Lobbying & Advocacy 101
The fundamentals for making good policy

Tim Mooney
Senior Counsel
<table>
<thead>
<tr>
<th>Examples</th>
<th>501(c)(3)</th>
<th>501(c)(4), 501(c)(5), 501(c)(6)</th>
<th>527 (Political Orgs)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Examples</strong></td>
<td>[Images]</td>
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<tr>
<td><strong>Tax Treatment</strong></td>
<td>Tax-exempt</td>
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<td></td>
<td>Tax-deductible contributions</td>
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<tr>
<td><strong>Lobbying Activities</strong></td>
<td>Limited</td>
<td>Unlimited</td>
<td>Limited, unusual</td>
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<tr>
<td><strong>Electoral Activities</strong></td>
<td>Cannot support/oppose candidates</td>
<td>Tax law: secondary activity Election laws: some limits</td>
<td>Tax law: unlimited Election laws: some limits</td>
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</tbody>
</table>
Advocacy for 501(c)(3)s

- Partisan Political
- Lobbying
  - Organizing
  - Educating Legislators
  - Get to Know Legislators
- Public Education
  - Educational Conferences
  - Research
- Nonpartisan Voter Ed.
  - Lobbying Exceptions
  - Training
- Influencing Corporations
  - Regulatory Efforts
  - Litigation
Lobbying

Legal, but limited
Limitation #1: Tax Law

- “No substantial part,” OR
- 501(h) election
- Based on annual expenditures
- Most organizations can lobby up to 20% of their budget
- Lobbying cap limited: can only use up to ¼ for grassroots lobbying

<table>
<thead>
<tr>
<th>ANNUAL EXPENDITURES</th>
<th>OVERALL LOBBYING LIMIT</th>
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<tbody>
<tr>
<td>$500,000 or less</td>
<td>20%</td>
</tr>
<tr>
<td>$500,000 to $1 million</td>
<td>$100,000 +</td>
</tr>
<tr>
<td></td>
<td>15% of excess over $500,000</td>
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<tr>
<td>$1 million to $1.5 million</td>
<td>$175,000 +</td>
</tr>
<tr>
<td></td>
<td>10% of excess over $1 million</td>
</tr>
<tr>
<td>$1.5 million to $17 million</td>
<td>$225,000 +</td>
</tr>
<tr>
<td></td>
<td>5% of excess over $1.5 million</td>
</tr>
<tr>
<td>Over $17 million</td>
<td>$1,000,000</td>
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</table>
Lobbying cap for 501(h) electing charities

Example: A 501(c)(3) with annual exempt purpose expenditures of $500,000

Overall Lobbying Limit = 20%

Grassroots Lobbying Limit = \( \frac{1}{4} \) of total cap

Direct lobbying: $75,000

Grassroots lobbying: $25,000
Limitation #2: You promise not to

- Grants are contracts
- Some funders ask you not to use their grants for lobbying activity
- You can still lobby, but must use other funds
- You can use the grant funds for non-lobbying advocacy
- Knowing what lobbying is helps you to keep this promise
What is lobbying?

**DIRECT**
- Communication
- Legislator
- Expresses a view about specific legislation
- Call to action

**GRASSROOTS**
- Communication
- General public
- Expresses a view about specific legislation
Communication

**DIRECT Communication**

Legislator

Expresses a view about specific legislation

Call to action

**GRASSROOTS Communication**

General public

Expresses a view about specific legislation

**Call to action**
Legislators

DIRECT Communication

Legislator Expresses a view about specific legislation

Federal legislators and staff

Tribal government representatives and staff

State legislators and staff

For ballot measure advocacy, the general public

County commission, town board of supervisors, city council, regional government and staff
Legislators

**DIRECT Communication**

Legislator

Expresses a view about specific legislation

GOV. KATHY HOCHUL (NY)  
PRESIDENT JOE BIDEN  
HOUSTON MAYOR SYLVESTOR TURNER

President, governor, mayor, or other executive official who participates in the formulation of legislation.
Is this lobbying?

• Meeting with MT Congressional delegation on the Wild & Scenic Rivers Act
• Communication
• Legislators
• Expressing a view about specific legislation
• Direct lobbying
Not legislators

- School board
- Zoning boards
- Housing authorities
- Sewer and water districts
- Other “special purpose bodies” with limited authority
Specific legislation

H. R. 3244

DIRECT
Communication
Legislator
Expresses a view about specific legislation
Call to action

GRASSROOTS
Communication
General public
Expresses a view about specific legislation

One Hundred Sixth Congress of the United States of America
AT THE SECOND SESSION
Began and held at the City of Washington on Monday, the twenty-fourth day of January, two thousand

An Act
To combat trafficking in persons, especially into the sex trade, slavery, and involuntary servitude, to authorize certain Federal programs to prevent violence against women, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.
This Act may be cited as the “Victims of Trafficking and Violence Protection Act of 2000.”

