

# Lobbying

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Lobbying is taking a specific position on a specific piece of legislation.

# Types of Lobbying



# Direct Lobbying

- Any attempt to influence any legislation through communication with:
  - Any member or employee of a legislative body
  - Any government official or employee who may participate in the formation of the legislation, but only if the principle purpose of the communication is to influence legislation

- The two required elements to be considered lobbying are :
  - The communication must refer to a specific piece of legislation (HR or S)
  - It must reflect a view on that legislation (support or oppose)

# Grassroots Lobbying

- Any attempt to influence any legislation through an attempt to affect the opinions of the general public or any segment thereof.

A communication is treated as grassroots lobbying if, but only if, it does **all three** of the following:

- Refers to specific legislation
- Reflects a view on such legislation; and
- Encourages the recipient of the communication take action with respect to such legislation.

If it only does one or two of these it is not considered grassroots lobbying

# **Should 501(c)3's Be Afraid To Lobby?**

**NO!**

- But if 501(c)3's are going to participate in lobbying, there are certain guidelines that they need to follow.



- If your 501(c)3 chooses to lobby, it is recommended that it files IRS Form 5768.
- Filing provides liberal limits on how much money can be spent on lobbying and provides very clear definitions of what activities don't include lobbying.

**Even If You Lobby A Small  
Amount of Lobbying, You  
Should File Under the 1976 Act**

# If My Organization is Solely Funded With Federal Dollars, Can We Advocate?

**YES!**

- Advocacy is *not* considered lobbying and you are permitted to advocate for programs of interest to your organization and educate elected officials because when you are doing so, you are not taking a specific position on a specific bill.

# If My Organization Receives A Mixture of Federal *and* Non-restrictive Funds, Can We Lobby?

## Yes!

- You can use up to 20% of your 501(c)3 organization's first \$500K in tax-exempt expenditures to lobby

# How Much Lobbying Is Permitted?

<b>Allowable Lobbying Expenditures</b>	
<b>Tax Exempt Income</b>	<b>Amount that can be spent on lobbying</b>
First \$500,000	20% - \$100,000
2 <sup>nd</sup> \$500,000	15% - \$75,000
3 <sup>rd</sup> \$500,000	10% - \$50,000
All income over the first \$1.5 million	5% - up to a total of \$1 million

Some coalitions come under the 501'(3) status of a larger organization. In that case, calculations of allowable lobbying expenditures are based on the budget and expenditures of the larger organization.

# **If My Organization Receives Federal Funds That We Must Match Locally, Can the Local Matching Funds, Which Come From Private Sources, Be Used For Lobbying?**

- The local matching funds are under the same restrictions as the federal funds and *may not* be used for lobbying.
- However, funds over and above the required match *may* be used.

# If My Organization Receives Only Federal Funds, Can We Lobby?

- Any lobbying that is carried out while you are “on the clock” is prohibited because you can’t use federal funds to lobby at any level.
- But when you are off duty from your position and are acting as a private citizen, you are allowed to lobby.

# What Can You Do If You Are **ONLY Federally Funded?**

Raise money above and beyond your federal funding to do direct lobbying.

- Bake sale
- Everyone contribute \$50
- Other??



## **What Limitations Exist On the Activities of Volunteers From An Organization That Is Partially Funded By Federal Money?**

- Volunteer activities that truly have no associated expenditures do not count as lobbying and do not have to be reported. As long as non-federal funds are used to support those volunteer activities that do have associated expenditures, no limitations exist.

# **Examples of Activities that are NOT Lobbying**

- Meeting with a legislator to talk about a social problem, without mentioning a specific legislative proposal
- Providing a legislator with educational materials about a specific piece of legislation, without calling for specific action on the legislation
- Responding to a written request from a legislative committee or subcommittee for information about a specific piece of legislation.
- A newsletter to your own membership providing information about a specific piece of legislation, your organization's position on the legislation and the names of legislators who support or oppose it, but not a specific call to action (request to call or write to legislators)

- Tracking activities of legislators, including votes, positions taken, contributions accepted, etc.
- Producing and disseminating research reports or studies that provide nonpartisan analysis on policy issues, including specific legislative issues.
- Talking to the media about specific legislative proposals
- Meeting with the executive branch (except to sign or veto a bill).

- Meeting with regulatory agencies at all levels (e.g. BATF, FDA, DEA, state health departments, etc).
- Advocating for better enforcement of existing laws and ordinances.
- Conducting public education campaigns to affect the opinions of the general public, e.g. mass media educational campaigns

# **Ballot Initiatives**

- **Coalitions are free to support or oppose initiatives/propositions.**
- **But if you are federally funded, you cannot use any federal or state dollars to do so.**
- **You can, however:**
  - **use funds from non-governmental sources; or**
  - **do this during non-working hours on your own time.**

# You Should Know That:

- Communications to the public that refer to an initiative/proposition are treated as direct lobbying, not grassroots lobbying.
- IRS regulations recognize that for initiatives and similar procedures, the public itself is the legislature.



- Nonprofits using non-federal and state funds can do more on behalf of an initiative/proposition than when they conduct grassroots lobbying of a government legislature.
  
- EXAMPLE:
  - A nonprofit paid newspaper ad can refer to a specific initiative/proposition, reflect a view on the proposal, and urge readers not only to vote for or against the initiative, but also to ask their neighbors to do likewise.
  
  - The nonprofit must then charge all of this as direct lobbying on its IRS form.

NOTE: Federal and State funds cannot be used to do this!!!

**Education and advocacy *can*  
*and should* be  
done by everyone!**

**Don't be afraid to lobby, just  
make sure you're following  
the proper guidelines.**