

Hi, Folks,

Thanks for all of your excellent questions. I've answered them below. Please keep in mind that all of the responses below apply only under the section 501(h) rules for section 501(c)(3) organizations. These are the same rules that apply to lobbying restrictions in foundation grants. Small- to mid-sized organizations (i.e., those with less than about \$20 million in annual spending) should use the section 501(h) definitions to measure their lobbying.

- Does an 'organization's view' include educating them about the legislation, but without an official org position?
 - The IRS definitions of direct and grassroots lobbying both include a prong of whether the communication "reflects a view" on legislation. This is not limited simply to telling a legislator to vote yes or no on a bill. Instead, the IRS interprets this prong quite broadly. If the communication with the legislator is a completely neutral summary of the bill, that would not trigger the definition of lobbying. But anything that indicates the organization thinks favorably or negatively about the legislation would count as "reflecting a view." It doesn't have to be a formal, "official" position taken by the organization.

There may be instances where a researcher writes a study that examines legislation without providing a view of the bill. And, an organization could write a completely neutral summary of a bill without indicating whether the bill is good or bad. But legislators can read the bill for themselves, or get a summary from the legislative counsel's office; they don't need to ask a nonprofit for a completely neutral summary of what the bill says. Indeed, legislators and the public want to hear what the organization thinks about bills.

- Does submitting testimony to a legislative body in support of or against legislation constitute "communication directly"?
 - Yes, submitting testimony is a communication directly with legislators – unless the organization receives a written invitation to testify, from the committee chair on behalf of the committee (or other governmental body). The invitation must comply with the IRS's very particular rules exempting invited testimony from the definition of lobbying.
- What if you're the convener who holds space for conversations, insight, and feedback on specific legislation?
 - Convening a meeting where legislation is discussed is a lobbying expense in the following situations:
 - If legislators are present (i.e., legislators from the body that will be voting on the legislation);
 - If no legislators are present, but the convening includes an IRS-defined "call to action" (e.g., asking people to contact their legislators); or,
 - If the purpose of the meeting is to prepare for lobbying (e.g., a coalition meeting to divvy up lobbying targets).

- What if you hold a joint meeting with a legislator, and you don't talk about the bill, but another person at the meeting does?
 - I imagine this is a situation where you're the policy expert, and you talk for 20 minutes about a policy issue, to "educate" the legislator on the issue. Then, the lobbyist from a coalition ally organization makes a 10-minute pitch asking the legislator to vote for the bill. In this case, both of you have spent 30 minutes of lobbying time for your organizations. Your time in the meeting was inherently connected to their lobbying work, because their ask would not have been effective without you first explaining why the issue was so important.

- Does submitting opposition or support to a proposed ordinance in City Council constitute as Lobbying? What if our Board of Directors submits comments on behalf of our org?
 - A City Council is a legislative body, and an ordinance is legislation. So communicating with City Council members about an ordinance is lobbying.
 - **Time spent by organizational volunteers – including Board members – is not treated as lobbying under the section 501(h) rules, because the organization is not spending money for the time they spend lobbying.** However, staff time preparing those volunteers to lobby, such as by organizing a Lobby Day, does count as a lobbying expense.

- What if an elected official reaches out to our organization to ask for summary data (of data we are already collecting) that is then utilized to support their legislative efforts, e.g., supporting or opposing proposed legislation
 - A communication with a legislator that reflects a view on legislation is direct lobbying, regardless of whether the legislator reached out to you or whether you contacted them. So, for example, it's lobbying to help a legislator write a bill on a topic you support.
 - In the scenario presented in this question, it would be non-lobbying only if the organization and legislator did not refer to legislation when the organization provided the data. In the proposed scenario, it seems more likely that the legislator would say "Can you provide me with data to demonstrate why my bill is necessary?" which would be lobbying. But if the legislator simply said, "Can you please provide me data about the benefits of early childhood nutrition programs"; it would not be lobbying.

