Advocacy and Community Health Centers-Nonprofit Advocacy Rules

Mark Turner
Director of Public Policy

Colorado Nonprofit Association
789 Sherman St. Suite 240, Denver CO 80203 - 303-832-5710
www.ColoradoNonprofits.org
Terminology

• Advocacy not specifically defined in Internal Revenue Code

• One working definition:
Identifying and promoting a cause.
Influencing public opinion or policy (CLPI)
Nonprofit Advocacy Activities

Direct Lobbying
Grassroots lobbying
Media advocacy
Administrative advocacy
Voter registration
Get out the Vote
Voter education
Civic engagement
Community Organizing
Coalition Building
Litigation
Key Terms

IRC- Lobbying

Attempting to influence specific legislation by:

• Urging the public to contact policy makers to *propose, support or oppose* legislation, or the government’s budget process, or

• Advocating the *adoption or rejection* of legislation. This includes ballot measures.
Section 501(c)(3)

• Can lobby within limits
  • Influencing legislation can’t be a substantial part of activities

• Can’t campaign for a candidate
  • Can’t participate or intervene in a campaign for or against a candidate for public office
Substantial Part Test

• Default standard for 501(c)(3) nonprofits

• Substantial not defined by IRS
  – Determined based on facts and circumstances
  – Activity based: compensated & volunteer time

• Possible penalties
  – 5% excise taxes on board for lobbying expenses if they willfully authorize substantial activity
  – 5% excise tax on lobbying expenses if exemption revoked
Expenditure Test i.e. 501(h) election

• IRS form 5768 to make the election
• Applies from tax year filed onward unless nonprofit revokes the election
• Limit for lobbying based on budget size
• Report on “direct” and “grassroots” lobbying
• “Grassroots lobbying” must be less than 25% of total lobbying.
<table>
<thead>
<tr>
<th>Direct Lobbying</th>
<th>Grassroots Lobbying</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Communication to a legislator, staffer, or govt. employee to influence legislation</td>
<td>• Communication encouraging public to contact and influence legislators</td>
</tr>
<tr>
<td>• Refers to specific legislation (bill, ballot measure)</td>
<td>• Refers to specific legislation</td>
</tr>
<tr>
<td>• Reflects a view on legislation</td>
<td>• Reflects a view on legislation</td>
</tr>
<tr>
<td></td>
<td>• Call to action</td>
</tr>
</tbody>
</table>
## 501(h) election

<table>
<thead>
<tr>
<th>Budget size</th>
<th>Total annual expenditures that may be spent on lobbying.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Up to $500,000</td>
<td>20%</td>
</tr>
<tr>
<td>$500,000 to $1,000,000</td>
<td>$100,000 + 15% of budget in excess of $500,000.</td>
</tr>
<tr>
<td>$1,000,000 to $1,500,000</td>
<td>$175,000 + 10% of budget in excess of $1,000,000.</td>
</tr>
<tr>
<td>$1,500,000 to $17,000,000</td>
<td>$225,000 + 5% of budget in excess of $1,500,000.</td>
</tr>
<tr>
<td>Over $17,000,000</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>
### The IRS Form 990

#### Part VI-B Lobbying Activity by Nonelecting Public Charities

<table>
<thead>
<tr>
<th>Part VI-B Lobbying Activity by Nonelecting Public Charities</th>
<th>Yes</th>
<th>No</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>a Volunteers</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>b Paid staff or management (Include compensation in expenses reported on lines c through h)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>c Media advertisements</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d Mailings to members, legislators, or the public</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>e Publications, or published or broadcast statements</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>f Grants to other organizations for lobbying purposes</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>g Direct contact with legislators, their staffs, government officials, or a legislative body</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>i Total lobbying expenditures (Add lines c through h)</td>
<td>X</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.
501h exception - Nonpartisan research

Can refer to legislation and reflect a viewpoint but must

• present facts fully and fairly to allow the public to form an independent opinion or conclusion [content test].
• be available to the public and all pertinent parties on an issue [distribution test]
• Not directly encourage grassroots lobbying
501h exception - examining social issues

- Can address public, legislators, or government
- Can talk about issues that could be legislated but
- Can’t refer to specific legislation OR directly encourage legislative action
501h exception

Requests for Technical Advice or Assistance

• Written request-legislative body or committee
• May include testimony or written commentary
• Request available to all committee members
• Can’t be a request from a sole legislator
501h exception - self defense

- Proposed action by legislative body
- Affects powers, duties, tax-exempt status, deductibility of contributions
- Applies to communications and expenditures
- Does not apply to grassroots lobbying
Contact me if you have any questions.

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