

Lobbying for Nonprofits

Legal Guidelines for Influencing Public Policy

Yes, it's legal!

Yes, you **SHOULD** do it!

Lobbying is...

IRS Definition of Lobbying:

“...an attempt to influence legislation through direct contact with public officials at the local, state and federal levels; or indirectly through appealing to officials through the general public (grassroots lobbying).”

Is lobbying legal?

- YES...but there are limitations
- Electioneering is ILLEGAL
 - supporting or opposing individual candidates

Nonprofit Lobbying Limits

Two standards:

Vague “no substantial part” test –
generally 5-10% of *activities*

OR

The IRS “H” Election, which
allows a hefty 20% of *expenditures*

What is “No substantial part”

- Vague – no statutory definition
- Could jeopardize tax-exempt status
- Monetary penalties – and individual managers may be held personally liable for the penalties.



The “H” Election

- Used to clarify what is “substantial” through a specific amount of expenditures
- Opt out of vagueness and into specific expenditures
- Fill out IRS Form 5768 to set a ceiling for your expenditures on lobbying.
- Limits are set by size of organization and may not exceed \$1 million.

Benefits: The “H” Election

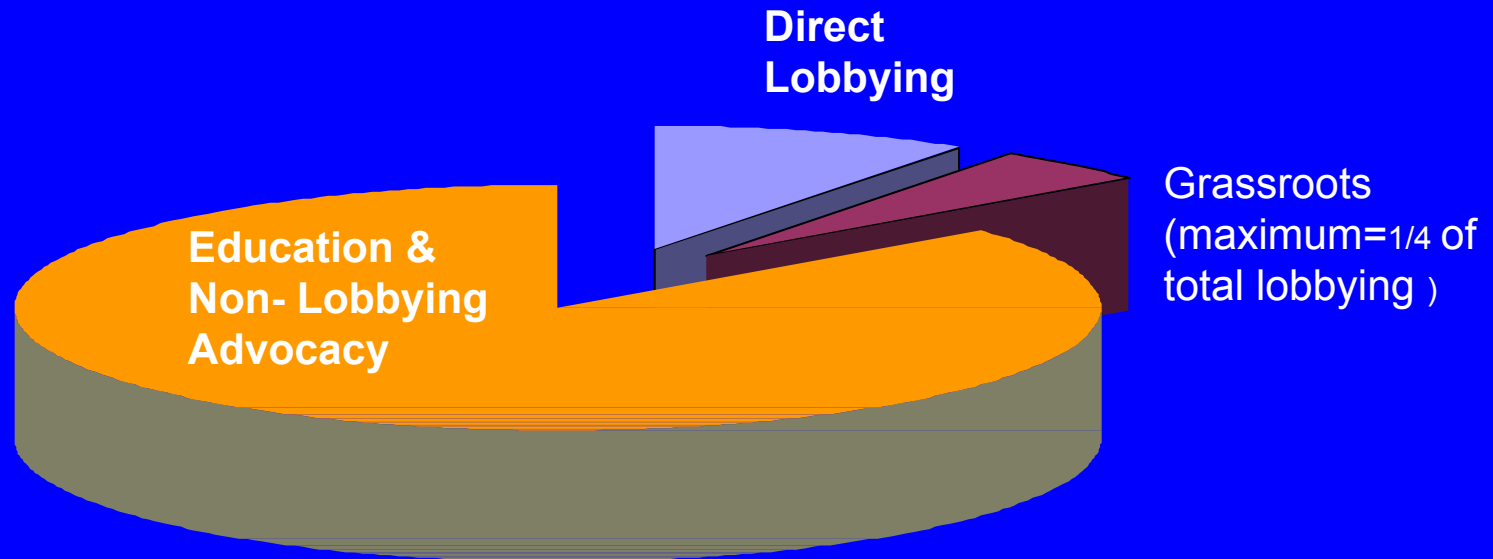
- Clear dollar-based limits
- Only *expenditures* count towards limits
- Clear definition of lobbying
- Penalties incurred only if expenses exceed 150% of limits over *4-year* time frame

“H” Election Limits Calculation

1. Calculate organization's budget
2. Overall lobbying limit is:
 - 20% of first \$500,000 (\$100,000)
 - + 15% of the next \$500,000 (\$75,000)
 - + 10% of next \$500,000 (\$50,000)
 - + 5% of the remaining
3. Grassroots lobbying limit is 25% of overall limit
4. \$1 million cap on total lobbying expenditures

Total Lobbying Limits

For most 501(c) (3)'s making the 501(h) election with budgets of \$750,000



Total Lobbying Amount = \$187,500

Grassroots Lobbying Amount = \$ 46,875

What is Lobbying

Direct Lobbying	Grassroots Lobbying
Communication	Communication
Legislator	General Public
Expressing a View	Expressing a View
About Specific Legislation	About Specific Legislation
	Call to Action

What is a *Call to Action*?

- Contact your legislator
- Click “here” to email the Governor
- The Committee is voting today: here is the list of committee members....
- Voice your support / opposition to....

NOT a Call to Action

- Take Action!
- Get Involved!
- Support our Efforts!
- Contact our Organization!
- Learn More!



Remember:

For an “electing” organization, if it doesn’t cost you any money, then it is not lobbying under 501(h)!!!

No  = No “L”

**Federal funds can NEVER be used for lobbying...
even with “H” election**

Lobbying Exceptions

<https://bolderadvocacy.org/2021/02/24/lobbying-series-part-4-lobbying-exceptions/>

Non-lobbying Advocacy

- Public rallies, protests, and demonstrations
- Media Training
- Training in legislative advocacy
- Training in issues
- Outreach / organizing / coalition building
- Direct services

Conclusion

- Lobbying by Nonprofits is not only legal, but *encouraged* by Congress and the IRS.
- If not YOU.....then WHO?
- If not NOW....then When?