



BOLDERADVOCACY

An initiative of Alliance for Justice

Standing Up and Speaking Out: Your Organization's Right to Engage in Lobbying

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For free coaching about laws impacting nonprofit advocacy:

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For free tools, fact sheets, and publications

www.bolderadvocacy.org



@AFJBeBold @SaraAFJustice



BolderAdvocacy

1. Be familiar with 501(c)(3) organizations' rights to advocate for community change
2. Understand IRS lobbying limits and definitions
3. Know your organization's options for measuring lobbying
4. Learn what *isn't* lobbying

AGENDA



**Should we
engage in
advocacy?**



**Should we
engage in
advocacy?**

**Can we
afford not
to?**

If there were no budget limits...

No rules or laws holding you back...

How could a 501(c)(3)
advocate for increased
affordable housing?

Brainstorm

Nonprofits can advocate and lobby for policy change.



Nonprofits **should**
advocate and lobby for
policy change!



Unofficial
Working Definition of IRS
LOBBYING

Trying to influence
legislation
(including ballot measures)



Avenues for **ADVOCACY**

**501(c)(3)
Public Charity**

**501(c)(4) /
(5)/(6)**

Examples



**Tax
Treatment**

Tax-Exempt

Contributions tax-deductible
Private Foundation grants

Tax-Exempt

**Lobbying
Activities**

Limited

Unlimited

**Electoral
Activities**

Cannot support or
oppose a candidate
for office

Secondary activity
Must follow election
laws

How much **lobbying**?
It depends....

Insubstantial Part Test

1. Default test for all 501(c)(3)s
2. Lobbying is “insubstantial part” of organization’s activities, probably about 3-5% of an org’s efforts
3. No clear definition of lobbying or lobbying exceptions
4. Based on paid and unpaid activities
5. Severe penalties

501(h) Expenditure Test

1. One-time election – IRS Form 5768
2. Clear definition of lobbying
3. Dollar-based formula to calculate lobbying limits
4. Only spending counts, not volunteer time
5. Less severe penalties

Organization Name	Approximate Annual Expenditures	Overall Lobbying Limit (Direct + Grassroots)	Grassroots Lobbying Limit
Parent Services Project	\$803,000	\$145,450	\$36,363
Canal Alliance	\$4,325,000	\$366,200	\$91,550
Marin Community Foundation	\$38,684,083	\$1,000,000	\$250,000

DIRECT

communication

legislator

expresses a view
about specific
legislation



GRASSROOTS

communication

general public

expresses a view
about specific
legislation

call to action



Lobbying for organizations using 501(h)

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U.S. Legislators



State Legislators



County Board of Supervisors, City Council



And...

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

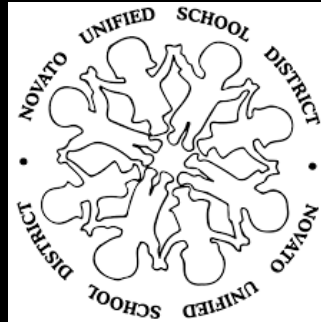
NOT "LEGISLATORS"

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- Police, sheriff
- Housing authorities
- School boards
- ICE (Immigration and Customs Enforcement)
- Other government agencies

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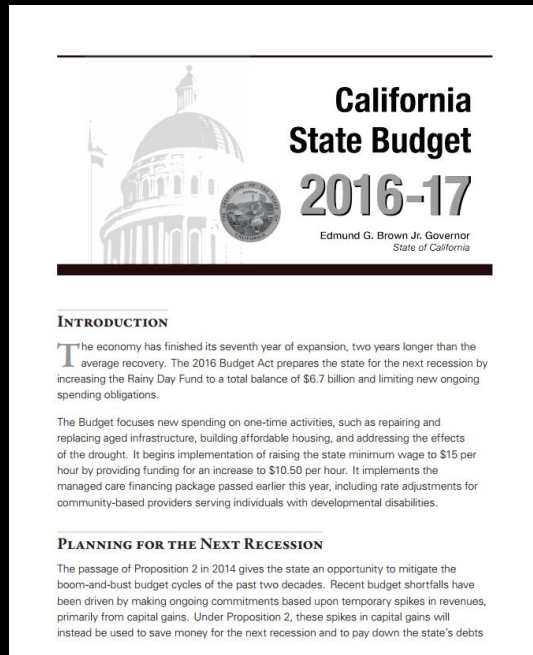
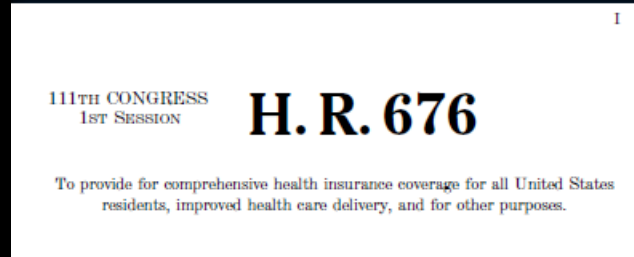
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NOT LEGISLATION

