

Advocacy 101

How your nonprofit can influence policy for the greater good!

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*Building Power.
Transforming Courts.
Securing Justice for All.*

- AFJ builds the strength of progressive movements by training and educating nonprofit organizations on advocacy, while harnessing their collective power to transform our state and federal courts.
- Alliance for Justice is an association of 150+ organizations, who share a commitment to an equitable, just, and free society.



*Building Power.
Transforming Courts.
Securing Justice for All.*

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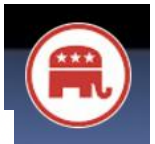
Every good lawyer needs a disclaimer...

Agenda

- Advocacy Activities for Nonprofit Organizations
- Lobbying Defined
- How to measure Lobbying
- Direct v. Grassroots Lobbying
- Lobbying Exceptions
- Key Take Aways



Advocacy activities for Nonprofit organizations


	501(c)(3) <i>(Public Charities)</i>	501(c)(4), 501(c)(5), 501(c)(6)	527 <i>(Pol Orgs)</i>
Examples	 	 	  
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
Lobbying Activities	Limited	Unlimited	Very rare, usually taxed
Electoral Activities	Cannot support/oppose candidates	Partisan activity - Secondary activity	Almost always the sole activity

Nonprofits can advocate for policy and community change!

NCAAT in Action
February 23 · 🌐

House Bill 40 is an anti-protest bill that would create additional charges for anyone participating in a protest that leads to a "riot" – a subjective term that can involve as few as three people – and disproportionately harm Black and brown North Carolinians.

As we're waiting on the N.C. Senate to hear the bill, you can find your senator at www.ncleg.gov/findyourlegislators and let them know why you oppose HB40.



OPPOSE HB40!

"As an Indigenous Asian American Refugee, I stand in solidarity for Black lives and the right to protest. Marching for BLM in 2020 reminds me of my position to fight for liberation for all. As it is said, 'No one is free until Black lives are free.'"

Sel Mpang, NCAAT in Action

FAS **Federation of American Scientists** @FAScientists · Aug 3

New START makes us all safer.


Report On The Reasons That Continued Implementation Of The New START Treaty is in The National Security Interest Of The United States

BUREAU OF ARMS CONTROL, VERIFICATION AND COMPLIANCE

JULY 26, 2023



NO PAID SICK DAYS FOR RESTAURANT EMPLOYEES.



AN "ENHANCED" DINING EXPERIENCE FOR RESTAURANT CUSTOMERS.

Nearly half of all workers in Maine lack paid sick days. Support your fellow Maine workers and their right to recover from illness without endangering public health or losing a day's pay.

Contact your legislator and share your support of LD 1454, the Paid Sick Days Bill.

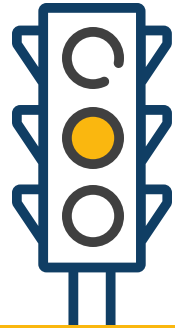
www.MaineShoreans.org

Avenues of Advocacy for 501(c)(3)s

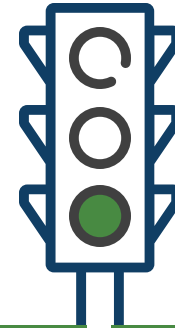


Organizing	Public Education	Nonpartisan Voter Ed.	Influencing Corporations
Educating Legislators	Educational Conferences	Lobbying Exceptions	Regulatory Efforts
Get to Know Legislators	Research	Training	Litigation

Avenues of Advocacy for 501(c)(3)s



Lobbying



Organizing

Public
Education

Nonpartisan
Voter Ed.

Influencing
Corporations

Educating
Legislators

Educational
Conferences

Lobbying
Exceptions

Regulatory
Efforts

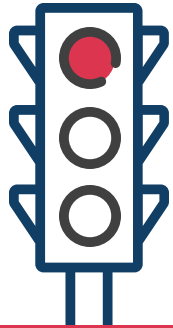
Get to Know
Legislators

Research

Training

Litigation

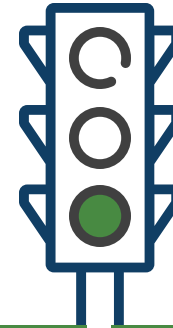
Avenues of Advocacy for 501(c)(3)s



Partisan
Political



Lobbying



Organizing

Public
Education

Nonpartisan
Voter Ed.

Influencing
Corporations

Educating
Legislators

Educational
Conferences

Lobbying
Exceptions

Regulatory
Efforts

Get to Know
Legislators

Research

Training

Litigation

LOBBYING

*Nonprofits can advocate for policy and community change!
Are there limits?*

Public Charities Can LOBBY

- Must stay within IRS limits
- Must track staff time and direct costs, report
- Must have unrestricted funds



United States of Care @USofCare · Oct 13

🌞, Michigan!! ¹⁰⁰

MI is soon to join other states that have protected HIGHLY necessary no-cost preventive services under the #ACA!

