Understanding LOBBYING RULES FOR NONPROFITS

October 13, 2011
1. Comparing nonprofit organizations
2. What is advocacy?
3. How much lobbying can we do?
4. What is lobbying?
5. Lobbying exceptions
6. Keeping track of lobbying
501(c)(3) | 501(c)(4)
--- | ---
**Examples**
Alliance for Justice | AFJ Action Campaign
Prevention Institute | ACLU

**Tax Treatment**
Tax-Exempt
Donations tax-deductible | Tax-Exempt
Private Foundation grants

**Lobbying Activities**
Limited | Unlimited

**Electoral Activities**
Cannot support or oppose a candidate for office | Secondary activity
Follow federal and state election law
What is **ADVOCACY?**

- Organizing
- Educate Legislators
- Get to Know Legislators
- Public Education
- Nonpartisan Voter Ed.
- Lobbying Exceptions
- Organize a Rally
- PARTISAN POLITICAL
- Educational Conferences
- LOBBYING
- Research
- Training
- Regulatory Efforts
- Litigation
Create Systemic Change

Protect Current Funding

Educate Legislators: You are an expert

Discuss Broad Social Issues, Foster Discussion

Empower Your Constituents and Communities

Why should nonprofits do **ADVOCACY?**
Nonprofits can and should ADVOCATE and LOBBY for POLICY CHANGE!
How much LOBBYING?
INSUBSTANTIALL PART TEST
1. Default test
2. What is “insubstantial”? 
3. Lobbying not defined 
4. Activities-based 
5. Penalty 

or

501(H) EXPENDITURE TEST
1. One-time election – IRS Form 5768 
2. Dollar-based limits 
3. Expenditures only 
4. Definition of lobbying 
5. Penalty less severe
LOBBYING LIMITS
under 501(h)
### Annual Expenditures

**Annual Expenditures**

*(for most organizations)*

<table>
<thead>
<tr>
<th>ANNUAL EXPENDITURES</th>
<th>OVERALL LOBBYING LIMIT</th>
</tr>
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<tbody>
<tr>
<td>$500,000 or less</td>
<td>20%</td>
</tr>
<tr>
<td>$500,000 to $1 million</td>
<td>$100,000 +15% of excess over $500,000</td>
</tr>
<tr>
<td>$1 million to $1.5 million</td>
<td>$175,000 +10% of excess over $1 million</td>
</tr>
<tr>
<td>$1.5 million to $17 million</td>
<td>$225,000 + 5% of excess over $1.5 million</td>
</tr>
<tr>
<td>Over $17 million</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

1. Calculate organization’s

2. Overall lobbying limit

3. Grassroots lobbying limit is 25% of overall limit
TOTAL LOBBYING LIMITS
for 501(c)(3)s making the 501(h) election with annual expenditures of $500,000

- **Education & Non-Lobbying Advocacy**
- **Direct**
- **Grassroots**

- **Overall Lobbying Limit**: $100,000
- **Grassroots Lobbying Limit**: $25,000
- Contacting legislators to propose, support, or oppose legislation

- Urging the public to contact legislators to propose, support, or oppose legislation

- Advocating the adoption or rejection of legislation

**LOBBYING under the Insubstantial Part Test**
LOBBYING under the 501(h) Expenditure Test

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Expresses a view about specific legislation

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General public
Expresses a view about specific legislation
Call to action
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**Federal**
Members of Congress

**State**
State Legislature

**Local**
City Council, County Commissioners
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President, governor, mayor or other executive official who participates in the formulation of legislation
When is Kathleen Sebelius, US Secretary of the Department of Health and Human Services, a “legislator”?
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School Board, Zoning Board, Housing Authority, Other “Special Purpose Boards”

NOT Legislators
SPECIAL “LEGISLATOR” RULE

Members of the general public are “legislators”

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Ballot Measures
- Ballot initiatives
- Referenda
- Constitutional amendments
- Bond measures
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111th CONGRESS 1st Session
H. R. 676

To provide for comprehensive health insurance coverage for all United States residents, improved health care delivery, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES
JANUARY 26, 2009

Mr. Conyers (for himself, Mr. Kucinich, Ms. Watson, Mr. Ellison, Mr. Hinchey, Mr. Davis of Illinois, Ms. Baldwin, Ms. Lee of California, Mr. Massa, Mr. Nadler of New York, Mr. McDermott, Mr. Doyle, Mr. Gutiérrez, Mr. Olver, Ms. Kaptur, Ms. Jackson-Lee of Texas, Mr. Engel, Mr. Mersh of New York, Ms. Clarke, Mr. Harris, Mrs. Napolitano, Ms. Pingree of Maine, Mr. Tonko, Ms. Edwards of Maryland, Mr. Grijalva, Mr. Berman, Mr. Delahunt, Mr. Clay, Ms. Kilpatrick of Michigan, Ms. Woolsey, and Mr. Cohen) introduced the following bill, which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means and Natural Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL
To provide for comprehensive health insurance coverage for all United States residents, improved health care delivery, and for other purposes.

1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
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Regulations

Executive Orders

Enforcement of Existing Laws

Litigation

NOT Specific Legislation
Lobbying or not?

