

Lobbying and Political Activity

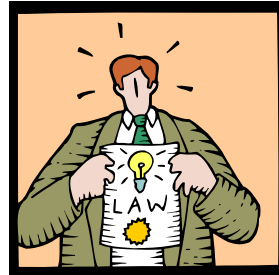
Advocacy Issues for Animal Welfare Organizations

Please note: this presentation is intended to
provide general information on the topics
contained, not to provide legal advice.



Beverly J. Jones, Esq.
Vice President and Corporate Counsel
ASPCA

What is Lobbying?

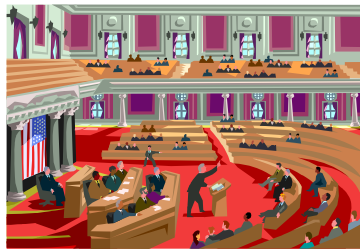


- Any **attempt to influence legislation** is considered lobbying.
- 501(c)(3) public charities are permitted to conduct some lobbying activity, but those activities must be tracked and reported

Federal Lobbying Rules:

What is "Legislation"?

- Actions by Congress, state and local legislative bodies (i.e. City Council)



- **Communications about executive actions and** administrative agency decisions are NOT considered lobbying
(Note: State rules may be different!)

501(h) Election

- Default: “no substantial part” test
 - Measured in any one year
 - Volunteer activity counts
 - Very little guidance
 - Sanction: excise tax, revocation of exempt status
- 501(h): expenditure based mathematical test
 - Measured over three years
 - Not available to private foundations, churches, and other organizations
 - Volunteer activities don’t count
 - Sanction: excise tax

Federal Lobbying Rules: “Direct” Lobbying

- Communication with government officials, including staff members and members of legislative bodies which:



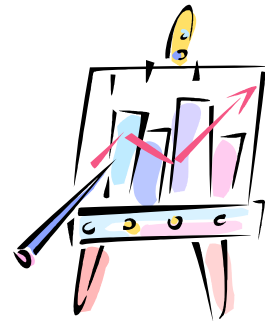
- Refers to specific legislation or proposed legislation AND
- Expresses a view on the legislation or proposed legislation

Federal Lobbying Rules: “Grass Roots” Lobbying

An attempt to influence legislation by encouraging OTHERS to take action with respect to a piece of legislation or proposed legislation.



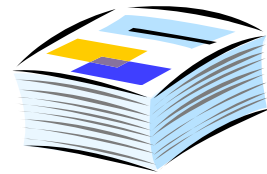
Federal Lobbying Rules: Some Exceptions



- Examination of broad social, economic and similar problems
 - No references to legislation
 - No encouragement to take any particular action



Federal Lobbying Rules: Some Exceptions



- Nonpartisan analysis, study and research
 - Full and fair exposition of the facts
 - Allows a member of the general public to form an independent opinion
 - Made available to a broad segment of the general public or a nonpartisan cross-section of a legislative body
 - CAN come to a conclusion about a particular piece of legislation or legislative proposal



Federal Lobbying Rules: Some Exceptions

- Technical advice or assistance
 - Must be a written request
 - From a governmental body (not an individual legislator)
 - Information must be available to all members of the legislative body



Federal Lobbying Rules: Some Exceptions



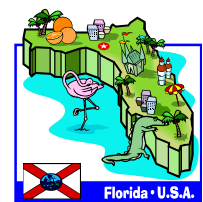
- “Self Defense” Lobbying
 - Legislation must be something that affects the **existence** of the organization, its powers or duties, or the deductibility of contributions
 - This exception is NOT available to come to the aid of a program (even a core program!)

Don't Forget!

States (and some municipalities) also have their own rules about what constitutes lobbying, and their own systems for registration and reporting.



These issues are outside the scope of today's presentation, but check your state's or municipality's website!



Political Activity



- Directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) a candidate for public office
- 501(c)(3) organizations are **ABSOLUTELY PROHIBITED** from engaging in political activity, at any level





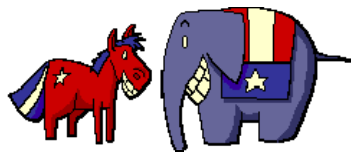
Political Activity: Who is a “candidate”?



- Someone who offers him- or herself OR is proposed by others as a candidate for federal, state or local office
- Remember, someone who’s already in office may be running for re-election, or may be running for election to a different office.

Political Activity: What is a “public office”?

- Federal, state and local elective office
- Elective positions in political parties
- Includes nonpartisan and independent races



Political Activity: What is impermissible intervention?



- **Direct** endorsement or opposition
- Any activity that has the **effect** of promoting or opposing a candidate
- Nonpartisan activities (such as rating candidates) can also count



Political Activity: Exceptions

- Inviting a public official to speak **in that capacity**

- Public forums



- Distribution of the organization's **publicly available materials** to candidates

Political Activity: Individual Activities



- Office space, employee work time, phones, emails, faxes, copy machines
- Clear indication that your views are your own, not the organization's; remember "for identification purposes only"

Lobbying and Political Activity:



Remember, **lobbying** is okay, within limits and if proper tracking and reporting is done.



Political activity, on the other hand, is NEVER okay for a 501(c)(3) organization.

Lobbying and Political Activity



Questions?

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A FEW COMING ATTRACTIONS FROM ASPCA_{PRO}

www.aspcapro.org/webinars

- **Combating Animal Cruelty: Past, Present & Future** (9/20)
- **Ringworm 101 for Shelters** (9/25)
- **Does Spay/Neuter Have a “People Problem”?** (9/26)
- **Ringworm Outbreak Management** (10/02)
- **Employment Law 101** (10/04)
- **Starting a TNR Program in Your Community** (10/17)

