

Lobbying and Advocacy:

What is the Difference and Should I Be Afraid to Participate? These and Other Frequently Asked Questions

What is Lobbying?

Lobbying is taking a specific position on a specific piece of legislation (for the exact definition of direct and grassroots lobbying, see page 3 of CADCA's *Strategizer 31*).

How Is Advocacy Different From Lobbying?

Most advocacy is not lobbying at all and is permissible for everyone. Examples of activities that are not considered lobbying include:

- Sending information, outcomes and other successes about your coalition to your legislators
- Educating your legislator about problems and issues in your community that need to be addressed
- Letting your legislators know what federal programs fund your coalition work

(See pages 6 and 7 of CADCA'S *Strategizer 31* for additional examples of what is not considered lobbying)

Should I Be Afraid to Participate in Advocacy Activities?

No! Advocacy is something you should absolutely participate in and is NOT considered lobbying as you are not taking a specific position on a specific piece of legislation.

Should I Be Afraid to Participate in Lobbying Activities?

No! But if you are going to participate in lobbying activities, there are certain guidelines that you need to follow as a 501(c)(3) (see CADCA's *Strategizer 31* and the rest of this document), but you are not prohibited from doing so.

If My Organization Does Lobby, Even Just A Little Bit, Should It File Under the 1976 Act?

Yes! The law provides wide latitude for lobbying, but only for organizations that elect to be covered by it. Nonprofits should file under this law, by filing IRS Form 5768, not only because it provides liberal limits on how

much they can spend on lobbying, but also because it provides very clear definitions of what activities do not constitute lobbying (see page 5 of *Strategizer 31* for more information on the Act). If your organization does not come under the 1976 lobby law, it is subject to the "no substantial part" test, which has never been clearly defined under the law. The result is that an organization under the no substantial part test cannot be certain how much lobbying it may conduct without jeopardizing its tax-exempt status.

ADVOCATING AND EDUCATING With Federal Funds

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. Therefore, you *should* send outcomes to your legislators; educate them about problems and issues in your communities; and make them aware of the programs that fund you!

LOBBYING With Federal Funds

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

Yes! You can use up to 20 percent of your 501(c)3 organization's first \$500K in tax-exempt income to lobby (see page 5 of *Strategizer 31* for additional information). Again, it is recommended that if you are going to lobby, you file IRS Form 5768 to elect the section 501(h) expenditure test.

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?

When you are off duty from your position, you are acting as a private citizen and are allowed to lobby as much as you want. 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.

If My Organization Only Receives Federal Money, Can It Sign On To A Letter Or Other Similar Lobbying Effort If No Money Is Expended on This Effort?

The organization would no doubt have spent time to develop a position on the issue so this action is prohibited, unless that time was not compensated and no other organizational expenditures were made.

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.

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

Federal funds may not be used for lobbying at any level. If staff time (and therefore, federal funds) was spent to develop a position on the issue then even

though the volunteer lobbyist is not spending any federal funds, such an expenditure already occurred to develop the position and that would not be legal.

State and Local Lobbying

Can Federal Funds Be Used For State Lobbying?

Federal funds may not be used for lobbying at the state level. However, nonprofits may engage in lobbying activities as long as they use non-federal funds and funds that are not part of their required federal match.

Can Federal Funds Be Used For Local Lobbying?

Federal funds may not be used for lobbying at the local level. However, nonprofits may engage in lobbying activities as long as they use non-federal funds and funds that are not part of their required federal match.

What If A Legislator Contacts My Organization?

Is It Lobbying If A Legislator Contacts Me or My Organization For Information?

If either staff or board members of an organization are invited in writing from the chair of a legislative committee (not just a member of a legislative committee) to give technical advice which would include stating a position on legislation, such action would be acceptable. The same would apply to an invitation from a government agency for technical advice from an organization about legislation.

So What's the Bottom Line?

Advocacy can and should be done by everyone!

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



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