

Advocacy and Lobbying Rules for Nonprofits

This document is intended to serve as a general guide for 501(c)3 organizations. Please contact Bolder Advocacy, the Washington State Public Disclosure Commission, and/or your organization's legal counsel with specific questions regarding requirements for your organization.

Key Definitions From Bolder Advocacy

Advocacy is any action that speaks in favor of, recommends, argues for a cause, supports or defends, or pleads on behalf of others. It includes public education, regulatory work, litigation, and work before administrative bodies, lobbying, voter registration, voter education, and more. This includes **educating** officials about key issues and your organization.

The Internal Revenue Code defines **lobbying** as activities that attempt to influence specific legislation. There are two types of lobbying – **direct** and **grassroots**.

Direct lobbying refers to a communication with a legislator (federal, state, local) or legislative staff member that refers to specific legislation and expresses a view on that legislation.

Grassroots lobbying refers to a communication with the general public that refers to specific legislation, expresses a view on that legislation, and urges the public to contact their legislator(s).

Rules and Requirements for Nonprofits

The IRS requires nonprofits to track their resources dedicated to lobbying and imposes limits on how much lobbying nonprofits may conduct.

Limits

The limits depend on whether you choose to lobby under the **Insubstantial Part Test** or the **501(h) Expenditure Test**. According to Bolder Advocacy:

The insubstantial part test requires that “no substantial part of a charity’s activities...be carrying on propaganda or otherwise attempting to influence legislation.” Therefore, a charity’s lobbying must be an “insubstantial” part of its overall activities. The IRS has provided no absolute guidance on how much lobbying is “substantial.” ... Most tax practitioners generally advise that charities can safely devote 3-5% of their overall activities toward lobbying.

The 501(h) expenditure test provides more generous lobbying limits than the insubstantial part test. It defines a clear dollar amount that the electing public charity may spend on lobbying, and lobbying limits vary depending on the size of the organization’s annual expenditures.

Organizations can use Bolder Advocacy’s calculator to determine 501(h) limits at <https://goo.gl/NxDCVH>

Washington State Public Disclosure Commission Registration

If your organization lobbies, it will likely be required to register with Washington State’s Public Disclosure Commission (PDC). Information on registration and reporting requirements is available from the PDC’s website at www.pdc.wa.gov.

Tracking

Bolder Advocacy’s “Keeping Track: A Guide to Recordkeeping for Advocacy Charities” explains record keeping requirements and provides example systems. The report is available at <https://goo.gl/qLZPEJ>.



Permitted Advocacy and Lobbying Activities for Nonprofits

Below is a summary of permitted activities for nonprofits. Use Bolder Advocacy's IRS Lobbying Flowchart at <https://goo.gl/tG1h43> as a visual guide for whether or not activities must be tracked.

All Activities Must Be Nonpartisan: Your agency cannot support or oppose a candidate or party.

Permitted Non-Lobbying Activities

These activities are not considered lobbying and do not need to be tracked.

- Nonpartisan research and analysis.
- Responses to written requests from legislative committees.
- Defending your organization's powers and duties or right to exist.
- Discussing broad social issues without getting into current or desired policies.
- Educating officials about your organization's mission and work.

Permitted Lobbying Activities

These activities are considered lobbying and need to be tracked.

- Communicating with a public official about a specific or desired piece of legislation.
 - Sending a written communication via email, U.S. Mail, or social media.
 - Visiting or calling the official's office to discuss legislation with the official or staff.
- Organizing a grassroots campaign about a specific or desired piece of legislation.
 - Issuing a call to action to make a specific ask.
- Gathering signatures or communicating a position for or against a ballot initiative.

Other Permitted Activities

- Hosting a site visit for an official. (If there is lobbying communication, then this is lobbying)
- Public policy education that does not contain positions or calls to action. (This is not lobbying)
- Nonpartisan voter registration. (This is not lobbying)
- Nonpartisan voter education and get out the vote activities. (This is not lobbying)

Key Resources for Your Organization

- Bolder Advocacy Hotline: 1-866-NP LOBBY (1-866-675-6229)
- Washington State Public Disclosure Commission: 1-877-601-2828, <https://www.pdc.wa.gov>
- Washington Nonprofits: www.washingtonnonprofits.org

Additional Publications from Bolder Advocacy:

- "Washington State Lobbying Disclosure Guide." <https://goo.gl/CFyEiN>
- "Public Charities Can Lobby: Guidelines for 501(c)3 Public Charities." <https://goo.gl/cYThte>
- "IRS Lobbying Flowchart." <https://goo.gl/tG1h43>
- "Keeping Track: A Guide to Recordkeeping for Advocacy Charities." <https://goo.gl/qLZPEJ>
- "Lobbying Under the Insubstantial Part Test." <https://goo.gl/3FtXYG>
- "What is Lobbying Under the 501(h) Election?" <https://goo.gl/P6cgc2>
- "How to Use the 501(h) Election to Maximize Effectiveness." <https://goo.gl/eVwVa8>
- "501(h) Sample Time Sheets." <https://goo.gl/mi4CeH>
- "501(h) Lobbying Calculator." <https://goo.gl/NxDCVH>
- "Advocacy and Lobbying Do's and Don'ts." <https://goo.gl/5En8so>
- "Tracking and Treating Grassroots Communications with Members." <https://goo.gl/q9Hexk>
- "Legal Tips on Using Social Media for Advocacy." Bolder Advocacy. <https://goo.gl/hqHNWq>

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