BUDGET OF THE U.S. GOVERNMENT
FISCAL YEAR 2017
OFFICE OF MANAGEMENT AND BUDGET

SUPPORTING NOMINATION OF REGINA RODRIGUEZ AS A FEDERAL DISTRICT COURT JUDGE

BOLDERADVOCACY
A program of Alliance for Justice
Specific policy proposal

• Something counts as specific legislation if it is a “specific policy proposal”
• Not well defined, but essentially identifying a problem and a solution that can only be accomplished with new legislation
• May not be introduced, written or even fully fleshed out!
When does the clock start ticking

• Once you make the call internally all prep work and meetings count
• If you’re still mulling whether to support or oppose legislation, it’s probably safe to not count that “windup”
• Be consistent, act in good faith, “don’t be cute”
Mixed Purpose

• What if you’re doing some lobbying, some not lobbying?
• More than half of the meeting/activity is lobbying? Count it all.
• Less than half? You can track and report proportionately
Is this lobbying?

• What if you had a meeting with a member of California Assembly where you spent 40% of the time talking about a bill on disability rights and the other 60% on the Warriors win the other night?

• Communication

• Legislator

• Expressing a view about specific legislation

• Direct lobbying (40%)
NOT specific legislation

• Regulations
• Executive orders
• Enforcement of existing laws
• Litigation
Advocacy on regulations: not lobbying

Waters of the United States

EPA and Army Take Action to Provide Certainty for the Definition of WOTUS

On December 7, 2021, the U.S. Environmental Protection Agency and the Department of the Army (“the agencies”) announced a proposed rule to revise the definition of “waters of the United States.” This proposal marks a key milestone in the regulatory process announced in June, 2021. The agencies propose to put back into place the pre-2015 definition of “waters of the United States,” updated to reflect consideration of Supreme Court decisions. This familiar approach would support a stable implementation of “waters of the United States” while the agencies continue to consult with states, tribes, local governments, and a broad array of stakeholders in both the current...
Advocating on Executive Orders: not lobbying
Working to change enforcement of existing law: not lobbying

Overturn the EPA's Policy to Suspend Environmental Law Enforcement

37 have signed. Let's get to 100!

At 100 signatures, this petition is more likely to be featured in recommendations!

First name

Last name

Email

Washington, 20009
United States
Litigation: not lobbying

Lawsuit Launched Over Trump’s Massive Rollback of Clean Water Act Protections

By: Waterkeeper Alliance
# Calls to action

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**Call to action**

**ASKING TO CONTACT legislators**

**PROVIDING ADDRESS, telephone number, and/or other contact information of legislators**

**PROVIDING MECHANISM to enable communication with legislators**

**IDENTIFYING legislators**
We can’t let Scott Pruitt gut the EPA. Tell your Senators you’re concerned about his nomination. edf.org/htB
This vote is today! **Send your state senators an email!**

**WABA @WABADC • Jan 28**

**VIRGINIA:**

**The Senate Judiciary Committee will hear a bill tomorrow that will prevent insurance companies from avoiding paying damages to bicyclists and pedestrians injured by drivers.**

**Let them know you support it:**

waba.org/blog/2020/01/u...
call to action if undecided of against your stance

Naming bill sponsors is NOT a call to action!
NOT calls to action

**DIRECT**
Communication
Legislator
Expresses a view about specific legislation

**GRASSROOTS**
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General public
Expresses a view about specific legislation

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“Learn more”
“Take action”
“Support our efforts”
“Get involved”
“Join us”

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Call to action
NOT Lobbying
Is this lobbying?

• Supporting America’s Conservation Enhancement Act
• Communication
• Specific legislation
• General Public (Twitter)
• No call to action
• Not lobbying
Lobbying exceptions

- Nonpartisan analysis, study, or research
- Request for technical assistance
- Self-defense
- Examinations and discussions of broad social, economic, and similar problems
Nonpartisan analysis, study, or research

- Full and fair discussion
- Broadly disseminated
- May express a view
- May contain an indirect call to action
Technical assistance

- Invited in writing
- By a chair of a committee or subcommittee
- Info available to the committee or subcommittee as a whole (i.e. not just majority/minority party)
Lobbying Limits vs. Disclosure

Rules that apply because of your tax-exempt status

Disclosure of state lobbying

Disclosure of local lobbying
Resources

Free PDF guides on these rules

bolderadvocacy.org/podcast