The bill now heads to the gov's desk for 🗳️



crainsgrandrapids.com

Unofficial
Working Definition of
LOBBYING

Trying to influence
specific legislation,
including ballot
measures.

Methods of Measuring Lobbying and Lobbying Limits

Measuring Lobbying

Two options to define and track your lobbying:

1. Insubstantial Part Test: default
2. 501(h) Expenditure Test: need to choose it to use it



Insubstantial Part Test

1. Default system to define and track your lobbying
2. Harder to figure out if you're lobbying (vague definition)
3. More activities count as lobbying
4. Lower annual lobbying limit for orgs with small or medium budgets
5. Volunteer lobbying counts toward your annual lobbying limit
6. Harsh penalties if you go over your annual limit



Insubstantial Part Test, cont'd.

- Communication to lawmakers to influence legislation
- Encouraging public to contact lawmakers to influence legislation
- Anything that advocates for or against legislation



501(h) Expenditure Test

1. Clear definitions and limits: most advocacy doesn't count as lobbying
2. Generous annual lobbying limits
3. You only have to count the money you spend; Volunteer lobbying doesn't count
4. The only orgs who can't choose this system are houses of worship.
5. The only orgs who *might not* want to choose this system are orgs with annual exempt purpose expenditures over \$17 million per year (*they will be capped at \$1M for lobbying*)



1. Calculate organization's

**Exempt Purpose
Expenditures**

2. Overall lobbying limit

ANNUAL EXPENDITURES

OVERALL LOBBYING LIMIT

\$500,000 or less

20%

\$500,000 to \$1 million

\$100,000 + 15% of excess over \$500,000

\$1 million to \$1.5 million

\$175,000 + 10% of excess over \$1 million

\$1.5 million to \$17 million

\$225,000 + 5% of excess over \$1.5 million

Over \$17 million

\$1,000,000

3. Grassroots lobbying limit is 25% of overall limit

Calculating Your Lobbying Limit (under 501 (h))

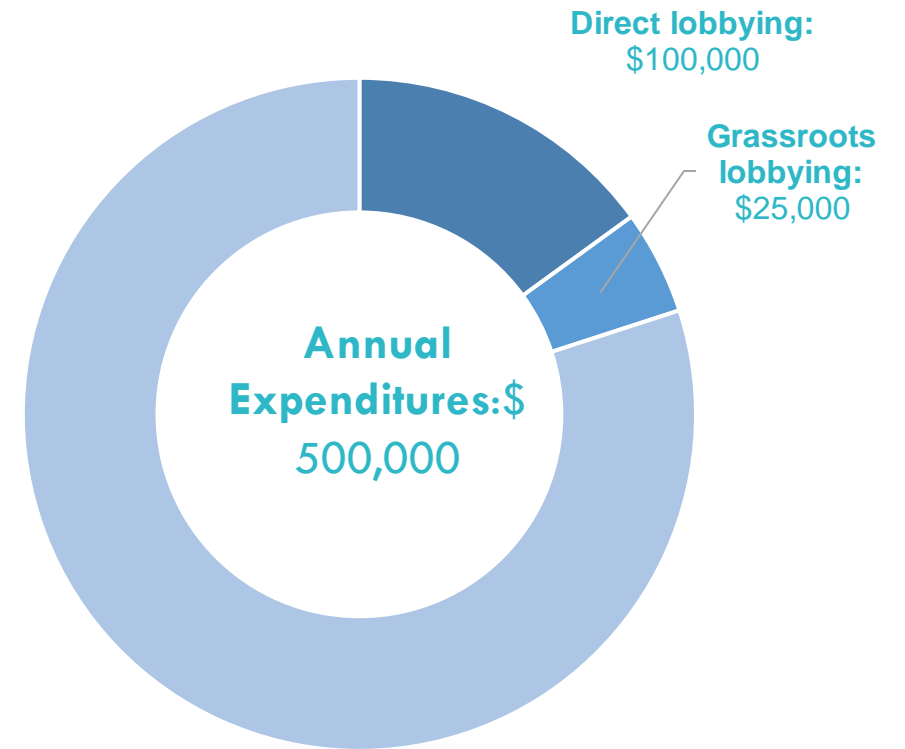
Example: A 501(c)(3) with annual
exempt purpose expenditures of
\$500,000

Overall Lobbying Limit

\$100,000

Grassroots Lobbying Limit

\$25,000



1. Calculate organization's exempt purpose expenditures

2. Overall lobbying limit



Use our online
calculator at
bolderadvocacy.org

3. Grassroots lobbying limit is 25% of overall limit

501(h) Expenditure Test

One-time election - IRS Form 5768

Clear definition of lobbying

Generous dollar-based formula to calculate lobbying limits

Only spending counts, not volunteer time



Lobbying To Dos

Regardless of which system an organization uses, it has a right to lobby, and when it does, it needs to:

1. Track its lobbying
2. Report its lobbying on its IRS Form 990 and
3. Use funds that don't restrict lobbying.



Where Do We Report Our Lobbying?

