

What is Lobbying?

Federal tax law controls *how much* lobbying 501(c)(3) organizations can engage in. Public charities can choose to measure their lobbying under either the **insubstantial part test** or the **501(h) expenditure test**. While lobbying is not defined under the insubstantial part test, this fact sheet provides an overview of how lobbying is defined for organizations that measure their lobbying under the 501(h) expenditure test.

Direct Lobbying

Communication

with a **Legislator**
that **expresses a View about Specific Legislation**

Grassroots Lobbying

Communication

with the **Public**
that **expresses a View about Specific Legislation**
and **Includes a Call to Action**

In order for an action to be considered **direct lobbying or grassroots lobbying it must contain all of the above elements**. It is not lobbying if one or more of the required elements is missing.

Communication: a conversation (in person or by phone), letter, email, fax, or other creative mechanism to convey a message.

Legislator: a member of a legislative body or his/her staff. In addition, executive branch officials who participate in the formulation of legislation are considered legislators (such as the governor or mayor when vetoing or signing a bill). Members of administrative bodies, however, such as school boards, sewer and water districts, housing authorities, zoning boards, and other special purposes bodies, whether elected or appointed, are **not** considered legislators.

Public: anyone but a legislator or member of an organization. Communications to an organization's members are considered direct lobbying. For this purpose, a member is someone who has given more than a small amount of time or money to the organization.

Expresses a view about specific legislation: a bill or resolution that has been introduced in a legislative body or proposed legislation such as identifying a problem and presenting a specific solution to the problem. Specific legislation includes budget appropriations and taxes, and attempts to influence the confirmation of judicial and executive branch nominees. Proposed legislation may qualify as specific legislation even if it has not yet been introduced, been written down, or even fully fleshed out. Specific legislation does not include rulemakings / promulgation of regulations, executive orders, litigation, or attempts to enforce existing laws.

Call to action: a specific means of encouraging the communication's recipient to take lobbying action. A call to action must comprise one of the following actions: 1) tell the

recipient to contact a legislator; 2) provide information on how the recipient can contact his/her legislator, such as providing the phone number or address; 3) provide a mechanism for enabling the recipient to contact his legislator, such as a postcard, petition, or email form; or 4) identify a legislator who will vote on the legislation as being opposed to or undecided about the organization's view on the legislation, a member of a legislative committee who will vote on the legislation, or the recipient's legislator.

Ballot measure activity is considered *direct lobbying*. Although ballot measures, such as referenda, bond measures, and ballot initiatives, are determined at the voting booth, efforts for or against them are considered *direct lobbying*, not impermissible electoral activity. Efforts aimed at convincing the public to support or oppose ballot measures are direct lobbying since the voting public serves as the legislature.

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