



CONGRESSIONAL GRANTS CONFERENCE
FACT SHEET RE: LEGISLATIVE ADVOCACY BY
NON-PROFIT ORGANIZATIONS

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1. NON-PROFIT ORGANIZATIONS CAN ENGAGE IN LEGISLATIVE ADVOCACY

a. Legislative Advocacy is a powerful tool for Non-Profit Organizations to use to carry out social change—it is just another form of advocacy

b. Amount of legislative advocacy permitted will depend upon what type of organization you are:

(1) 501(c)(4): No limits on direct legislative advocacy, however, must comply with other reporting requirements discussed below.

(2) 501(c)(3): Governed by two different tests

(a) “No Substantial Part”

(b) 501h Election (*See attached handout #1 for more information.*)

(3) Organizations receiving federal funds have special limits

2. THE SPENDING OF MONEY ON LEGISLATIVE ADVOCACY IS USUALLY REPORTABLE

a. Overview of Reporting:

(1) State and Federal law and local ordinances require disclosure (*See attached handout #2 for more information.*)

(2) Form 990 information return filed with IRS

b. What does **not** trigger reporting?

(1) Not spending money (examples: volunteers, persons who spend less than 10% of their compensated time in a calendar month, costs of a regularly published newsletter or periodical)

(2) Not attempting to influence (examples: requesting information, meetings with non-public officials to exchange information)

NOTE: Providing pure factual information, including statistics, to officials may be reportable activity.

(3) Not influencing the outcome of legislative or administrative action

NOTE: State grants and contracts are *not* considered a legislative or administrative action.

c. What triggers reporting?

(1) The proposal, drafting, development, consideration, amendment, enactment or defeat by any state agency of any rule or regulation (i.e. something that applies to all people, not just one or two people)

(2) The drafting, introduction, consideration, modification, enactment or defeat of any bill, resolution, amendment, report, nomination or other matter by the Legislature (includes State Budget)

3. THE DEFINITIONS AND REQUIREMENTS OF STATE LAW AND FEDERAL TAX LAW ARE NOT THE SAME

a. Key differences include:

- Non-partisan advice, analysis and research does not count under Federal tax law; but may be reportable under State law;
- Advocacy before state *agencies* does not need to be reported under Federal tax law but must be reported under State law;
- Under Federal tax law all legislative advocacy time counts—in CA 10% threshold

b. Consult with tax advisor before engaging in legislative advocacy so you can establish practices for tracking information for both state reporting and federal tax purposes.

4. STATE LAW IMPOSES RESTRICTIONS ON LEGISLATIVE ADVOCACY

a. Honorarium prohibition: Prohibition on honoraria paid to state and local officials (Including state officials, employees and most local employees)

b. Gift limit to state and local officials: Applies to elected state and local officials, candidates, members of state and local boards and commissions

(1) \$360 current calendar year limit for State officials—includes meals, travel and entertainment, but excludes tickets to fundraisers for 501(c)(3) organizations and informational materials (seminars and on-site tours - may be reportable legislative advocacy material).

(2) Local gift limits may be stricter

(3) Federal law is more complicated

c. No quid pro quo permitted

ATTACHMENT #1

Lobbying Ceilings Under the 1976 Lobby Law

| Annual Exempt-Purpose Expenditures | Total Direct Lobbying Expenditures Allowable | Total Grassroots Lobbying Expenditures Allowable |
|------------------------------------|--|--|
| Up to \$500,000 | 20% of exempt-purpose expenditures up to \$100,000 | One-quarter of the total direct lobbying expenditure ceiling |
| \$500,000-\$1 million | \$100,000 + 15% of excess over \$500,000 | \$25,000 + 3.75% of excess over \$500,000 |
| \$1 million-\$1.5 million | \$175,000 + 10% of excess over \$1 million | \$43,750 + 2.5% of excess over \$1 million |
| \$1.5 million-\$17 million | \$225,000 + 5% of excess over \$1.5 million | \$56,250 + 1.25% of excess over \$1.5 million |
| Over \$17 million | \$1 million | \$250,000 |

ATTACHMENT #2

Federal Political Practices Commission

<http://www.fppc.ca.gov>

Congress

<http://lobbyingdisclosure.house.gov/report/html>

City of Los Angeles Ethics Commission

<http://ethics.lacity.org/lobby/lobby.cfm>

County of Los Angeles

<http://bos.co.la.us/categories/lobinfo/ordinance.htm>

City of San Francisco Ethics Commission

http://sfgov.org/site/ethics_index.asp?id=13727

City of Sacramento

http://www.cityofsacramento.org/clerk/lobbyist_registration/lobbyist_registration_ordianance.pdf