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	<input type="checkbox"/>	<input type="checkbox"/>
2 Is the organization required to complete <i>Schedule B, Schedule of Contributors</i> ? See instructions	<input type="checkbox"/>	<input type="checkbox"/>
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>	<input type="checkbox"/>	<input type="checkbox"/>
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>	<input type="checkbox"/>	<input type="checkbox"/>
5 Is the organization a section 501(c)(4), 501(c)(5), or 501(c)(6) organization that receives membership dues, assessments, or similar amounts as defined in Rev. Proc. 98-19? <i>If "Yes," complete Schedule C, Part III</i>	<input type="checkbox"/>	<input type="checkbox"/>

SCHEDULE C
(Form 990)

Political Campaign and Lobbying Activities

OMB No. 1545-0047

2021

Open to Public Inspection

For Organizations Exempt From Income Tax Under section 501(c) and section 527

- ▶ **Complete if the organization is described below.** ▶ **Attach to Form 990 or Form 990-EZ.**
- ▶ **Go to www.irs.gov/Form990 for instructions and the latest information.**

Department of the Treasury
Internal Revenue Service

If the organization answered "Yes," on Form 990, Part IV, line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then

- **Section 501(c)(3) organizations: Complete Parts I-A and B. Do not complete Part I-C.**

What is lobbying under 501(h)?

Direct and grassroots lobbying

DIRECT

Communication

Legislator

Expresses a view about
specific legislation



GRASSROOTS

Communication

General public

Expresses a view about
specific legislation

Call to action



LOBBYING DEFINITION

for Public Charities
using the **501(h)**
expenditure test
and Private
Foundations

DIRECT

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Call to action

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Call to action

Legislators, Officials, and their Staff
at Any Level of Government

including

US Senate and Representatives

State Legislators

Tribal Councils

County Board of Supervisors

City Councils

DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

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General public

Expresses a view about
specific legislation

Call to action



President, governor, mayor or other
government official who participates in
the formulation of legislation

DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

Communication

General public

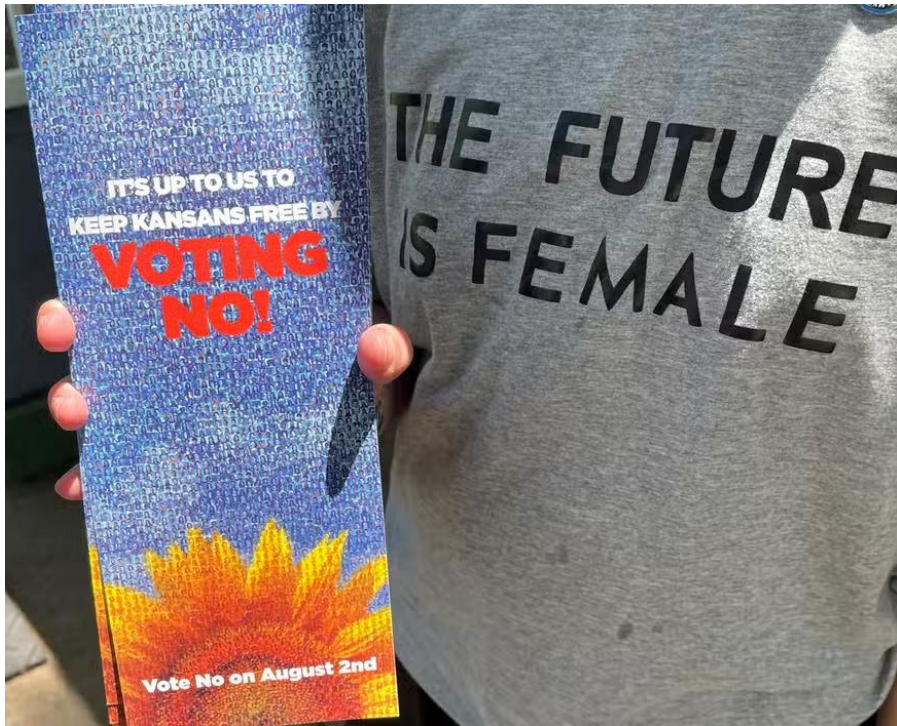
Expresses a view about
specific legislation

Call to action



The general public are “lawmakers” when voting on ballot measures, so ballot measure advocacy counts as direct lobbying.

Communication with the general public that expresses a view about a ballot measure is lobbying.



Ballot Measure activities that count as lobbying if you express a view:

- Signature collecting
- Panel presentations that express a view or don't have someone from each side
- Canvass literature
- Social media graphics and ads
- and more ...

DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

Communication

General public


Expresses a view about
specific legislation

Call to action

Not Legislation

- Regulations
- Executive Orders and Executive Actions
- Enforcement of Existing Laws
- Litigation



FAS Federation of American Scientists  @FAScientists · 16h ...
If we're going to keep having the hottest summers of our lives, we should start acting like it. This is abysmal.

CLIMATE IN CRISIS

OSHA is years away from issuing a federal heat standard that would protect workers. Advocates say it is dire now.

The agency is early into its rule-making process, which can take many years and sometimes decades. Advocates say there is no time to wait as heat intensifies.

It's still legislation, even if:

- It doesn't have a bill name or number;
- It hasn't been introduced;
- It's not fully developed or fleshed out;

You just have to communicate a problem and a legislative solution (with a legislative vote).



DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

Communication

General public

Expresses a view about
specific legislation

Call to action



Preparation for lobbying
counts as lobbying

DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

Communication

General public

Expresses a view about
specific legislation

Call to action

Grassroots Lobbying needs a **Call to Action**

DIRECT

Communication

Legislator

Expresses a view about
specific legislation

GRASSROOTS

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General public

Expresses a view about
specific legislation

Call to action

TELLING TO CONTACT

legislator(s) *or*

PROVIDING CONTACT INFO,
like phone number, e-mail address,
mailing address, and/or other contact
info of legislator(s) *or*

PROVIDING MECHANISM

to enable communication
with legislator(s) *or*

IDENTIFYING

legislator(s)

DIRECT

Communication

Legislator

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specific legislation

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specific legislation

Call to action



Contact Information:

- Phone numbers
- Email addresses
- Social media handles
- Address
- Etc.

DIRECT

Communication

Legislator

Expresses a view about specific legislation

GRASSROOTS

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General public

Expresses a view about specific legislation

Call to action

Close the Loophole: Pass the Adoptee Citizenship Act



17,415 have signed. Let's get to 25,000!



At 25,000 signatures, this petition becomes one of the **top signed on Change.org!**

Daniel Wilson signed this petition

Brian Fink signed this petition

First name

Last name

Email

Display my name and comment on this petition

By signing, you accept Change.org's [Terms of Service](#) and [Privacy Policy](#), and agree to receive occasional emails about campaigns on Change.org.

Patrick Armstrong started this petition to [Representative Nancy Pelosi](#) and **10 others**

My name is Patrick Armstrong and I'm a Korean American adoptee. When I was 15 my mother and I went to the BMV to get my driver's permit (a milestone in any kid's life). What should have been an exciting, fun day turned into a **nightmare**.

The employees at the BMV told me that **they could not verify my birth certificate**. In fact, **they thought it was fake**.

Luckily, my parents had already completed the process to grant me U.S. citizenship, but that day, I realized that **citizenship is not a guarantee for all adoptees**.

[in a statement to the general public]

DIRECT

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Legislator

Expresses a view about
specific legislation

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specific legislation

Call to action

We support HB279!

**81% of Pennsylvania survey
respondents reported
difficulty renting an
apartment or house because
they lacked a driver's
license.**



DRIVING
-- PA --
FORWARD



Not Lobbying

Find the Calls to Action

THE FATE OF THE ADOPTEE CITIZENSHIP ACT

DEPENDS ON THE HOUSE JUDICIARY SUBCOMMITTEE ON IMMIGRATION & CITIZENSHIP

CONTACT
THEM FOR
#HR2731
#CITIZENSHIP
4ADOPTEES
WITH
#NOADOPTEE
LEFTBEHIND

-  COSPONSORING THE ADOPTEE CITIZENSHIP ACT
-  YET TO CO-SPONSOR
-  LEADERSHIP

CALIFORNIA



Zoe Lofgren
D-CA-19
[@RepZoeLofgren](#)

Tom McClintock
R-CA-4
[@RepMcClintock](#)

Lou Correa
D-CA-46
[@RepLouCorrea](#)

COLORADO



Ken Buck
R-CO-4
[@RepKenBuck](#)

Joe Neguse
D-CO-2
[@RepJoeNeguse](#)

WASHINGTON



Pramila Jayapal
D-WA-7
[@RepJayapal](#)

NORTH DAKOTA



Kelly Armstrong
R-ND-00
[@RepArmstrongND](#)

TEXAS



Sheila Jackson Lee
D-TX-19
[@JacksonLeeTX18](#)

Veronica Escobar
D-TX-16
[@RepEscobar](#)

Sylvia Garcia
D-TX-29
[@RepSylviaGarcia](#)

FLORIDA



Debbie Mucarsel-Powell
D-FL-26
[@RepDMP](#)

Greg Steube
R-FL-17
[@RepGregSteube](#)

ARIZONA



Debbie Lesko
R-AZ-8
[@RepDLesko](#)

