What Can’t Your 501(c)(3) Do?

• Any activities that support or oppose any candidate for public office. No partisan political activities.
  – Direct donations to, or fund raising activities for, PACs or other organizations that engage in electioneering.
  – Any activity that comments in any way on the election of a particular candidate (this could include publishing candidate statements).
  – Anything that anyone might construe as engaging in electioneering.
What You Can Always Do: Educate

• You can always provide education, and elucidate a specific viewpoint or position, on **broad social issues**.

• Encourage people to register to vote.

• Litigate, including serving in an amicus role.

• If you represent an APA division you should check with APA before publishing a position statement or serving in an amicus role in litigation.
You Can Also Comment on Specific Policies

• Provide technical assistance or advice to a government body that asks your organization for that assistance or advice.

• Provide nonpartisan research regarding a policy issue.

• Communicate about pending legislation as long as that communication is limited to the presentation of nonpartisan research.
What You Can Sometimes Do

• Lobbying – communicating an identified viewpoint on a specific legislative proposal or legislation.

• This can take the form of direct lobbying or grass roots lobbying.
• **Direct lobbying** involves any communication with a legislator (or his or her staff) that *expresses a view about specific legislation*. This includes encouraging your members to contact a *legislator to express a specific viewpoint*.

• **Grass roots lobbying** is any communication with the general public that expresses a view about specific legislation that *includes a call to action*.
  • Asking the public to contact a legislator or his or her staff.
  • Providing contact information for legislators (including websites)
  • Providing a mechanism to contact legislators (email link, post card, petition, letter)
  • Identifying specific legislators, such as those voting on a bill.
• The definitions of both direct and grass roots lobbying are specific. If one part of the definition is missing it is not considered lobbying.

• If you meet with a legislator to discuss non-partisan research on a broad social issue, *without reference to specific legislation*, that is not direct lobbying (this would require that there is no specific legislation pending on the issue).

• If your organization communicates with the general public regarding a specific viewpoint on a specific piece of legislation, but *does not include a call to action*, that is not grass roots lobbying.
How Much Lobbying Can You Do?

• How much lobbying you can do and still maintain your non-profit status is subject to legally specified limits.

• First you must determine how you will measure your lobbying activities.

• You can use the *insubstantial part test* or the *501 (h) expenditure test*. 
• The insubstantial part test just asserts that lobbying is not a substantial part of your organization’s overall activity.

• Unfortunately the IRS has not provided a definition of “insubstantial” under this rule.

• This left many 501 (c) (3) organizations confused, and nervous.

• So in 1976 Congress introduced the 501 (h) expenditure test.
• Under 501(h) rules, the IRS allows an organization to use expenditure records to document the extent of lobbying activity. All expenditures must be allocated to lobbying and non-lobbying activities, and expenditures for lobbying activities must be allocated to either direct lobbying or grass roots lobbying.

• The rule provides clear dollar limits on how much money a public charity can spend on lobbying (generally up to 20% of its annual expenditures, with a one million dollar limit).
• Of the amounts spent on lobbying, not more than ¼ can be spent on grass roots lobbying.
• The APA uses the 501 (h) expenditure test.
• If your organization is an APA division, you should always consult with the APA about lobbying activities.
• If your organization does not have consultants already available to them, organizations such as the Alliance for Justice can provide them with resources.