What Nonprofits Need to Know About Lobbying in Illinois: Changes in 2022

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Agenda

• Housekeeping
• Goals for today
• Polls
• Introduction of Panelists
• Presentation
• Q&A
• Next Steps
WEBINAR

Practical Guidance - What Nonprofits Need to Know About Lobbying in ILLINOIS
Our Agenda Today

• Review lobbying basics
  • Federal vs. State/Local

• How to use the **Practical Guidance – Lobbying** state resource

• Discuss **Illinois** specific examples

• Focus on the changes that went into effect January 1, 2022

• Q & A period
Lobbying Basics – Federal Law

- Federal IRS law regulates **how much** lobbying you can do
- 501(c)(3) – limited lobbying allowed for public charities
- 501(c)(4) – unlimited lobbying
- Federal IRS rules are not transparency rules
  - Lobbying Disclosure Act is the federal transparency law
  - Most smaller nonprofits don’t trigger
Lobbying Basics – Federal Law

• Definition of lobbying under **IRS** regulations:

• Includes federal, state and local level (including ballot measures)
  
  • **Direct lobbying:**
    • Communication with legislator (or staff)
    • Expressing a view
    • On specific legislation
  
  • **Grassroots lobbying:**
    • Communication to the public
    • Expressing a view
    • On specific legislation
    • That includes a call to action

• Does **not** include lobbying of executive branch/agencies (usually)
Lobbying Basics – Federal Law

• Under IRS regs what happens if you lobby?

• 501(c)(3) public charities
  • Need to make sure you don’t lobby “too much”
    • Insubstantial part test
    • 501(h) election
  • Need to report expenditures on Form 990 tax return
    • Need good staff time tracking system
    • Need good expense tracking system
  • Don’t have to “register” under IRS regs
Lobbying Basics – Federal Law

• Under IRS regs what happens if you lobby?

• **501(c)(4) social welfare organizations**
  
  • Can do unlimited lobbying
  
  • Don’t need to detail on Form 990
  
  • Still need to track for primary purpose/secondary purpose
    • Need good staff time tracking system
    • Need good expense tracking system
  
  • Don’t have to “register” under IRS regs
Lobbying Basics – State Law

• State lobbying laws are **transparency** laws

• Do not regulate:
  • How much lobbying you do

• Do regulate:
  • Who needs to register with state
  • What gets reported to state and made public

• Different definitions and reporting from IRS

• Must comply with both! (even if only lobby at state/local level)
Using the Practical Guidance

• Registration Trigger Summary Table
• Key Takeaways
• FAQs
• Case Study
• Additional Resources
## Lobbying Basics – State Law

<table>
<thead>
<tr>
<th>Category</th>
<th>Question</th>
</tr>
</thead>
<tbody>
<tr>
<td>Action</td>
<td>• Which activities are you doing?</td>
</tr>
<tr>
<td>Audience</td>
<td>• Who are you directing your action at?</td>
</tr>
<tr>
<td>Method</td>
<td>• Direct or indirect (grassroots)?</td>
</tr>
<tr>
<td>Expenditure</td>
<td>• Paying people? / spending money?</td>
</tr>
<tr>
<td>Exceptions</td>
<td>• Does an exception apply?</td>
</tr>
</tbody>
</table>
Lobbying Basics – State Law

Who files?  
How often?  
What reported?  
What records?
## Illinois Registration Triggers

<table>
<thead>
<tr>
<th>DIRECT LOBBYING OF:</th>
<th>CAN THIS TRIGGER?</th>
<th>TRIGGER</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State Legislators</strong></td>
<td>Yes</td>
<td>Any communication with a covered state official for the purpose of influencing legislative action, by a person paid to do such advocacy (or who is unpaid but either makes reportable expenditures or is reimbursed more than $500 per year in expenses).</td>
</tr>
<tr>
<td><strong>State Executive Branch Officials</strong></td>
<td>Yes</td>
<td>Any communication with a covered state official for the purpose of influencing executive or administrative action, by a person paid to do such advocacy (or who is unpaid but either makes reportable expenditures or is reimbursed more than $500 per year in expenses).</td>
</tr>
<tr>
<td><strong>Local Legislators or Local Executive Branch Officials</strong></td>
<td>Yes</td>
<td>Any communication with a local official for the purpose of influencing official action, by a person paid to do such advocacy (or who is unpaid but either makes reportable expenditures or is reimbursed more than $500 per year in expenses).</td>
</tr>
</tbody>
</table>

