

Q and A for League of Women Voters 501(c)(3) vs. 501(c)(4)

Q: What are the key differences between section 501(c)(3) organizations and section 501(c)(4) organizations?

A: Contributions to section 501(c)(3) organizations are tax-deductible as charitable contributions. Section 501(c)(3) organizations can engage in issue education, advocacy, and nonpartisan voter engagement. They cannot engage in substantial lobbying and are prohibited from supporting or opposing candidates for office.

Contributions to section 501(c)(4) organizations are not tax-deductible. Section 501(c)(4) organizations can engage in all of the same kinds of activities as section 501(c)(3) organizations. In addition, section 501(c)(4) organizations can engage in unlimited lobbying and a limited amount of activity that supports or opposes candidates. As a matter of policy, League of Women Voters does not support or oppose candidates.

Q: Can a section 501(c)(3) organization have members?

A: Yes. A section 501(c)(3) organization can have members. A section 501(c)(4) organization can also have members.

Q: How much can a section 501(c)(3) organization spend on lobbying?

A: Section 501(c)(3) organizations have two options for reporting their lobbying activity to IRS. The first option allows organizations to engage in “insubstantial” lobbying. Activity by volunteers counts against this limit. The IRS has provided very little guidance on how much lobbying an organization can conduct and still claim it is insubstantial. This uncertainty makes it difficult for organizations to comply with the requirements of the first option. Fortunately, the section option – called the “H election” – provides much greater clarity. The H election sets precise dollar ceilings on the amount an organization can spend on lobbying each year. An organization’s allowable lobbying ceilings depend on the size of its program budget. Significantly, organizations that have made the H election do not have to track activity by volunteers. Organizations make the H election by filing a one page form—Form 5826—with IRS. LWVUS encourages all chapters with a section 501(c)(3) organization to make/consult with their attorneys about making the H election.

Q: What activities count as lobbying?

A: For organizations that have made the H election, lobbying includes only a very limited and well defined set of activities. Under this definition, a communication with a legislator (or legislative staffer) is lobbying only if it refers to and reflects a view on specific legislation or legislative proposal. Communicating with legislators about *issues*—even issues that are the subject of pending legislation—is not lobbying if no actual legislation is discussed.

Similarly, most communications with the general public are not lobbying unless they both refer to specific legislation *and* encourage the public to contact a government official about that legislation. Under this definition, a public communication that explicitly supports or opposes legislation will not be lobbying, unless it also includes a “call to action” encouraging the audience to contact a government official.

Q: Can a section 501(c)(3) organization “advocate” legislation?

A: Yes. For organizations that have made the H election, the definition of lobbying allows significant opportunities to engage in or support activities explicitly advocating legislation that do not count as lobbying.

Q: Can a section 501(c)(3) organization conduct voter education activities and voter registration drives?

A: Yes. The IRS has issued detailed guidance describing a wide range of voter engagement and voter education activities that are appropriate for section 501(c)(3) organizations, including voter guides, voter registration drives, candidate questionnaires, and candidate debates. Section 501(c)(3) requires that these activities be strictly nonpartisan. However, if that standard is satisfied, these activities pose no risk to a section 501(c)(3) organization’s tax-exempt status.

Q: Can a section 501(c)(3) organization and a section 501(c)(4) organization share resources?

A: The IRS has recognized that a section 501(c)(3) can share resources, including staff, office space, and equipment with a section 501(c)(4) organization. The two organizations must observe the “legal formalities” of their status as separate corporations. In practice, this means (1) the organizations must each have its own board of directors, though there can be substantial overlap in membership and (2) that the organizations separately track their own revenues and expenses, making sure that the section 501(c)(3) organization’s funds are used only for appropriate section 501(c)(3) purposes. Organizations that share staff and office resources should execute a written cost sharing agreement setting out how costs will be tracked and paid. Typically, one organization acts as the “pay master” for staff and other costs, seeking reimbursement from the other organization for its fair share of expenses.

Q: Can a section 501(c)(3) organization make grants to a section 501(c)(4) organization?

A: Yes. A section 501(c)(3) organization can make a grant to a section 501(c)(4) organization to support activities the section 501(c)(3) organization could have conducted itself. For example, a section 501(c)(3) organization could make a grant to its “sister” section 501(c)(4) organization to support educational activities that advance both organizations’ objectives. All grants to the section 501(c)(4) organization must be made pursuant to a written grant agreement that restricts the use of the grant funds to approved section 501(c)(3) purposes. The section 501(c)(3) organization would need to monitor and document compliance with

this restriction. Similarly, a 501(c)(4) organization can make grants to a section 501(c)(3) organizations, though the grants must be consistent with the restrictions on the kinds of activities a section 501(c)(3) organization can undertake.

Q: Can a section 501(c)(3) organization and a section 501(c)(4) organization collaborate on legislative objectives?

A: Yes. Under one common arrangement, a section 501(c)(3) organization will conduct nonlobbying advocacy activities in support of a legislative agenda while its sister section 501(c)(4) organization uses nondeductible contributions to conduct lobbying activities in support of that same agenda.