Andy Biggs
R-AZ-5
[@RepAndyBiggsAZ](#)

PENNSYLVANIA



Mary Gay Scanlon
D-PA-5
[@RepMGS](#)

SIGN THE PETITION
bit.ly/a4jpetition

EMAIL YOUR REP
bit.ly/a4jemail

TWEET AT YOUR REP
bit.ly/a4jVRtk

MEET WITH YOUR REP
bit.ly/a4jreps

DONATE
bit.ly/a4jOfund

ADOPTEEFORJUSTICE.ORG



Find the Calls to Action

THE FATE OF THE ADOPTEE CITIZENSHIP ACT

DEPENDS ON THE HOUSE JUDICIARY SUBCOMMITTEE ON IMMIGRATION & CITIZENSHIP

CONTACT THEM FOR #HR2731
#CITIZENSHIP 4 ADOPTEES WITH #NOADOPTTEE LEFTBEHIND

-  COSPONSORING THE ADOPTEE CITIZENSHIP ACT
-  YET TO CO-SPONSOR
-  LEADERSHIP

CALIFORNIA



 Zoe Lofgren D-CA-19 [@RepZoeLofgren](https://twitter.com/RepZoeLofgren)

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 Lou Correa D-CA-46 [@RepLouCorrea](https://twitter.com/RepLouCorrea)

COLORADO



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 Joe Neguse D-CO-2 [@RepJoeNeguse](https://twitter.com/RepJoeNeguse)

WASHINGTON



 Pramila Jayapal D-WA-7 [@RepJayapal](https://twitter.com/RepJayapal)

NORTH DAKOTA



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ARIZONA



 Debbie Lesko R-AZ-8 [@RepDLesko](https://twitter.com/RepDLesko)

 Andy Biggs R-AZ-5 [@RepAndyBiggsAZ](https://twitter.com/RepAndyBiggsAZ)

PENNSYLVANIA



 Mary Gay Scanlon D-PA-5 [@RepMGS](https://twitter.com/RepMGS)