### Action?
- Communicating w officials

### Audience?
- Legislators + executive branch
- Both state and local

### Method?
- Only direct for c3s and c5s
- Both direct and grassroots for c4s and others

### Expenditure?
- Paying any staff
- Making expenditures
- Volunteers reimbursed over $500
Illinois Key Takeaways

• Thresholds are low
  • Will need to register if lobby with paid staff
  • Volunteers don’t have to register (if not making expenditures or being reimbursed >$500)

• Reporting is very frequent!
  • Reports due twice a month (+2 extra per lobbyist per year)
  • Information on report simple, but due even if no lobbying
  • Need good systems to file on time

• Local lobbying now included!
  • Local lobbying reported to state
  • (Other than jurisdictions over 500,000 residents)
  • Chicago special case
Illinois FAQs

• FAQS – Give Practical Perspective
  • Details of the definitions used in your state
    • These are often painful, but need them!
  • Work through what counts as lobbying
  • What are the exceptions?
  • How to register if you need to
  • What, when, and how you’ll need to report
  • Practical operational tips throughout
  • Special rules re Chicago
Illinois Case Study – Students Vote Now

• Small 501(c)(3) considering lobbying Bill 101 in Illinois House
  • Various grassroots outreach with calls to action
  • Lobby Day trip with student volunteers
  • Testifying before a committee of the House
  • Engaging with Mayor of Chicago regarding a similar law
  • Extra example – what if it was an official of smaller town or county?
Illinois Case Study – Students Vote Now

Student Engagement

- **Activity** = Various indirect communications
- **Audience** = State legislators (indirectly)
- **Method** = Grassroots outreach to students
- **Expenditures** = paying staff (costs of outreach not counted)

**Exceptions** =
- If 501(c)(3) – **NO** – grassroots lobbying exception
- If 501(c)(4) – **YES** – no exception applies

**Design considerations for compliance:**
- Minimize people registering
- Staffing/supplies costs don’t get reported to state
Illinois Case Study – Students Vote Now

<table>
<thead>
<tr>
<th><strong>Activity</strong></th>
<th>Direct communication</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Audience</strong></td>
<td>State legislators</td>
</tr>
<tr>
<td><strong>Method</strong></td>
<td>In person or remote meeting</td>
</tr>
<tr>
<td><strong>Expenditures</strong></td>
<td>paying staff + swag (travel/supplies or zoom upgrade not counted)</td>
</tr>
<tr>
<td><strong>Exceptions</strong>: If use only volunteers (and no swag)</td>
<td></td>
</tr>
<tr>
<td><strong>Design considerations for compliance</strong>:</td>
<td></td>
</tr>
<tr>
<td>• Minimize people registering</td>
<td></td>
</tr>
<tr>
<td>• Don’t give swag</td>
<td></td>
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</table>
Illinois Case Study – Students Vote Now

• **Activity** = Committee testimony
• **Audience** = State legislators
• **Method** = Direct at public hearing
• **Expenditures** = paying staff

**Exceptions:**
• If use only volunteers
• Technical advice (could use an unregistered staff person if your org is registered)

**Design considerations for compliance:**
• Minimize people registering
Illinois Case Study – Students Vote Now

- **Activity** = Direct communication
- **Audience** = Local executive branch official (in jurisdiction over 500k people)
- **Method** = Direct meeting
- **Expenditures** = paying staff + swag

**Exceptions:**
- STATE LAW DOES NOT PREEMPT CHICAGO RULES
- CHICAGO = Lobbying, but volunteer exception
- CHICAGO = not currently enforcing for nonprofits

**Design considerations for compliance:**
- If want to be clearly outside registration could still use volunteer here
Non-Profit Lobbying in Chicago

• Definition of lobbying under Chicago regulations

• Includes (among other things):
  • Trying to influence legislative matters before City Council
  • Solicitating or getting a contract or a grant
  • Trying to influence administration actions before executive branch officials
Non-Profit Lobbying in Chicago

• Chicago Board of Ethics on Nonprofit Enforcement:
  • Currently encourages registration and reporting
  • Not enforcing the ordinance for nonprofits
    • (Sept 2, 2021 statement, but confirmed as being current position again in January 2022)
  • Plan to work with City Council and Mayor’s Office to reinstate a threshold
Illinois Case Study – Students Vote Now

- **Activity** = Direct communication
- **Audience** = Local executive branch official in jurisdiction under 500k people
- **Method** = Direct meeting
- **Expenditures** = paying staff + swag
- **Exceptions:**
  - STATE REGULATIONS APPLY – Local rules preempted
  - Volunteer wouldn’t trigger (if don’t give swag)
- **Design considerations for compliance:**
  - Consider using volunteer (no swag)
  - Minimize people registering
Illinois Case Study – Students Vote Now

**BOTTOM LINE**

- If pay people for the work will need to register with state (+ potentially Chicago)
  - Think through if can be as effective using volunteers to avoid registration? If not, register and design to minimize compliance hassles.

