

Basic Rules on Lobbying by 501(c)(3) Organizations

According to the Internal Revenue Code (<http://www.irs.gov/pub/irs-pdf/i990sc.pdf>), nonprofit organizations with 501(c)(3) tax-exempt status are organized "for charitable, religious, educational, or scientific purposes," (IRS Tax Code) and these organizations are subject to the rule that lobbying cannot be a substantial part of their activities. The organization's articles [constitution, by-laws] may not "expressly empower it to devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda." 501(c)(3) organizations may not directly or indirectly participate in political campaigns by supporting or endorsing candidates for public office or by publishing or distributing statements on behalf of a candidate's campaign.

However, 501(c)(3) organizations may lobby as long as that lobbying remains an insubstantial part of their activities.

In *How—and Why—to Influence Public Policy* published by the Center for Community Change, lobbying is defined as follows:

Direct Lobbying

Direct lobbying is communicating your views to a legislator or a staff member of any other government employee who may help develop the legislation. To be lobbying, you must communicate a view on a "specific legislative proposal." Even if there is no bill, you would engage in lobbying if you ask a legislator to take an action that would require legislation, such as funding an agency.

Significantly, if you ask your members to lobby for this bill, that also is considered direct--not grassroots--lobbying. People are considered members if they contribute more than a nominal amount of time or money. If a newsletter article that goes to both members and non-members urges them to take action, the amount you would need to allocate to grassroots lobbying would be only the percentage of non-members who received your newsletter.

However, if you simply tell people about a specific piece of legislation and your position on it but you don't encourage them to contact their legislators, this is not counted as lobbying.

Direct lobbying also involves trying to influence the public on referenda and ballot initiatives. In these cases, the public are, in essence, the legislators.

Grassroots Lobbying

Grassroots lobbying is trying to influence the public to express a particular view to their legislators about a specific legislative proposal. A communication is considered lobbying (a "grassroots call to action") if it states that the readers should contact a legislator, or if it provides the legislator's address and/or telephone number, or provides a post card or petition that the person can use.

It is also considered a lobbying communication if you simply identify legislators who are opposed to or undecided about your view of the legislation, or identify that person's legislators, or state who is on the committee that will vote on the legislation. (This is called "indirect encouragement.") Simply identifying a bill's sponsor (the "Istook amendment") is not considered indirect encouragement.

Organizations that send out frequent "calls to action" urging their members to contact their legislators, organizations that employ an outside lobbyist or lobbying firm, and organizations that lobby through their employees should consult Section 501(h) of the Internal Revenue Tax Code for reporting rules and procedures.

Feel free to contact NCTE for more in-depth information on 501(c)(3) organizations and lobbying. Direct your questions to the NCTE Business Office.

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