SIGN THE PETITION
bit.ly/a4jpetition

EMAIL YOUR REP
bit.ly/a4jemail

TWEET AT YOUR REP
bit.ly/a4jVRtk

MEET WITH YOUR REP
bit.ly/a4jreps

DONATE
bit.ly/a4jOfund

ADOPTEEFORJUSTICE.ORG



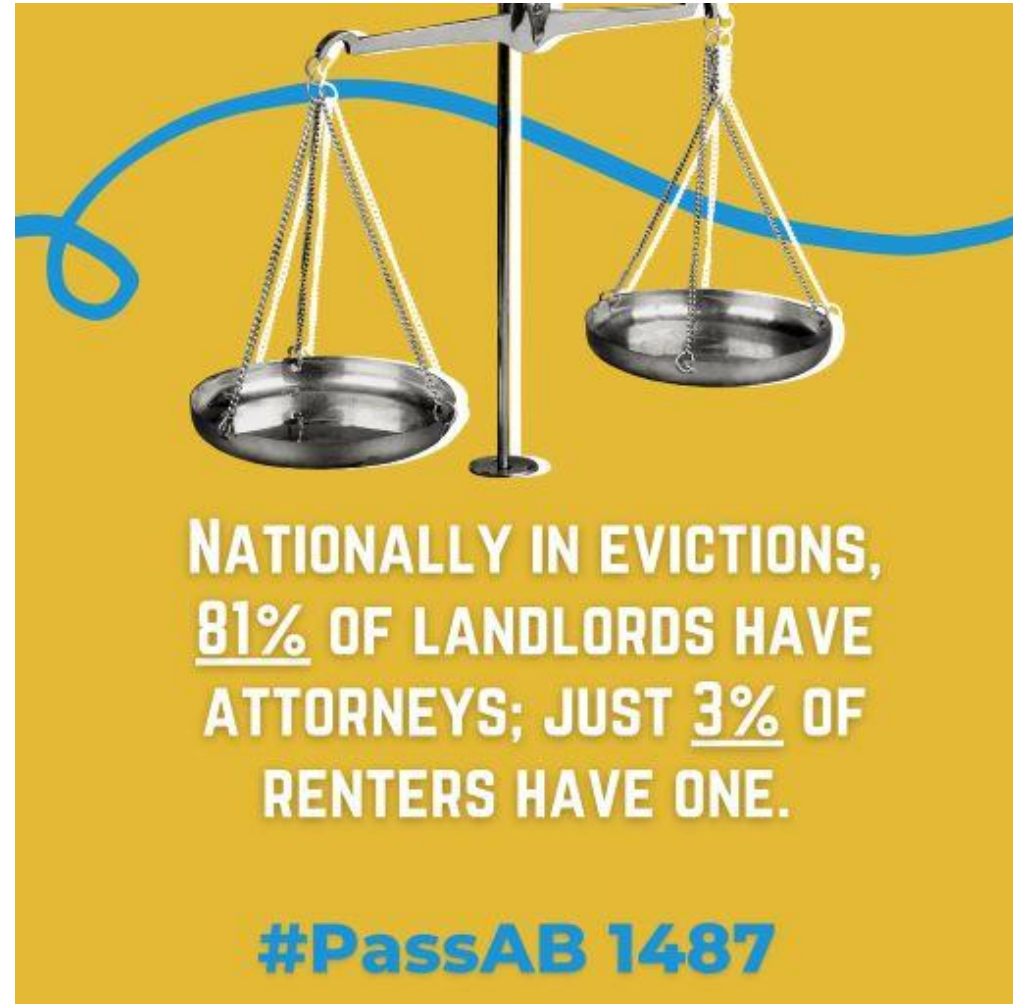
Grassroots

Communication

General public

Expresses a view about
specific legislation

Call to action



 **Not Lobbying**

IRS Lobbying or not?



Community Coalition

@CoCoSouthLA

...

Gov. [@GavinNewsom](#) needs to [#SignAB1487](#) to create a statewide fund for eviction prevention and defense programs.

Help us pressure him to do so by signing on at: actionnetwork.org/letters/stop-u...



NATIONALLY IN EVICTIONS, 81% OF LANDLORDS HAVE ATTORNEYS; JUST 3% OF RENTERS HAVE ONE.

[#SignAB1487](#)

The graphic features a pair of scales of justice on a yellow background. A blue ribbon is draped across the scales, starting from the left pan and ending at the right pan. The text to the right of the scales provides statistics on attorney representation in evictions.

Grassroots Lobbying under 501(h) test.
Good Work! Track it and Report it

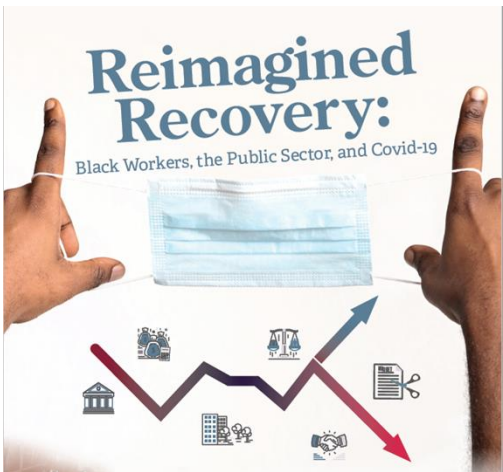
Lobbying **EXCEPTIONS**

Nonpartisan analysis, study, or research

Request for technical assistance

Self defense

Examinations and discussions of broad social, economic, and similar problems

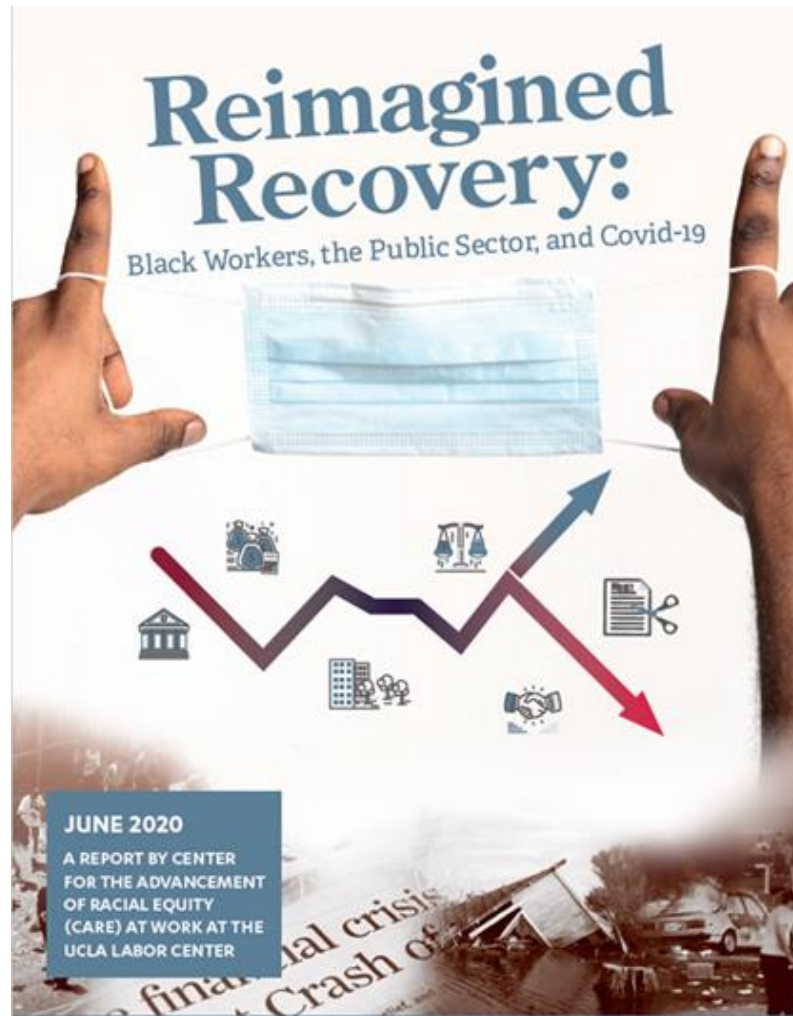


Lobbying Exception – Nonpartisan Analysis

Must:

Full and Fair
Discussion

Broadly
Disseminated



May:

Express a View

Indirect Call to
Action

Subsequent
Grassroots
Lobbying
limited

Lobbying Exception – Technical Assistance

Must

Invitation in Writing
on Behalf of a
Committee

Testimony Made
Available to All
Members of
Committee



May

Express a View
on Specific
Legislation

Lobbying Exception – Self Defense

Must

Regarding actions that could affect org's existence, powers, duties, tax-exempt status, or deductibility of contributions



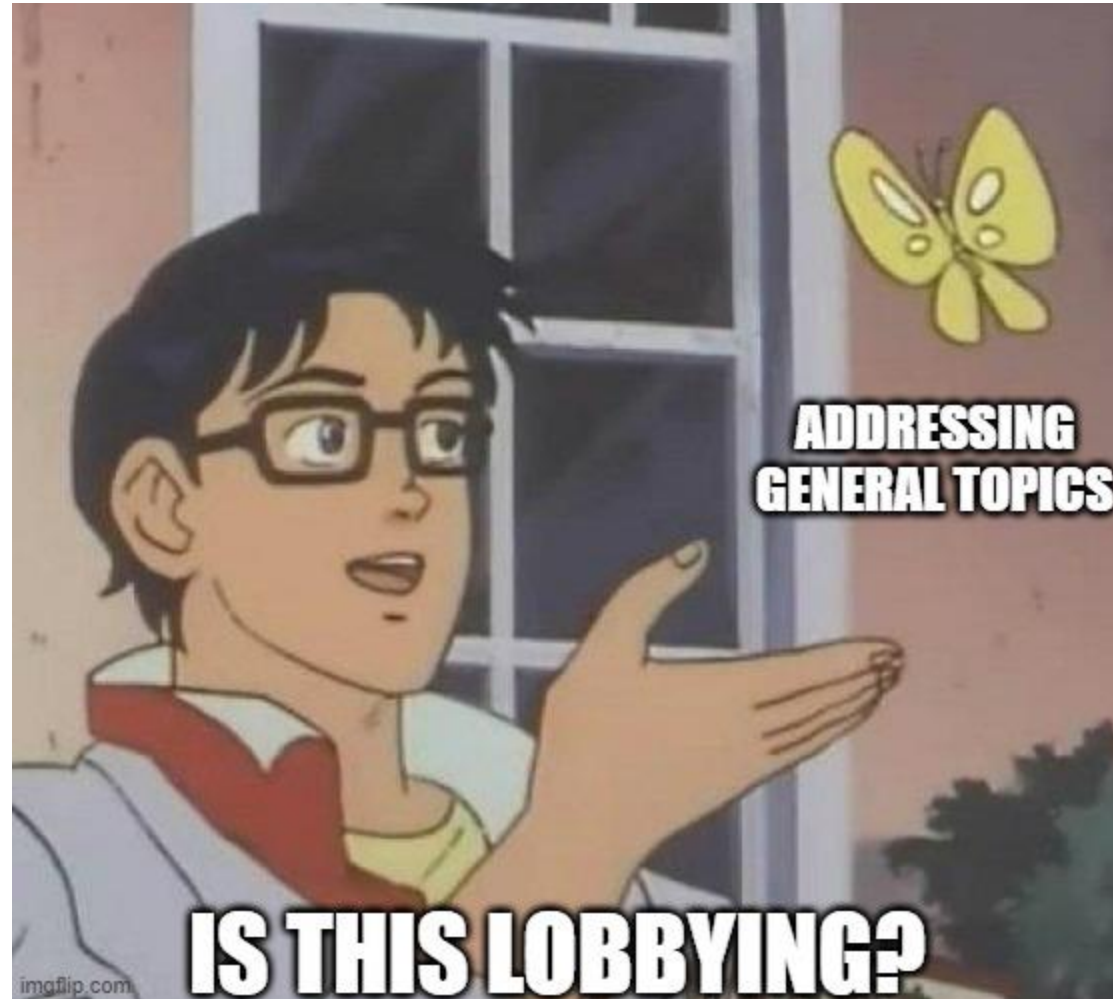
May

Express a View if limited to the above

Lobbying Exception – Examinations and Discussions of Broad Social, Economic, and Similar Problems

Must

Not refer to
specific legislation
or directly
encourage action



Why Do We Track Our Lobbying?