- If do register:
  - Reporting is very frequent (but simple)
  - Systems for filing reports on time!
  - Must file all reports *even in periods when not lobbying*
  - Keep people registered to minimum
  - Don’t give swag

- Keep an eye on Chicago
Other Points on Amended Regulations

- Local Lobbying = State Registration Fees
- Chicago waives fees for 501(c)(3) nonprofit registrations
- Nonprofits lobbying smaller cities must register with state which has no waiver process
  - $300 for organization / $300 per lobbyist
Other Points on Amended Regulations

• Who counts as a local public official?

• mayors, presidents, aldermen, commissioners, and trustees for a city, village, or town

• county and township board members, and countywide and township elected officials

• members of any board, commission, authority, or task force created by local ordinance or order of a mayor or village or town president
Other Points on Amended Regulations

• Non-lobbying Advocacy Consultant
  • Someone you pay to give you strategic advocacy advice
  • They do not do actual lobbying
  • If your organization registers need to name them on your form
    • Don’t need to register them separately
    • The amount you pay them doesn’t get reported
    • Expenditures they make on public officials would be (and this would then make you need to add them as a registered lobbyist)
Other Points on Amended Regulations

• Ethics and Harassment Trainings
  • Used to be 30 day grace period
  • Now must do before start to lobby
  • Lobbyist will get a personalized link to proceed to the trainings
  • Registration not complete until trainings done
Now Back to IRS Regulations!

• Definition of lobbying under IRS regulations:
  
  • **Direct lobbying:**
    • Communication with legislator (or staff)
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  • **Grassroots lobbying:**
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    • That includes a call to action

• Includes federal, state and local level (including ballot measures)

• Does not include lobbying of executive branch/agencies (usually!)
## Students Vote Now – IRS regulations

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<tr>
<th>Activity</th>
<th>IRS Coverage</th>
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<tbody>
<tr>
<td><strong>Student Engagement</strong></td>
<td>• Grassroots state legislative lobbying – covered by IRS</td>
</tr>
<tr>
<td></td>
<td>• Report all costs on Form 990</td>
</tr>
<tr>
<td></td>
<td>• Keep track of limit if 501(c)(3)</td>
</tr>
<tr>
<td><strong>Lobby Day</strong></td>
<td>• Direct state legislative lobbying – covered by IRS</td>
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<tr>
<td><strong>Committee Testimony</strong></td>
<td>• Probably direct state lobbying – covered by IRS</td>
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<tr>
<td></td>
<td>• Report all costs on Form 990</td>
</tr>
<tr>
<td></td>
<td>• Keep track of limit if 501(c)(3)</td>
</tr>
<tr>
<td><strong>Mayor</strong></td>
<td>• Local executive branch – <strong>not</strong> covered by IRS (neither Chicago or small town)</td>
</tr>
<tr>
<td><strong>Bottom Line</strong></td>
<td>• Both IRS and state law may apply differently to same activities!</td>
</tr>
<tr>
<td></td>
<td>• Need to have systems to track for both</td>
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Illinois Additional Resources

- Practical Guidance Additional Resources page contains:
  - Links to relevant lobbyist website pages at Illinois Secretary of State
  - Links to relevant state law
  - State provided handbooks and training materials (some still need to get updated)
  - Contact information for questions
Related Bolder Advocacy Resources

- **Bolder Advocacy Technical Assistance Hotline**
  - Tel: 866-NP-LOBBY (866-675-6229)
  - E-mail: advocacy@afj.org

- **Practical Guidance – What Nonprofits Need to Know About Lobbying in Illinois**

- **Being a Player: A Guide to Lobbying Regulations for Advocacy Charities**

- **Lobbying Flowchart (under IRS regulations)**
  - [https://bolderadvocacy.org/resource/lobbying-flowchart-2/](https://bolderadvocacy.org/resource/lobbying-flowchart-2/)
Next Steps

• Slides and FAQ will be posted on https://myforefront.org/
• Ongoing education and advocacy as needed
• Questions
  • State/local (elobbyist@ilsos.gov)
  • Chicago (BOE-ELF@cityofchicago.org)
• Stay in touch
  • Contact Holly (hambuehl@myforefront.org)
  • Get Weekly Forefront email (https://myforefront.org/contact/)
  • Join Policy Listserv (https://myforefront.org/policy-updates/forefront-policy-listserv/)