KNOW THE RULES. USE YOUR VOICE.

A surprising number of people think that nonprofits cannot lobby. This is simply not true. Nonprofits are vehicles for democratic participation and have always had the right to lobby. In 1976, Congress affirmed this right by passing a law that gave nonprofits clear and broad latitude to lobby. When the legislation was passed, Sen. Robert Dole proclaimed, “Charities can be and should be important sources of information on legislative issues.”

This guide covers the basics of the legal issues governing nonprofit advocacy and lobbying. Be sure to consult an attorney for advice specific to your nonprofit’s circumstances and state.

LOBBYING BY NONPROFITS IS LEGAL AND OKAY WITH THE IRS!

Regulations issued by the IRS in 1990 confirm which activities constitute lobbying as well as the spending limits for those activities. A nonprofit that elects to be covered by the 1976 law cannot spend all or even most of its money lobbying. But it can spend a considerable amount, up to $1 million a year for a large nonprofit (see the chart on page 18). And even if a nonprofit unintentionally exceeds the amount it may spend on lobbying in one year, it will not lose its 501(c)(3) tax-exempt status; instead, it must pay a penalty. Further, the rules state that many activities that might influence public policy are not even considered lobbying—and therefore not subject to the spending limits.

What your nonprofit can do:

- Direct lobbying
  You can tell legislators (or other government officials who participate in the formulation of legislation) your organization’s position on a piece of legislation and/or urge them to support or oppose the legislation. You can also urge your members to express your organization’s position to the legislators.

- Grassroots lobbying
  You can tell the general public your position on legislation and ask them to communicate this position to their legislators (or other government officials who participate in the formulation of legislation).

The chart on page 18 spells out the amount you can spend on direct and grassroots lobbying.
MORE PUBLIC POLICY ACTIVITIES YOUR NONPROFIT CAN DO

In addition to direct and grassroots lobbying, nonprofits that elect to come under the 1976 law can do many things that might influence public policy but are not considered lobbying and thus not subject to these limits. For example:

• Contacting government officials or legislators to try to change regulations (as opposed to laws).

• Communicating with your members about legislation—even taking a position on that legislation—as long as your communication does not directly ask your members or others to lobby.

• Testifying on legislation at a hearing, as long as the legislative body asked your organization, in writing, for its technical advice.

• Discussing broad social or economic issues—the need to do something about drunk driving, or the need to invest more money in finding a cure for Alzheimer’s disease, for example—as long as you don’t take a position on specific legislation.

• Making available results of non-partisan analysis, study, or research on a legislative issue—even if you take direct positions on the merits of specific legislation—as long as there is a sufficiently full and fair exposition of the pertinent facts that allows the public or an individual to form an independent opinion, and as long as the paper or materials do not directly encourage the recipient to take action or contact their legislators.

• Conducting self-defense activity—lobbying legislators about your nonprofit’s own existence, powers, or tax-exempt status. It would become lobbying if you ask the general public for support. Note: Lobbying for your nonprofit’s inclusion in a government budget is not self-defense—and thus it is lobbying and subject to the spending limits.

Furthermore, to constitute lobbying, a nonprofit must spend money on an activity. If a nonprofit’s volunteers organize a large rally at the state Capitol to call attention to an issue, only the amount spent by the nonprofit on the rally, such as printing a flyer, would count as lobbying.

WHAT YOUR NONPROFIT CANNOT DO

One reason many people think nonprofits cannot lobby is that they confuse lobbying with partisan political activities, such as supporting a candidate, which nonprofits are strictly prohibited from doing.

• Nonprofits cannot endorse or oppose political candidates nor mobilize supporters to elect or defeat candidates.

• Nonprofits cannot align themselves with political parties. Nonprofits cannot contribute to candidates or parties.

However, even during election seasons, nonprofits can do certain activities. Your nonprofit can educate voters about important issues, thus possibly influencing a campaign’s issues. You can register voters and urge them to vote.