1. Report your lobbying
2. Keep your lobbying spending below your annual lobbying limit
3. Plan ahead
4. Use funds that don't restrict lobbying.



Lobbying Limits vs. Lobbying Disclosure



Limits Lobbying at
all levels for C3s

Comply with federal, state, & local
lobbying disclosure laws



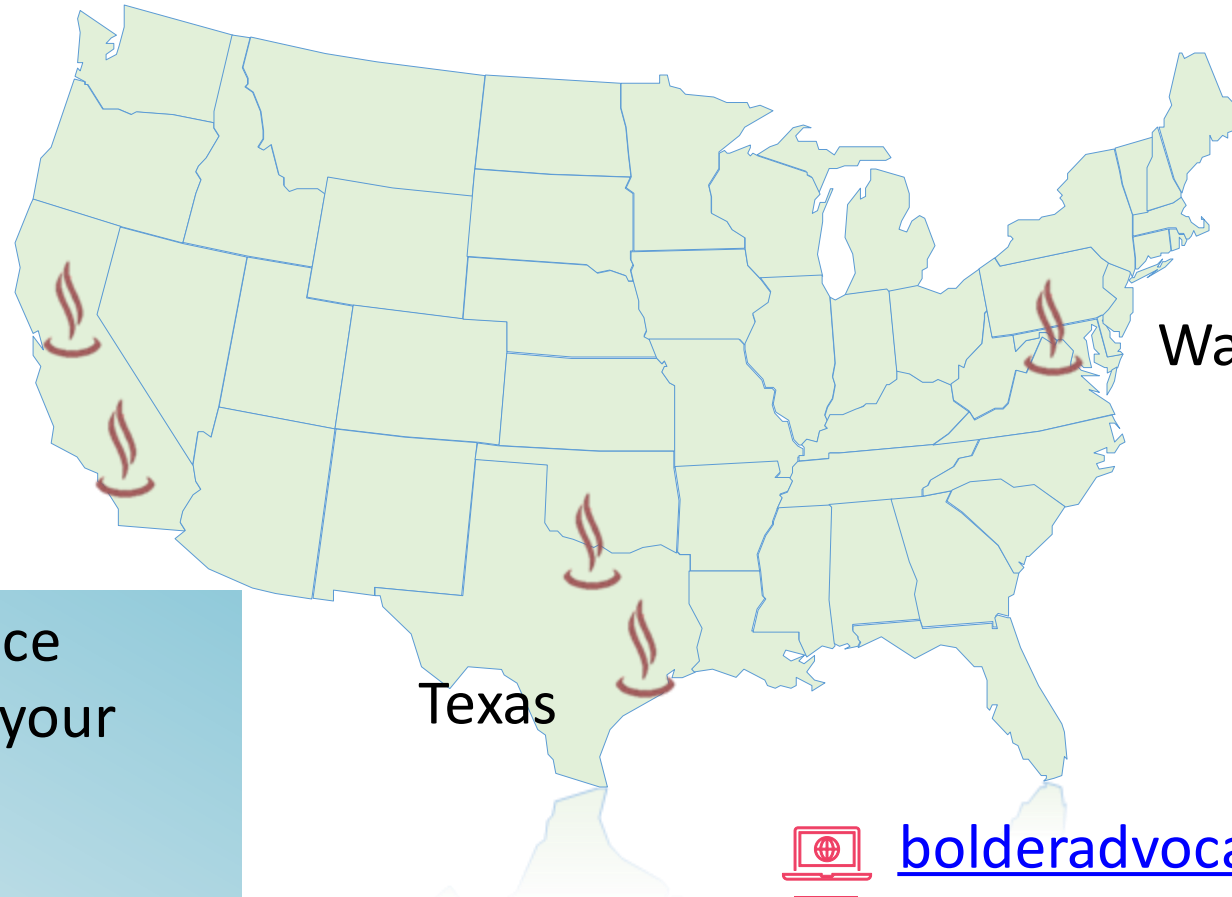
**What Nonprofits Need to Know About
Lobbying in Your State**

Questions?



Alliance for Justice and Bolder Advocacy

California



Washington, DC

Free technical assistance
about rules impacting your
nonprofit advocacy:
advocacy@afj.org or
866-675-6229 (866-NP-LOBBY)



bolderadvocacy.org | afj.org



[@AFJBeBold](https://twitter.com/AFJBeBold)



facebook.com/BolderAdvocacy

Contact Us

For **free technical assistance** about rules impacting your nonprofit advocacy

866-675-6229 (866-NP-LOBBY)
advocacy@afj.org

Para **apoyo técnico** sobre los derechos y deberes de las organizaciones comunitarias de cambiar la comunidad

866-675-6229
advocacy@afj.org

For free tools, resources, and podcast

bolderadvocacy.org

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