

Advocacy 101
The fundamentals for making
good policy

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Comparing tax-exempt types: 501(c)(3)s

Examples

Alliance for Justice

National Disability Rights Network

Disability Rights Texas

Tax treatment

Tax-exempt

Tax-deductible contributions

Lobbying Activities – Limited

Election Activities – Cannot support/oppose candidates

Comparing tax-exempt types: other 501(c)s

Examples

Alliance for Justice Action – 501(c)(4)

ACLU – 501(c)(4)

SEIU – 501(c)(5) labor unions

Tax treatment

Tax-exempt

Lobbying Activities – Unlimited

Election Activities – Can support/oppose candidates (limited)

Advocacy for 501(c)(3)s

RED LIGHT

Partisan political

YELLOW LIGHT

Lobbying

GREEN LIGHT

Organizing

Educating legislators

Get to know legislators

Public education

Conferences

Research

Nonpartisan voter education

Lobbying exceptions

Trainings

Influencing corporations

Regulatory work

Litigation

Lobbying: Legal, but limited

Limitation #1: Tax Law

Two options:

Insubstantial Part Test

Both volunteer and paid work count

Default test

Vague definitions & limits

501(h) Expenditure Test

Only paid work counts

Need to “elect” (IRS Form 5768)

Clear definitions & limits

Limitation #1: Tax Law

501(h) option is usually the best choice

Definitions are clear

Only expenditures made for lobbying count

Limits are clear and to the dollar

More capacity to lobby

Easier reporting

Exceeding limit in one year results in a tax, not risk of loss of tax status

Not available for churches or private foundations

Calculating your lobbying limit

Based on annual exempt purpose expenditures

Most organizations can lobby up to 20% of their budget

Lobbying cap limited: can only use up to ¼ for grassroots lobbying

ANNUAL EXPENDITURES	OVERALL LOBBYING LIMIT
\$500,000 or less	20%
\$500,000 to \$1 million	\$100,000 + 15% of excess over \$500,000
\$1 million to \$1.5 million	\$175,000 + 10% of excess over \$1 million
\$1.5 million to \$17 million	\$225,000 + 5% of excess over \$1.5 million
Over \$17 million	\$1,000,000

Limitation #2: You promise not to lobby with someone's funds

Grants are sometimes like contracts

Some funders ask you not to use their grants for lobbying activity

You can still lobby, but must use other funds

You can use the grant funds for non-lobbying advocacy

Knowing what lobbying is helps you to keep this promise

What is lobbying?

DIRECT

Communication

Legislator

Expresses a view about specific legislation

GRASSROOTS

Communication

General public

Expresses a view about specific legislation

Call to action

Communication

Any way of getting a message across:

Text

Email

Meeting

DM

Public displays

Legislators

State Legislators and staff

Federal legislators and staff

City Council and staff

International and tribal legislative bodies

For ballot measure advocacy, the general public

Chief Executives: Sometimes Legislators

President, governor, mayor, or other executive official who participates in the formulation of legislation.

PRESIDENTS

VICE PRESIDENTS

GOVERNORS

MAYORS

Not legislators

School board

Zoning boards

Housing authorities

Levee and water districts

Other “special purpose bodies” with limited authority

Specific legislation

Active bills with a title and a number

Draft legislation

Votes on confirmations

Cheat code: any vote in any legislative body

“Specific Policy Proposals”

Specific policy proposal

Not well defined, but essentially identifying a problem and a solution that can only be accomplished with new legislation
May not be introduced, written or even fully fleshed out!
Example – bumping into a state senator at a coffee shop and asking for a new state fund for independent living centers

When does the clock start ticking

Once you make the call internally all prep work and meetings count

If you're still mulling whether to support or oppose legislation, it's probably safe to not count that "windup"

Be consistent, act in good faith, "don't be cute"

Mixed Purpose

Best practice, but not the only option

What if you're doing some lobbying, some not lobbying?

More than half of the meeting/activity is lobbying? Count it all.

