

Frequently Asked Questions (FAQs) for U.S. Nonprofit Organizations

Engaging in Advocacy with Undocumented Activists

Many nonprofit organizations have leaders and activists who are undocumented immigrants.¹ In general, undocumented immigrants in the United State have a constitutional right to free speech and assembly, and nonprofit organizations have a right to integrate immigrant leaders into their organization's advocacy. Undocumented immigrants can legally assist nonprofit organizations to advocate for public policy change, with some restrictions.²

May my organization suggest that our undocumented activists engage in issue advocacy?

Yes! Your nonprofit organization legally may ask undocumented activists to:

- Educate legislators about your organization's key issues.
- Encourage voter registration³ and voting by U.S. Citizens already registered to vote.⁴
- Lead or participate in community organizing and organizer skills trainings.
- Change corporate behavior (through boycotts, publicity campaigns, etc.)
- Advocate for changes in government rules and regulations.
- Advocate for fair enforcement of existing laws (like priorities for enforcement of immigration laws).
- Advocate for or against executive orders and executive actions (like the Deferred Action for Childhood Arrivals (DACA) and Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA)).
- Advocate for or against decisions made by state and local boards/agencies (school boards, zoning boards, state environmental protection agencies, etc.)
- Be plaintiffs in a court case (with very few exceptions).

¹ Nonprofits often collaborate with activists with a wide variety of documented immigration statuses (legal permanent residents, students on student visas, activists with temporary protected status, etc.). This factsheet discusses only the rights of nonprofits collaborating with undocumented activists.

² When compiling this information, we are taking into account the legal rights of nonprofit organizations, in addition to the interests of undocumented activists in remaining safely in their U.S. communities.

³ Undocumented immigrants may convince citizens that registering to vote is important. However, most states do not allow undocumented immigrants to assist citizens in filling out registration forms. See p. 3 for more details.

⁴ Please note: nonprofits and their volunteers should avoid encouraging non-citizens to vote, including undocumented people. Undocumented activists who register to vote and/or actually vote can face grave immigration consequences.

May my organization suggest that our undocumented activists lobby?

Yes, in general, your organization legally may ask undocumented activists to communicate with legislators in support or opposition to legislation. For example:

- Undocumented community members may talk to legislators about a proposed law to raise the minimum wage.
- Undocumented activists may urge the public to contact their legislators about supporting or opposing a proposed law about comprehensive immigration reform.

Please note that nonprofit organizations must follow federal and [state rules](#) about [lobbying limits](#) and [lobbying disclosures](#). That means that all staff and volunteers affiliated with your organization must follow these rules when they lobby, regardless of their immigration status.

May my nonprofit organization encourage undocumented activists to volunteer for our campaign supporting or opposing a ballot measure?

Maybe. Nonprofit organizations may support or oppose ballot measures, but it's not clear whether federal law allows nonprofits to accept undocumented activists' donated time on a ballot measure campaign.⁵

- Communicating with the general public to support or oppose a ballot measure is considered lobbying under federal law. Depending on how the organization measures its lobbying, the efforts of volunteers who campaign for or against a ballot measure may be counted as lobbying.
- Certain state laws allow undocumented activists to gather signatures to qualify measures for the ballot, and other state laws do not. See p. 3 for more details.
- The Federal Election Commission has not yet decided whether nonprofit organizations working on state or local ballot measure campaigns may accept undocumented activists' volunteer services, and whether undocumented activists may legally offer their volunteer services. (Traditionally, the FEC only regulates federal elections. However, FEC Commissioners do not agree whether a state or local ballot initiative qualifies as an "election," and whether the FEC should have any jurisdiction over state or local ballot measure campaigns.)

May my organization suggest that our undocumented activists participate in peaceful, lawful public protests?

Yes, in general, your organization may ask your undocumented activists to attend protests, rallies, and vigils. However, your organization and its undocumented activists should exercise caution to avoid unintended complications with local law enforcement and Immigration and Customs Enforcement (ICE).

⁵ FEC advisory opinion, *Make Your Laws PAC* (AO 2014-20), determined that a specific non-national's donation of volunteer services to a *candidate's* campaign did not constitute an illegal campaign contribution (emphasis added). ("Non-national" refers to someone who is neither a citizen nor a lawful permanent resident. Undocumented activists are considered non-nationals.) That opinion did not address whether non-nationals may donate volunteer time to a *ballot measure* campaign, and the FEC commissioners are divided on this issue.

Nonprofit organizations may encourage all of their activists to participate in peaceful, lawful protests, regardless of the activists' immigration status. Most protests do not involve arrests. However, on occasion, activists who are protesting lawfully can be arrested improperly, even though the activists are not breaking the law.

Undocumented activists who are arrested during a protest are at increased risk of deportation, regardless of whether the arrest was proper. Undocumented activists may be at risk of deportation or other serious immigration consequences if their arrests result in criminal convictions. Undocumented activists who already have an arrest record or have previously come into contact with ICE are particularly susceptible to being placed in deportation proceedings after being arrested at protests.

Nonprofits and undocumented activists should consult with immigration legal services organizations to help activists assess the risks of their particular situation. Nonprofit organizations suggesting their undocumented activists engage in civil disobedience should consult extensively with an immigration attorney.

What are some types of activism that my organization's undocumented activists may *not* engage in?

- Undocumented activists may not work as employees for your nonprofit organization without employment authorization.
- Undocumented activists may not donate funds to candidate election campaigns.
- Undocumented activists may not vote in federal, state, or most local elections. In fact, registering to vote could be extremely detrimental to an undocumented activist's immigration case.
 - However, undocumented immigrants **may** vote in a few specific local elections in the United States, such as San Francisco school board elections. Before encouraging undocumented activists to vote, please confirm with an immigration attorney whether an undocumented activist may vote in a local election.
- In most states, undocumented activists are not permitted to register voters or gather signatures for ballot measure petitions.
 - Most states require that people who are registering voters or gathering signatures for ballot measure petitions be eligible to register to vote. Please check with your state's elections authority to learn more.
 - However, there are a few states where people registering voters or gathering signatures for ballot measure petitions are not required to be eligible to register to vote. Therefore, undocumented activists **may** register eligible voters and gather signatures for ballot measure petitions in certain states. (For example, as of 2015, undocumented activists may gather signatures in Oregon and California.)

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