

Advocacy, Awareness, and Action

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“Advocacy represents the lifeblood of our democracy. Strengthening advocacy from across nonprofit sector is vital for the ongoing health and security of our nation, particularly in the context of ensuring that our nation lives up to its deepest ideals and everyone is able to thrive.”

- Rev. Adam Russell Taylor

Definitions and Distinctions

Advocacy, Lobbying, and Electioneering are closely related; however, they have different definitions and the distinctions between them play a significant role in how the IRS views your organization

- **Advocacy** involves informing and educating donors, stakeholders, legislators, and others about your mission and programs, including specific causes or ideas
- **Lobbying** is “carrying on of propaganda, or otherwise attempting, to influence legislation.”
 - Lobbying refers to actions that strive to influence lawmakers to pass or overturn laws that favor a certain cause.
 - It many times includes a call to action, but many times can simply be expressing a viewpoint on legislation to an elected or appointed official.
- **Electioneering** concerns “directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office,” and includes contributions to a political campaign, as well as verbal or written statements in favor of or against a political candidate

Definitions and Distinctions

Most Common Types of Tax-Exempt (Non-Profit) 501(c) Organizations

Section 501(c)(3) Organizations - “Charitable Organizations” - Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

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Section 501(c)(4) Organizations - “Civic Leagues and Social Welfare Organizations” - Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Section 501(c)(6) Organizations - “Chambers of Commerce and Trade Associations” - Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Should Non-Profits Engage in Advocacy Efforts?

YES!

Advocacy is the Lifeblood of any Nonprofit Organization

- Advocacy is essential for your nonprofit to advance its mission
- Enables donors, legislators, community leaders, and others to learn about your mission and programs
- Can lead to financial contributions to support your work
- Help to better inform legislators should they be considering any potential legislation that may impact your operations.
- Carrying on the activity in an “educational manner” is the key

Examples of “Green Light” Advocacy

- Invite, Invite, Invite!!
 - Tours and Visits;
 - Galas and Dinners;
 - Speaking/Educational Events
- Newsletters and Written Materials
- Mailing and Distribution Lists
- Inviting Elected Officials to Visit Programs
- Educating Elected Officials on the 501(c)(3)’s programs and goals

Should Non-Profits Engage in Lobbying Efforts?

It Depends.

Lobbying is the influencing of Legislation.

“**Legislation** includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.”

Should Non-Profits Engage in Lobbying Efforts?

It Depends.

Lobbying is the influencing of Legislation.

“An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.”

- **501(c)(3) Organization:** Proceed with caution, as a substantial amount of your activities cannot be lobbying and all lobbying should be reported on your Form 990, Schedule C, as applicable; all lobbying efforts must be related to the tax-exempt purpose and mission/vision of the organization
 - What is a substantial amount? (1) Substantial Part Test OR (2) Expenditure Test (Form 5768)
- **501(c)(4) and 501(c)(6) Organizations:** An unlimited amount of lobbying is permitted, but the lobbying must be related to the organizations tax-exempt purpose

Should Non-Profits Engage in Lobbying Efforts?

It Depends
(also for taxes).

Lobbying is the influencing of Legislation.

The rules for lobbying for 501(c)(3) organizations are very strict because contributions to 501(c)(3) organizations are always tax deductible for the contributor.

However, 501(c)(4) social welfare organizations and 501(c)(6) trade associations do have tax implications related to the unlimited lobbying

- Lobbying/political expenses make a portion of dues or contributions non-deductible
- Organization must EITHER:
 - Notify members/donors about the nondeductible portion, OR
 - Pay the “proxy tax” itself on that amount - Tax rate: 21% (corporate income tax rate).
- Ensures that someone (the member/donor or the org) bears the cost of non-deductibility.

Should Non-Profits Engage in Lobbying Efforts?

It Depends (also for taxes).

Federal Tax* Treatment of Nonprofit Lobbying

Type	Lobbying Limits	Deductibility	Proxy Tax?
501(c)(3)	Limited lobbying only (substantial part test or 501(h) limits)	Contributions deductible under §170	No
501(c)(4)	Unlimited lobbying allowed (must further social welfare)	Contributions NOT deductible as charitable; dues not deductible under §162(e)	Yes, if no notice
501(c)(6)	Unlimited lobbying allowed (must further members' business interests)	Dues nondeductible to extent of lobbying under §162(e)	Yes, if no notice

*This table summarizes federal tax treatment only; state lobbying, campaign-finance, charitable-solicitation, and ethics rules may impose separate obligations.

Should Non-Profits Engage in Lobbying Efforts?

It Depends.

Downward Trend in Nonprofit Lobbying

According to a recent Independent Sector survey, nonprofit lobbying is down significantly from 20 years ago. In 2000, 75% of nonprofits said they were engaged in lobbying activities, while currently less than 25% of nonprofits report that they are engaged in lobbying activities. This may be an outcome of the current polarized political climate where nonprofits fear the backlash of taking a position.

Should Non-Profits Engage
in Electioneering Efforts?

**501(c)(3):
Absolutely No!**

“ABSOLUTELY NO” MEANS ABSOLUTELY NO, NEVER,
NOT EVER, DON’T EVEN THINK ABOUT IT!

Any amount, even the smallest iota, of Electioneering will
put the tax-exempt status in jeopardy

However, nonpartisan voter education, voter registration,
candidate forums, and get-out-the-vote activity may be
permissible if conducted without bias.

Should Non-Profits Engage in Electioneering Efforts?

501(c)(4) & (6): Be Very Careful

Being a politically minded non-profit does not mean you get a blank check for political activity.

- Must be “germane” to the organization’s mission, vision, and programs
- Cannot be a “primary purpose” of the organization
 - 501(c)(4)s are IRS-regulated social welfare nonprofits that may do limited political activity, while PACs are FEC-regulated political committees organized specifically to raise or spend money to influence elections.
 - A 501(c)(4) or 501(c)(6) may establish or affiliate with a PAC, but the PAC should maintain separate funds, records, bank accounts, governance controls, and campaign-finance filings.

IT'S AN ELECTION YEAR!

What can 501(c)(3)s do?

The key is to remain educational and nonpartisan.

- **Allowed if nonpartisan:** voter registration, voter education, issue education, candidate questionnaires, candidate forums, get-out-the-vote work.
- **Not allowed:** endorsements, contributions to candidates, rating candidates, coordinating with campaigns, using organizational resources to support or oppose candidates.

POP QUIZ TIME!

NONPROFIT ACTIVITY

- Here is how our program services families in the district.
- HB 123 would reduce access to services. Please oppose it, Rep. Jones.
- Our membership should call their senators to ask them to support SB 456.
- Register to Vote! The deadline to register will be a few weeks before the November General Election
- Voting by Mail is the easiest way to vote for your favorite Democratic candidate!
- Vote for John Doe because he supports the mission of the Christian-centered organization.



ADVOCACY, LOBBYING, OR ELECTIONEERING?

- Advocacy and Education
- Direct Lobbying
- Grassroots Lobbying
- Advocacy and Education (nonpartisan)
- Electioneering
- Electioneering

Additional Resources

<https://pano.org/>

<https://www.disabilityrightspa.org>

<https://www.advocatesforyouth.org/>

<https://www.nolo.com>

<https://www.naeyc.org>

<https://communitycatalyst.org/> (healthcare nonprofits)

<https://www.irs.gov/charities-non-profits/educational-resources-and-guidance-for-exempt-organizations>



Thank you!

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