

TEXANS FOR THE ARTS

The Official Arts Advocacy Organization for Texas

The Differences between Advocacy and Lobbying

Advocacy

- Advocacy is the term used to describe any action that supports, recommends, argues for, defends or any work done to promote an organization or a cause.
- All lobbying is advocacy, but not all advocacy is lobbying.
- Examples of advocacy include:
 - o Emailing or calling your elected officials;
 - o Organizing meetings or site visits with your legislators; and
 - o Publicizing your views to policymakers or your community through media.

Lobbying

- Lobbying is supporting or opposing a piece of legislation or an initiative on a ballot and taking measures to contact either elected officials (direct lobbying) or voters (grassroots lobbying) and asking them to vote in a particular manner.
- Lobbying has three elements: (1) taking a stance on specific legislation or a ballot measure; (2) directly contacting a public official, or encouraging the public to contact a government official about the legislation or to vote in a specific manner; and (3) asking the public official or a member of the public to act in a particular manner with regard to the legislation or ballot measure.

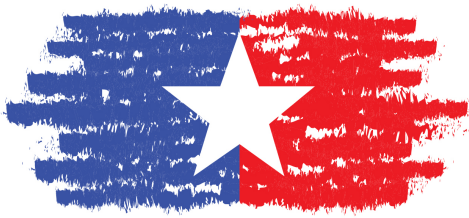
Can our nonprofit advocate or lobby? Is there a limit on how much 501(c)(3) organizations can spend on lobbying?

Yes. 501(c)(3) organizations can and should use advocacy to achieve their goals and promote their mission. 501(c)(3) organizations can also lobby to a limited degree, as the law requires that “no substantial part of the activities of the organization is carrying on propaganda or otherwise attempting to influence legislation.” The Congress and the IRS have not provided definitions of substantial, and the standard simply requires that nonprofit organizations do not exceed “substantial activity” in lobbying. The H-Election, however, is an alternative method that a 501(c)(3) organization can use to ensure that the organization’s activities do not exceed the limitations.

What is the H-Election? Should my 501(c)(3) organization make this election?

The H-Election allows non-profit organizations to choose to be measured by the objective “expenditure test” by filling out the short Form 5768. The H-Election allows non-profit organizations to set lobbying expenditure ceilings using a sliding scale based on a non-profit organization’s annual exempt purpose expenditures. The expenditure test afforded by the H-Election is an excellent option for non-profit organizations with annual exempt purpose expenditures that do not exceed \$1,000,000. The H-Election also provides for grass roots lobbying expenditures in the amount of 25 percent of the lobbying nontaxable amount.

<i>Amount of exempt purpose expenditures (501(c)(3) Budget)</i>	<i>Lobbying nontaxable amount</i>
Less than or equal to \$500,000	20% of the exempt purpose expenditures
More than \$500,000 but less than or equal to \$1,000,000	\$100,000 plus 15% of the excess of exempt purpose expenditures over \$500,000
More than \$1,000,000 but less than or equal to \$1,500,000	\$175,000 plus 10% of the excess of exempt purpose expenditures over \$1,000,000
More than \$1,500,000	\$225,000 plus 5% of the exempt purpose expenditures over \$1,500,000



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The Differences between 501(c)(3) and 501(c)(4) Organizations

501(c)(3) Organizations

- **Contributions:** Contributions are tax-deductible to the donor as charitable contributions.
- **Purpose:** 501(c)(3) organizations must be organized for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational or the prevention of cruelty to children or animals. The IRS maintains specific guidelines regarding the definition of charitable.
- **Precluded Political Activities:** 501(c)(3) organizations are precluded from participating in partisan political campaign activities which include substantial lobbying and cannot support or oppose candidates for office.
- **Permitted Political Activities:** Permitted political activities for 501(c)(3) organizations include education, advocacy and nonpartisan voter engagement. For example, a 501(c)(3) organization is permitted to issue voter guides, host voter registration drives, issue candidate questionnaires and host candidate debates. However, these activities must be nonpartisan for the organization to maintain its tax-exempt status.
- **Lobbying:** There are two options for determining how much a 501(c)(3) organization can spend on lobbying. The first is to engage in “insubstantial” lobbying, for which there is very little guidance. The second is to use the H-Election which provides defined ceilings based on the nonprofit organization’s budget.

501(c)(4) Organizations

- **Contributions:** Contributions are not tax-deductible.
- **Purpose:** 501(c)(4) organizations are created for social welfare or local association purposes. Social welfare purpose may include civic leagues, homeowners associations and volunteer fire companies.
- **Permitted Political Activities:** 501(c)(4) organizations can engage in all activities that a 501(c)(3) organization can and more. 501(c)(4) organizations can engage in activities that support or oppose candidates. 501(c)(4) organizations may also fund independent expenditures in support of or opposition to a candidate. In some states, 501(c)(4) organizations can make monetary or in-kind campaign contributions.
- **Partisan Politics:** Unlike 501(c)(3) organizations, 501(c)(4) organizations may (i) compare the organization’s issue positions with those of a candidate; (ii) connect the organizations’ criticism of public official to voting in an election; (iii) ask candidates to sign pledges on any issue; or (iv) post partisan political messages on social media.
- **Lobbying:** 501(c)(4) organizations can engage in lobbying that pertains to the nonprofit’s social welfare purpose and spend an unlimited amount on lobbying, as there are no limitations on the amount that can be spent.

The information contained in this fact sheet is being provided for informational purposes only and is not a substitute for legal or tax advice.