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Advocacy vs. Lobbying

Advocacy is what you are already doing; lobbying is a narrowly defined activity with a few easy-to-follow limits.

Advocacy is ...

However you answer this question: “Who can I talk to today to advance my organization’s mission?” That’s the core message of [Stand for Your Mission](#) [1], a project to which the National Council of Nonprofits contributes. Examples can include helping a colleague get in key (literally at the symphony), telling the nonprofits story to a potential funder, talking to a reporter or editor about the organization’s impact in the community, and encouraging local civic groups to send volunteers to a local community event (e.g., park or river cleanup). It can also mean telling your story of impact to government officials, educating policymakers about your work and sharing your expertise in helpful ways.

We also like this definition developed by Alliance for Justice:

“While all lobbying is advocacy, not all advocacy is lobbying. Advocacy is any action that speaks in favor of, recommends, argues for a cause, supports or defends, or pleads on behalf of others. It includes public education, regulatory work, litigation, and work before administrative bodies, lobbying, nonpartisan voter registration, nonpartisan voter education, and more.”

In short, advocating for your mission encompasses just about every form of communications a nonprofit can do. Lobbying, on the other hand, is very narrow.

Lobbying is ...

Communicating with decision makers (elected officials and staff; voters on ballot measures), about existing or potential legislation, and urging a vote for or against. All three components of this definition are required: decision makers, actual legislation, AND asking for a vote.

According to the [Internal Revenue Service](#) [2], “Legislation includes action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.” In the eyes of the IRS, “An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.”

So why the Confusion?

The reason the difference between advocacy and lobbying even matters is because the law that public charities operate under, Internal Revenue Code Section 501(c)(3), is exceedingly confusing. One of the limits (provisos) in that section of the law states that tax-exempt status is contingent upon

“... no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),”

“No substantial part” is vague and some may believe that the safest route is to avoid any lobbying. Indeed, the IRS has this to say in [summarizing the law](#) [2]: “A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.”

As defined above, “lobbying” is a very narrow type of advocacy; satisfying the three-part test is required and rarely is a “substantial part” of an organization’s expenses. But the tax code provides some clarity – an objective standard for determining how much is “too much” lobbying: the 501(h) Election.

See [Taking the 501\(h\) Election](#) [3] and [Benefits of Taking the 501\(h\) Election](#) [4] to learn how to significantly limit the confusing gray area in the law.

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Links

[1] <https://standforyourmission.org/>

[2] <https://www.irs.gov/charities-non-profits/lobbying>

[3] <https://www.councilofnonprofits.org/taking-the-501h-election>

[4] <https://www.councilofnonprofits.org/benefits-of-filing-the-501h-election>