

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 non partisan 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 $\frac{1}{4}$ 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.