Regulations

HUD Section 504 Regulations

- Federally-Assisted Programs, Services and Activities

3

Executive Orders and Executive Actions



Enforcement of Existing Laws

Litigation



Funding for Sanctuary Jurisdictions is Protected with Nation-wide Preliminary Injunction

The Partnership Recognizes Member Program YWCA Silicon Valley for their Role

In an important move today, Judge William Orrick granted a nationwide preliminary injunction prohibiting the administration from withdrawing federal funding from sanctuary jurisdictions, thereby protecting essential funds for victims of domestic violence, their families and communities.

IRS Lobbying or not, under 501(h)?

Staff members attend a rally during work hours in support of SB 54, the California Values Act. They hold these signs in front of a county office building.



NOT LOBBYING under IRS rules, using 501(h)

IRS Lobbying or not?

Asking Marin County Board of Supervisors to pass a “fair housing” ordinance to protect renters from discrimination.



LOBBYING, under IRS rules

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legislator(s) *or*

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like phone number, e-mail address,
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VSGOLIATH



Photo: Steve Liss - AmericanPoverty.org

Our criminal justice system is killing our youth

The story of Kalief Browder, who struggled to recover from being held in solitary confinement for two years as a teenager and recently took his own life, is all too common in America.

Being held alone for up to 23 hours a day in an empty jail cell has a lasting effect on people of any age. But for youth it can be devastating: impacting brain development and contributing to intense and long-lasting depression, anxiety, and paranoia.

Indeed, 62% of juveniles who have committed suicide while incarcerated have suffered from the effects of solitary confinement.

Together, we can put an end to this horrific cycle.

Right now, the most progressive state level reform in the country is moving through the California legislature — it

Send this Letter to Your Assembly Member:

Support SB 124 (Leno) to Reform Juvenile Solitary Confinement

As your constituent, I urge you to support SB 124 (Leno) which would provide minimal guidelines for California's juvenile facilities around the harmful practice of solitary confinement.

SB 124 is an important step in protecting youth from solitary confinement, a practice that leads to psychological harm, depression, and suicide. In California, there are no

Sign



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Public charities can lobby, but you can only use funding that doesn't prohibit lobbying. So...

1.No lobbying with most government funds and

2.Check to see if your foundation grants restrict lobbying.

What if you don't have funds for lobbying?

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~~Call to action~~

Under 501(h), these are
NOT calls to action:

“Learn more”

“Take action”

“Support our efforts”

“Get involved”



Not Lobbying

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Call to action



Second Harvest Food Bank shared Sheryl Sandberg's post.

May 17 · 🌐

Please take action today >>> The [California Association of Food Banks](#) is requesting \$17.5 million in ongoing support for the Calfood program as part of our state's budget. This will provide 87.5 million meals using California grown foods and is only sufficient to cover the bare minimum for hungry families. The money goes far – for every \$1 dollar spent, 5 meals will be provided statewide. Please call your legislator and assembly members today and request full funding for Calfood.

LOBBYING, under IRS rules



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Support food banks in our state budget!

