



Lobbying and Political Activity

Now that your State Council has achieved 501(c) (3) tax exempt status, you may have questions as to what the IRS rules are with regard to lobbying and political activity. The basic rules as applied to 501(c)(3) organizations are summarized below.

Political Activity – no Lobbying – yes

Organizations that are 501(c)(3) tax exempt are **not allowed** to conduct any *political activity*. Potentially, any expenditure for such a purpose can result in the loss of tax-exempt status.

Political activity is an attempt to influence the selection, nomination, election or appointment of an individual to a federal, state or local public office or office in a political organization, or the election of a presidential or vice-presidential elector.

Organizations that are 501(c)(3) tax exempt **are allowed** to engage in *lobbying* within limits. There are two types of lobbying. Organizations that are 501(c)(3) exempt may do both.

Direct lobbying is an attempt to influence legislation through communication with members or employees of a legislative body or with governmental officials or employees who may participate in formulating legislation.

Grassroots lobbying is an attempt to influence legislation by affecting the opinions of the general public or any segment thereof.

Allowable Spending on Lobbying

The IRS Code states that no ‘substantial part’ of the activities of a 501(c)(3) organization can be devoted to lobbying. This is rather vague so in 1990 the IRS issued regulations defining the extent to which 501(c)(3) organizations can lobby without jeopardizing their tax-exempt status.

Under the regulations State Councils may file a 501(h) election with an IRS Form 5768 which then defines the ‘substantiality’ standard. The regulations establish spending ceilings on total lobbying expenditures and on the amount of expenses allowable for grassroots lobbying.

In general, 501(c)(3) organizations with up to \$500,000 in exempt-purpose expenditures may spend up to \$25,000 in grassroots lobbying and a total of no more than 20% of its exempt-purpose expenditures for all lobbying expenditures. A State Council’s exempt-purpose expenditures are expenditures incurred to directly promote excellence in emergency nursing and emergency care. Other expenditures, such as investment management fees, unrelated business expenses and certain fundraising costs are not consider exempt-purpose expenditures by the IRS.

A State Council which regularly undertakes lobbying activities should file a 501(h) election because it provides certainty of meeting the substantiality standard for lobbying expenses. If you need filing assistance, you should contact your State Council’s CPA firm or you may contact Marlene Halperin, ENA Chief Financial Officer.



FAQ's

Can an ENA State Council support or oppose a specific bill?

Yes, it is allowable *direct lobbying* when you state your position on specific legislation to legislators or other government employees who participate in the formulation of legislation or when you urge your members to do so.

Isn't it grass roots lobbying when the State Council urges its members to take action in regard to a specific bill?

No, do not confuse mobilizing your membership to support or oppose legislation by contacting their elected officials with grass roots lobbying. Only when a 501(c)(3) organization reaches beyond its membership to urge action from the general public is it grassroots lobbying.

Can an ENA State Council provide its members with legislators' voting records on key issues?

State Councils may tell their members how legislative members voted on key issues. While Councils are prohibited from engaging in campaign activities, they may present and disseminate information during political campaigns as long as the practice is performed in the same manner that it would be during noncampaign times.

A problem arises when an organization waits to disseminate voting records until a campaign is underway. If your State Council has not published records regularly across the year, it may not, during the campaign, publish a recap of legislative session votes.

Can an ENA State Council inform candidates of its positions on key issues and ask for their support?

A State Council may inform political candidates of its positions on particular issues and urge them to pledge their support.

Can an ENA State Council have an annual breakfast (or similar event) for state legislators?

A State Council may have an annual breakfast or similar event for state legislators as long as the State Council does not endorse candidates or allow campaign activities during the event.

Is the lobbying by ENA State Council members or volunteers considered lobbying?

When there is no expenditure by the State Council, there is no lobbying.

Does ENA require State Councils to have a policy with respect to political activity and lobbying?

There is no requirement that State Councils have a policy with respect to political intervention, but State Councils wishing to adopt a policy may want to consider the suggested policy on the next page.



POLITICAL INTERVENTION POLICY OF THE _____ STATE COUNCIL

Prohibited Expenditures

Consistent with its tax-exempt status under the Internal Revenue Code, it is the policy of _____ State Council that it will not incur any expenditure for political intervention. For purposes of this policy, political intervention will be defined as any activity associated with the direct or indirect support or opposition of a candidate for elective public office at the federal, state or local level. Political intervention does not include lobbying activities, defined as the direct or indirect support or opposition for legislation, which is not prohibited under the Internal Revenue Code. Examples of prohibited political expenditures include, but are not limited to, the following:

1. Contributions to political action committees
2. Contributions to the campaigns of individual candidates for public office
3. Contributions to political parties
4. Expenditures to produce printed materials (including materials included in periodicals) that support or oppose candidates for public office
5. Expenditures for the placement of political advertisements in periodicals

Endorsements of Candidates

It is the policy of _____ State Council not to endorse any candidates for public office in any manner, either verbally or in writing. This policy extends to the actions of representatives of _____ State Council, when these individuals are acting on behalf of, or are otherwise representing, _____ State Council.

Prohibited Use of State Council Assets and Resources

It is the policy of _____ State Council that no assets or human resources of the State Council will be utilized for political activities, as defined above. This prohibition extends to the use of State Council assets or human resources in support of political activities that are engaged in personally by board members or any other representatives of _____ State Council. While there is no prohibition against these individuals engaging in political activities personally (on their own time, and without representing that they are acting on behalf of _____ State Council), these individuals must at all times be aware that State Council resources cannot at any time be utilized in support of political activities.