



Education, Advocacy & Lobbying

501(c)(3) Rules of the Road



Definitions

Education *ed·u·ca·tion*

Noun: the act or process of imparting or acquiring general knowledge

Examples:

- The arts add value to society
- The arts create jobs and tax revenue
- Arts education diminishes the drop out rate
- Kids with an arts education score 100 points higher on their SATs on average
- The non-profit arts generate \$135.2 billion a year in economic activity



Definitions

Advocacy *ad·vo·ca·cy*

Noun: The act of pleading or arguing in favor of something, such as a cause, idea, or policy; active support

Examples:

- Support the arts as they add value to society
- Support the arts as they create jobs and tax revenue
- Support arts education as it diminishes the drop out rate and kids with arts education score 100 points higher on their SATs on average
- Support the non-profit arts as it generates \$135.2 billion a year in economic activity
- Oppose efforts to cut arts funding



Definitions

Lobbying *lob·by·ing*

Verb: To try to influence the thinking of legislators or other public officials for or against a specific cause

Examples:

- Support increasing funding for the NEA and NEH in the FY15 Appropriations Bill
- Support increasing funding for arts education in the FY15 Appropriations Bill
- Cosponsor S.548 or H.R. 1524, the artist-museum partnership bill



Definitions

Electioneering *e·lec·tion·eer·er·ing*

Verb: To be active in a political election or campaign

Noun: A person who engages in this activity.

Examples:

- Door knocking to hand out literature
- Registering individuals to vote
- Hosting candidate forums or debates
- Contributing to a campaign



Two Forms of Lobbying

1. Direct Lobbying

- when an organization attempts to influence specific legislation by stating its position to a legislator or other government employee who participates in the formulation of legislation, through its staff or members.



Two Forms of Lobbying

2. Grassroots lobbying

- When an organization urges the general public to take action on specific legislation.

- **Key elements of grassroots lobbying:**
 - Refer to specific legislation;
 - Reflect or state a point of view on the legislation's merits; and
 - Encourage the general public to contact legislators.



How much can a 501(c)(3) spend on lobbying?

- **A generous amount:**
 - 20 % of the first \$500,000 of annual expenditures;
 - 15 % of the next \$500,000;
 - 10 % of the next \$500,000;
 - 5 percent for every additional \$500,000 up to \$1 million.

ABC nonprofit with expenditures of \$50,000.

- 20% of \$50,000 = \$10,000 = Overall lobbying limit



Grassroots Lobbying Expenditures Limited

- Charitable nonprofits may spend 25% of their total allowable lobbying expenditures on grassroots lobbying.
- **ABC nonprofit with expenditures of \$50,000.**
 - 20% of \$50,000 = \$10,000 = Overall lobbying limit
 - 25% of \$10,000 = \$2,500 = Grassroots lobbying limit
 - Total lobbying activity \$2,500 on grassroots lobbying, and \$7,500 on direct lobbying or all \$10,000 on direct lobbying.



Only 501(h) Electors

- These expenditure limits and lobbying definitions only apply to (c)(3)s that take the (h) election.
- Easy to do!
- If not an (h) elector, lobbying cannot be a “substantial part” of your activities.
- Substantial not defined. No set expenditure limits or definitions.



Commons Myths & Misperceptions

- If we receive government funding, we cannot lobby at all.
- We cannot use foundation funds for advocacy.
- We cannot lobby a candidate for public office during an election season.



More Latitude for (c)(4)s and 527s

- (c)(4)s
 - No restrictions or limitations on lobbying.
 - Can work on behalf of candidates (support or oppose) but only secondary activity.
 - Contributions are not tax deductible.
- 527s
 - Sole focus on candidate campaigns.
 - Only work on ballot initiative if clear nexus between it and candidate's prospects for election.
 - Funds must come from traditional political sources (donations, dues, etc)
 - Contributions not tax deductible.



Basic Rule

Section 501(c)(3) organizations may engage in educational activities related to the electoral process as long as they do not:

- participate or intervene in any political campaign
- in support of, or in opposition to, any candidate for public office



Permissible Educational Activities of a 501(c)(3) Organization

- Candidate questionnaires – but can't distribute the answers widely
- Candidate forums
- Non-partisan voter registration
- Issue education with candidates
- Participating in town hall meetings
- Web links to each candidate's website, not just the ones you think are the best, and not from your homepage.



Voter Guides/Candidate Questionnaires

- All candidates asked to participate
- Show no indication of preference
 - Editorial opinion
 - Comparison to organization's positions
- Ask a variety of issues
- All responses published, unedited to only your members.



Candidate Forums

- All candidates invited
- Range of issues addressed
- Equal opportunity to respond
- No indication of preference
 - Editorial comments



Officeholder Scorecards

- Cannot release scorecards (showing judgment value) within 3-to-6 months prior to Election Day if incumbent is running for re-election
 - Exception: If organization can show a history of publishing voting records on a range of issues around the same time each year and the report does not show judgment value in the way scorecards do, then it's okay.





Voter Registration/Get-Out-The-Vote

- Must be nonpartisan
- Not directed at voters likely to support a particular candidate





Issue Education

- A 501(c)(3) does not lose its ability to engage in educational activities simply because a political campaign is in process
- In fact, it is during the election season that the interest of voters in key issues may be at its highest



Some Helpful Factors for Issue Education During a Campaign

- A history of non-electoral issue education
- Research showing the need for education
- Disclaimers of endorsements
- No reference to a candidate

Examples of Prohibited Political Conduct

- Endorsement of a candidate
 - Fundraising appeals
- Rating of candidates
- Contributions to candidates
- Establishment of a PAC
- No scorecards of incumbents' voting records close to Election Day
- Distribution of materials prepared by candidates
- Two-click rule. Web links to election-slanted materials should be at least two clicks away from the 501(c)(3)'s homepage.





Examples of Permissible Political Conduct

- ▶ Ask your federal candidates to fill out the Art Action Fund Candidate Survey
www.artsactionfund.org/pages/ask-your-candidate
- ▶ Talk to incumbents about their previous voting records on the arts. See Arts Action Fund's Report Cards online:
<http://www.artsactionfund.org/pages/congressional-report-card>
- ▶ Make a list of area artists willing to perform at campaign events and provide to campaigns



Other Examples of Permissible Political Conduct

- ▶ Host an open house at your local arts agency to explain what the arts offer in your community. Ask all the candidates to come participate.
- ▶ Write an op-ed on the value of arts education to the students in your community--Talk about what's at stake in the elections.
- ▶ Ask local museums to give a "behind-the-scenes" tour of how exhibits are put together. Talk to candidates about how nonprofit institutions like these are providing public services to the entire community, especially the under-served.