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Call to action




Nonpartisan analysis, study, or research



Request for technical assistance



Self defense



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

Lobbying **EXCEPTIONS**

MUST

Full and Fair
Discussion

Broadly
Disseminated

MAY

Express a View

Indirect Call to
Action

Subsequent
Grassroots
Lobbying limited



Healthy Aging
Begins at Home

May 2016



Nonpartisan ANALYSIS

MUST

Invitation in
Writing on Behalf
of a Committee

Available to All
Members of
Committee



MAY

Express a View on
Specific Legislation



Technical ASSISTANCE



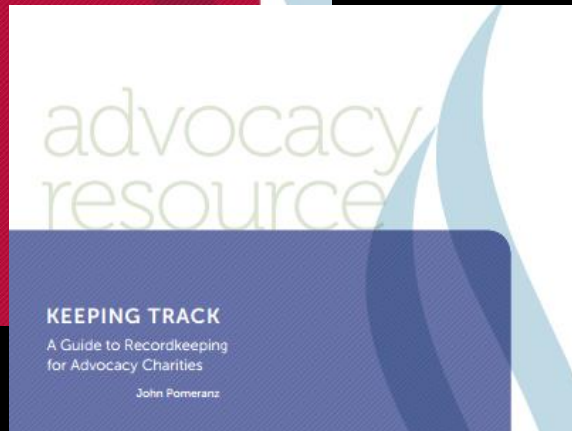
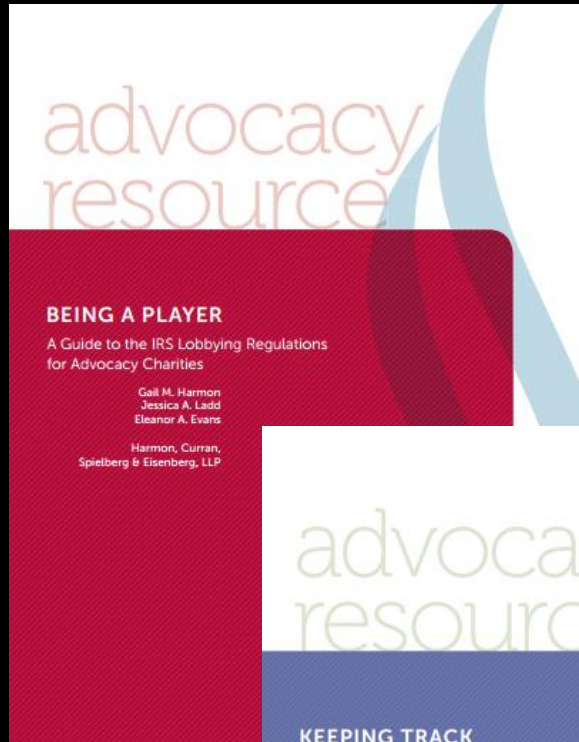
Limits lobbying
for 501(c)(3)s at
all levels of
government

Disclosure of
State
lobbying and
ballot measure
activities

Disclosure of local
lobbying

Lobbying **LIMITS** vs. **DISCLOSURE**

For more information:



ACT!

ADVOCACY CAPACITY TOOL

POWER CHECK

COMMUNITY ORGANIZING CAPACITY TOOL

ACT!Quick

ADVOCACY CAPACITY TOOL



Las Caridades Públicas Sí Pueden Cabildear

Pautas para las Caridades Públicas 501(c)(3)

Las caridades públicas 501(c)(3) (incluyendo las entidades religiosas y las fundaciones públicas) pueden cabildear dentro de los límites generosos permitidos bajo la ley federal. La cantidad de cabildeo que pueda hacer una organización depende de cuál de las dos pruebas utiliza para calcular su cabildeo – “la prueba de gastos 501(h)” o “la prueba de la parte insustancial.” En promulgar las reglas sobre cabildeo, el Servicio de Impuestos Internos (IRS) declaró que bajo cualquier de las dos pruebas, las caridades públicas “pueden hacer cabildeo libremente,” con tal que su cabildeo cabe dentro de los límites especificados.¹

Al elegir 501(h), una Organización Puede Aprovechar al Máximo su Límite de

IRS Lobbying **KEY POINTS:**

- 501(c)(3)s public charities can and should lobby; they just have to stay within their annual lobbying limits.
- Most 501(c)(3) organizations will benefit from using the “501(h) expenditure test” to determine their lobbying limits.
- Many activities that influence policy will not even count as “lobbying.”
- Contact Alliance for Justice for help!



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