- Meeting with legislators to educate them about how money from the Prevention and Public Health Fund has been used to benefit communities: **NOT LOBBYING (under 501(h))**

- Telling those legislators to protect the Prevention and Public Health Fund: **LOBBYING**

- Expressing a view to the FTC/FDA/HHS working group about potential guidelines for regulating the marketing of food and beverages to children: **NOT LOBBYING**
TELLING TO CONTACT legislator(s)

PROVIDING ADDRESS, telephone number, and/or other contact information of legislator(s)

PROVIDING MECHANISM to enable communication with legislator(s)

IDENTIFYING legislator(s)

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ACTION ALERT: THE DREAM ACT - CALL CONGRESS TO PASS THE DREAM ACT AND TUNE IN FOR THE VOTE

WASHINGTON, D.C. - For close to ten years, MALDEF and other organizations have pushed to make the DREAM Act (the Development, Relief and Education for Alien Minors Act) into a reality. Earlier this year, the Migration Policy Institute estimated that roughly 825,000 immigrants would benefit from the Act. According to recent research from UCLA, a conservative estimate of the combined income generated by those benefiting from the DREAM Act would amount to $1.4 trillion (in current dollars) over the next four decades. If Congress passes the DREAM Act, President Obama will sign it into law.

TODAY, both the House and Senate will be taking up the DREAM Act. Call your respective senators and house member NOW! Dial: 1-888-254-5087 or 202-224-3121.

The House will take up the DREAM Act by 3:30PM EST. The Senate session begins at 3:30PM EST with a vote scheduled for later in the afternoon or evening. Tune into CSPAN to watch coverage.
Take Action to make the California Bill of Rights a reality for Domestic Workers

Dear friends and allies,

We are nearing the end of the California Legislative year, and now more than ever AB 889 the Domestic Worker Bill of Rights needs our support. We have succeeded in getting the bill passed in the CA State Assembly, and through the Senate Labor Committee. The bill is now stalled in the Senate Appropriations Committee.

PLEASE HELP US:

If the Appropriations Committee does not vote to pass our bill on Thursday 8/25, the historic bill will die.

Can you put aside 10 minutes TODAY to support domestic workers? Your action can make all the difference to over 200,000 women in this state who work as nannies, caregivers and housekeepers. They seek basic labor protections that have historically been denied them, such as overtime pay, meal and rest breaks, and access to Workers Compensation. So, we need you to:

1) MAKE CALLS: Please call each Senate Appropriations Committee member today and again on Wednesday until the vote on Thursday Aug 25th.

   APPROPRIATION COMMITTEE MEMBERS:
   Sample Script: Please support the Domestic Workers Bill of Rights (AB889) in the next appropriations committee hearing. Domestic workers are the bedrock of our state’s workforce. A vote in support for AB889 is a step toward our economic recovery.

Christine Kehoe (D- San Diego)      (916) 651-4039
Mimi Walters (R- Laguna Hills)     (916) 651-4033
Elaine Alquist (D- San Jose)       (916) 651-4013
Bill Emmerson (D-Riverside)        (916) 651-4031
Ted W. Lieu (D-Torrance)           (916) 651-4028
Fran Pavley (D-Santa Monica)       (916) 651-4023
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Urge your representative not to harm California's water and wildlife

This summer the House of Representatives will consider H.R. 1837, a bill that would overturn the congressionally approved landmark agreement to restore the San Joaquin River and radically undermine Endangered Species Act protections for salmon and other species in California’s Bay-Delta estuary. Urge your representative to vote No on H.R. 1837.

Learn more about this issue »

This action is for U.S. residents only. Please do not attempt to take action without a U.S. mailing address.

Send Your Message
Use our sample text or write your own

Your message will be sent to:
Your representative

Subject:
Vote No on H.R. 1837 and protect California's water and environment

Dear Representative,

I urge you to oppose and vote No on H.R. 1837, a bill that threatens the health of the Bay-Delta estuary, California's salmon fishery and the restoration of the San Joaquin River. This radical legislation seeks to guarantee water deliveries to the politically connected Westlands Water District at the expense of farmers in northern California and in the Delta, salmon fishermen, the environment and the long-term reliability of California's water supplies.
ACTION ALERT: SUPPORT GOODWIN LIU’S NOMINATION

We expect the Senate to vote on whether Goodwin Liu's nomination to the 9th Circuit will move forward by 2 PM EST TOMORROW. Senators who are undecided on Liu’s nomination include:

Scott Brown
Tom Coburn
Susan Collins
Mary Landrieu
Olympia Snowe

Bill Nelson
Lisa Murkowski
Claire McCaskill
Joe Manchin
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Call to action

Not Calls to Action:
“Learn more”
“Take action”
“Support our efforts”
“Get involved”

Not Lobbying
NO PAID SICK DAYS FOR RESTAURANT EMPLOYEES.

AN “ENHANCED” DINING EXPERIENCE FOR RESTAURANT CUSTOMERS.

Nearly half of all workers in Maine lack paid sick days. Support your fellow Maine workers and their right to recover from illness without endangering public health or losing a day’s pay. Contact your legislator and share your support of LD 1454, the Paid Sick Days Bill.

www.MaineSneezes.org
SHE’LL BE YOUR SERVER TONIGHT... AND SHE’S PRETTY SURE IT’S CONTAGIOUS.

Nearly half of all workers in Maine lack paid sick days and are forced to work through their illnesses in order to pay the bills.

Support LD 1454, the Paid Sick Days Bill.

www.Mainesneeze.org
Nonpartisan analysis, study, or research

Request for technical assistance

Self defense

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

Lobbying EXCEPTIONS
Keeping TRACK
501(h) Direct Costs

Staff Time

Overhead

INSUBSTANTIAL PART

Volunteers

Donated goods or services

Activities Specified on Form 990
QUESTIONS?