenditure"?

**Compensation:** The prorated portion of your lobbyist's compensation that is attributable to the time they spent on Rhode Island lobbying activities.

**Expenditures:** You must report all expenditures made for the purposes of Rhode Island lobbying, other than routine office expenses. Examples of common expenditures include lobbying-related travel and lodging for your staff, meals purchased for a group of volunteers, or spending on paid social media or other paid advertising campaigns. You don't need to report expenses for systems like your zoom account, if you also use it for routine office functions.

**Campaign contributions:** All campaign contributions to any elected state official, candidate for state office, or political action committee made by your organization, or your employee lobbyist (even in their own personal capacity) must be reported once such contributions to that official, in the aggregate, exceed \$100 in the current calendar year.

Note: If your organization has 501(c)(3) status, you are not permitted to make campaign contributions as an organization at all because of the IRS prohibition on electioneering!

You will need an internal system to track any contributions made by your lobbyist employees in their personal capacity.

**Anything of value provided to a state official:** The reporting form calls for details about anything of value your organization or your lobbyist gave to a public official once the total goes over \$250 in the year. However, because the Rhode Island ethics and gift rules are both strict and complicated, most nonprofit organizations conclude that it is better practice to avoid giving gifts, which would mean that generally you would have nothing to report here. Seek additional advice if you plan to give anything of value to any public officials in Rhode Island.

**Gift ban:** Rhode Island's Code of Ethics tightly regulates gifts to state or local officials, employees, candidates, their family members, and their business associates. No one (lobbyist or not) may give a gift to such public officials based on an expectation or understanding that the gift will influence that public official's judgment, votes, or official actions. Gifts not based on an expectation or understanding that the gift will influence a government official's judgement are subject to monetary limits. A "Guide to Gifts" is

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available from the Rhode Island Ethics Commission at <https://ethics.ri.gov/ethics-education/guide-gifts>.

It is important to note that regulations relating to lobbying expenditures almost always intersect in complicated ways with these state and local ethics and “gift ban” laws. 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.

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

No.

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

Lobbyists are required to purchase an ID badge from the Department of State every year as part of the registration process, and to conspicuously display their badge while engaged in any lobbying activity in a state government building.

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

Rhode Island law prohibits paying or accepting compensation for lobbying that is, in any way, based on the degree to which the lobbying is successful.

While individual lobbyists are not prohibited from making campaign contributions in their own individual capacity, their cumulative contributions to public officials or PACs will be reportable on the lobbyist reports once they reach \$100.

Rhode Island law generally limits the ability of former state officials and state employees to work as lobbyists for a period of one year after they leave state office or employment.







# Case Study STUDENTS VOTE NOW

**Students Vote Now is a hypothetical small 501(c)(3) advocacy organization considering being vocal about H 5101 currently pending in the Rhode Island 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 H 5101 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 H 5101.
- Having an employee engage with the Mayor of Providence about a similar, but separate, local ordinance being considered.

ACTIVITY	LOBBYIST REGISTRATION/REPORTING REQUIREMENTS
 <p><b>Student Engagement</b></p>	<p>Reaching out to student constituents is grassroots lobbying that could trigger registration if the individuals coordinating the campaign regularly engage in Rhode Island lobbying for the organization.</p> <p>Volunteers who occasionally phone bank on Rhode Island issues will not trigger Rhode Island registration, since they are doing such activities on a more intermittent basis.</p> <p>If a staffer does register, the grassroots campaign's expenses (printing physical mailings, meals for volunteers, etc.) should be reported.</p>
 <p><b>Lobby Day</b></p>	<p>The Lobby Day activities may also trigger registration if this activity, combined with the other Rhode Island lobbying activities during the year, result in any staff having consistent and regular Rhode Island lobbying duties. Volunteer students participating in a single Lobby Day will not trigger registration.</p> <p>If an employee and the organization trigger registration they will report expenses (such as the bus rental).</p> <p>To avoid dealing with complicated gift ban rules, Students Vote Now can give out information about its organization instead of swag items.</p>
 <p><b>Committee Testimony</b></p>	<p>Unless the testimony is given by an expert qualified witness, or at the request of the committee, this activity will also count towards calculating whether all the individual's activities add up to regular duties as a Rhode Island lobbyist.</p>
 <p><b>Mayor</b></p>	<p>Under the Providence Code of Ordinances<sup>1</sup> lobbying rules there is an exception for "incidental lobbying" by nonprofits. If the person lobbying the mayor does not spend more than 25 hours lobbying city officials during the year and does not receive more than \$2,500 for such local lobbying during the year, they will not have to register with the city of Providence.</p>
<p><b>Bottom Line</b></p>	<p>Students Vote Now will need to determine if any of its staff's lobbying activities relating to H 5101 amount to having their job duties include Rhode Island lobbying or governmental relations on a consistent and regular basis (as opposed to only intermittent or occasional).</p> <p>If Students Vote Now determined that they did need to register, then they could also consider terminating registration after their campaign is completed, to avoid continued reporting requirements.</p> <p>Students Vote Now should not need to register in Providence unless significant time is spent on that activity.</p>

<sup>1</sup> An overview of the Providence ordinance and links for registration and reporting are at <https://council.providenceri.gov/city-clerk-1/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](mailto:advocacy@afj.org), or calling 866-NP-LOBBY (866-675-6229) during standard business hours.

### RHODE ISLAND STATE RESOURCES:

- **Rhode Island Department of State**

The Department of State administers and enforces Rhode Island's lobbying law, issues rules and regulations, and hosts the Lobbying Registration Desk for lobbyist registration and reporting.

<https://www.sos.ri.gov/divisions/open-government-center/lobbying>

- **Full Text of Rhode Island Lobbying Statute, Rules, and Regulations**

An overview of the Rhode Island lobbying statute, with links to the full text of the statute and its accompanying rules and regulations, is available at <https://www.sos.ri.gov/divisions/open-government-center/lobbying/overview-lobbying-reform-act>

- **Registration Guides**

Guides to help lobbyists and those they represent with the registration process are at

<https://www.sos.ri.gov/divisions/open-government-center/lobbying/tutorials>

- **Additional Questions**

Any questions about lobbyist registration and reporting can also be directed to the Department of State Public Information Office at 401-222-3983 or their assistance hotline [publicinfo@sos.ri.gov](mailto:publicinfo@sos.ri.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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