Less than half? You can track and report proportionately

NOT specific legislation

Regulations*

Executive orders*

Enforcement of existing laws

Litigation

*While these activities are not treated as lobbying by the IRS, the language in appropriations bills specifically prohibits CILs from using federal funding for these activities. CILs CAN do this type of advocacy, but they CANNOT use federal funding to pay for it.

Could this be lobbying?

A CIL is submitting written comments on a regulation that would protect people from discrimination and prevent discrimination in programs that receive federal funding.

Communication (yes)

Legislators (no)

Expressing a View on Specific Legislation (no)

Not lobbying, but must use non-federal funds

Calls to action

ASKING TO CONTACT
legislators

PROVIDING ADDRESS,
telephone number, and/or other contact information of legislators

PROVIDING MECHANISM
to enable communication with legislators

IDENTIFYING
legislators that are opposed or undecided [“indirect” call to action]

Is this lobbying?

Action Alert: Keep our Budget Intact!

Call your Representatives in the House and tell them not to cut funding for the Independent Living Program. The Senate's draft budget came out at level funding for the Independent Living Program at \$128 million.

We need you to call your Representatives **today** and tell them not to cut IL funding.

Read more about the Senate's draft budget: [\[LINK\]](#)

Call members of the House Committees on Appropriations [\[LINK\]](#)

To find your Representative's phone number, visit the House Directory [\[LINK\]](#)

Communication (yes)

General Public (yes)

Expressing a View on Specific Legislation (yes)

Call to Action (yes – how many?)

NOT calls to action

No call to action? NOT grassroots lobbying!

“Learn more”

“Take action”

“Support our efforts”

“Get involved”

“Join us”

Is this lobbying?

Legislative Update: IL Funding at Risk

The House of Representatives is considering a cut to the funding for the Independent Living Program. The Senate's draft budget came out at level funding for the Independent Living Program at \$128 million. Our organization opposes funding cuts - stay tuned for future legislative updates.

Communication (yes)

General Public (yes)

Expressing a View on Specific Legislation (yes)

Call to Action (NO)

Forwarding a legislative update without a call to action is also not lobbying!

Lobbying can be “cheap”

If you make the 501(h) election, only lobbying expenditures count

Very handy for CILs that must use limited non-federal funds

Examples:

Sign-on letters

Forwarding action alerts to your list

Social media posts

These may only take a few minutes of staff time but can have big impacts

Lobbying exceptions

Nonpartisan analysis, study, or research

Request for technical assistance

Self-defense

Examinations and discussions of broad social, economic, and similar problems

Nonpartisan analysis, study, or research

Full and fair discussion

Broadly disseminated

May express a view

May contain an indirect call to action

Technical assistance

Invited in writing

By a chair of a committee or subcommittee

Info available to the group as a whole

Lobbying Limits vs. Disclosure

FEDERAL TAX LAW

Rules that apply because of your tax-exempt status

Limits how much lobbying you can do

STATE AND (SOMETIMES) LOCAL LAWS

Disclosure of lobbying, never limits

Sometimes have different definitions of lobbying so you have to track things carefully

A quick note on election years

You can advocate on issues during election season

BUT, be careful not to compare candidates on issues or otherwise suggest one candidate is better than another on your issues (“tacit endorsement”)

Helping your communities know how to vote in a nonpartisan way or encouraging them to vote without supporting or opposing candidates or parties is permissible

Resources: <https://afj.org/article/running-the-advocacy-race-bolder-advocacys-top-resources-for-an-impactful-2024-election-season/>

Resources

Rules of the Game Podcast - [afj.org/podcast](https://www.afj.org/podcast)

Free PDF guides on these rules - [afj.org/resource-library/](https://www.afj.org/resource-library/)

Recommended lobbying guide: Being a Player

Also state guides for lobbying disclosure rules in all 50 states and DC

Contact Bolder Advocacy for free technical assistance

advocacy@afj.org

afj.org/bolder-advocacy/technical-assistance/