- Would publishing a policy brief on a specific program area within an organization count as lobbying?
 - A policy brief that reflects a view on legislation and that is distributed broadly to the public (e.g., given to journalists, coalition allies, posted on social media, etc.) **will not be treated as grassroots lobbying** as long as it does not contain what the IRS defines as being a "call to action" (e.g., "contact your legislator").
 - This non-lobbying policy brief, which advocates for legislation, may be provided to legislators after its public distribution. The time spent giving it to legislators (e.g., at Lobby Day) will be treated as a lobbying expense, but all of the time spent researching, writing, designing, and publishing the report will remain a non-lobbying expense.

- Is Telling them about a ballot issue so go VOTE when the time comes considered a CALL TO ACTION?
 - Ballot measures are analyzed as direct lobbying: The voters are the legislative body, deciding what legislation to adopt for their jurisdiction (like an ancient Greek direct-democracy). Because it's direct lobbying, no call-to-action is necessary to turn a communication into lobbying. So any communication to voters that reflects a view on a ballot measure will be treated as direct lobbying.
 - The following statement is direct lobbying: "Measure 2 will be good for our state because it will help kids grow up healthy."

- So are you safe doing VOTER EDUCATION to help them understand the different items on the ballot and how they affect them and their community so they can make informed decisions?
 - Regarding ballot measures, it would be non-lobbying education only if the organization merely explained the measure: "Measure 2 would impose a 1% sales tax increase, with the proceeds to be used for nutrition programs aimed at low-income families."
 - For "voter education," a 501(c)(3) may explain the different jobs on the ballot and how they affect the community, such as "the Mayor is head of the city government, sets the city budget in conjunction with the City Council, and supervises all city employees; the Dog Catcher is responsible for animal licensing and control, overseeing the city's animal shelter." But the organization cannot indicate it favors any one candidate over another.

- If our board members receive a stipend/honorarium each year for their term of service, this is granted to them as a way to cover childcare and misc cost to joining and serving our org. If they volunteer to show up at the city council or state capitol for us, is this considered "paid" and no longer volunteer?
 - The core of this question is whether paying a stipend means a volunteer needs to register and file reports with the Secretary of State as a "lobbyist." This question needs to be examined on a case-by-case basis. The answer depends on the particular jurisdiction and the circumstances of how the volunteers are being paid. The way this question has been phrased, it appears the volunteers are paid a stipend for their other work for the organization, and they're not being paid for lobbying activities, in an effort not to trigger the jurisdiction's lobbying definition. However, more information is necessary to reach a conclusion.
 - When paying any stipends, there are numerous other issues to consider, including: tax implications for the volunteers; and whether the stipends are high enough that it causes the volunteers to qualify as employees.

- Do all of these laws and rules apply to religious organizations that are 501c3's as well?
 - The rules differ for certain types of religious organizations, but not all.

- If you don't tell them HOW to vote, does that count as lobbying? just give them the details.
 - Yes, it's lobbying. If a communication with a legislator reflects a view on legislation, it's lobbying. For example, strategizing with a bill's sponsor about how to pass the bill is lobbying, even though you're certain the sponsor is going to vote in favor of the bill, so you're not telling them to vote yes.

- In the bus example, why is the \$10K considered lobbying at all since they really didn't give their view on the legislation? they counted on the bus ads, really. right?
 - The bus example was as follows: A group was trying to get the city council to pass a bill for more funding for sidewalks, crosswalks, and public transit.
 - The group spent \$60,000 on bus wraps that said: "The City Council should pass Res. 94 to invest in safe roads and reliable transit." Those bus wraps were communications to the public but did not include an IRS-defined "call to action," so they were non-lobbying.
 - For the bus shelters, on the other hand, the group spent \$10,000 to place ads that included a QR code and the city council's phone number, and with the text: "We all need to be able to walk safely and count on public transit. Ask your City Council member to support Res. 94 to improve our city. Click or call today." The shelter ads are grassroots lobbying because they're public communications that reflect a view on legislation and they have an IRS call to action.

- can non-profit 501c6's engage in lobbying (by these definitions)?
 - A 501(c)(6) may engage in unlimited amounts of lobbying. This also includes 501(c)(4)s and 501(c)(5)s. This is in contrast to a 501(c)(3), which may engage only in a relatively limited amount of lobbying.