# MISSION-DRIVEN CHANGE: Nonprofit Engagement in Advocacy

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AFJ's **Bolder Advocacy** program equips nonprofits with the knowledge and tools necessary to engage in bold and effective advocacy. We build the power of grassroots organizations to reform systems and promote positive policy change.

Learn more about Bolder Advocacy's workshops, technical assistance, and other legal resources.

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# TODAY'S AGENDA

1. Comparing Tax Exempt Organizations
2. 501(c)(3) Public Charity Advocacy
3. 501(c)(4) Social Welfare Advocacy
4. PAC Advocacy

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# COMPARING TAX EXEMPT ORGANIZATIONS

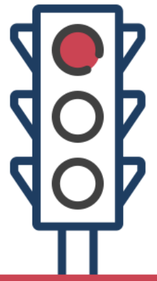
| | 501(c)(3)<br>(Public Charities) | 501(c)(4)<br>(Social Welfare Orgs) | 527<br>(Political Orgs) |
|---|---|---|---|
| **Examples** | ALLIANCE FOR JUSTICE | AFJ ACTION | EMILY's LIST |
| **Tax Treatment** | Tax-exempt<br>Tax-deductible contributions | Tax-exempt | Tax-exempt |
| **Lobbying Activities** | Limited | Unlimited | Rare & usually taxable |
| **Partisan Activities** | Prohibited | Secondary activity | Usually sole activity |

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# AVENUES OF ADVOCACY FOR 501(c)(3) PUBLIC CHARITIES

# Advocacy for 501(c)(3) Public Charities



Partisan Political



Limited Lobbying (Influencing Legislation)



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

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# IRC: Two Ways to Measure Lobbying Limits

## Insubstantial Part

- Default test for all 501(c)(3)s
- No clear definition of lobbying
- "Insubstantial" is about 3-5% of an organization's activities
- Based on paid and unpaid activities

## 501(h) Expenditure

- One time election (file w/IRS Form 5768)
- Clear definitions of lobbying
- Dollar-based formula to calculate lobbying limits
- Only spending counts, not volunteer time

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# Calculating Lobbying Limits – 501(h)

- Based on annual exempt purpose expenditures
- Most organizations can lobby up to 20% of their budget
- GR Lobbying cap: can only use up to 25% of total lobbying limit for grassroots lobbying

| ANNUAL EXPENDITURES | OVERALL LOBBYING LIMIT |
|---|---|
| $500,000 or less | 20% |
| $500,000 to $1 million | $100,000 +<br>15% of excess over $500,000 |
| $1 million to $1.5 million | $175,000 +<br>10% of excess over $1 million |
| $1.5 million to $17 million | $225,000 +<br>5% of excess over $1.5 million |
| Over $17 million | $1,000,000 |

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# Insubstantial Part Test

**(default definition for community foundations and other public charities)**

Contacting legislators to propose, support, or oppose legislation or the government's budget process.

Urging the public to contact legislators to propose, support, or oppose legislation or the government's budget process.

Advocating for the adoption or rejection of legislation.

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# Lobbying Under 501(h)

## (definitions for "electing" public charities & private foundations)

| DIRECT | GRASSROOTS |
| --- | --- |
| Communication | Communication |
| Legislator | General public |
| Expresses a view about specific legislation | Expresses a view about specific legislation |
| | Call to action |



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# Call to Action




**ASKING TO CONTACT** legislators

**PROVIDING ADDRESS,** telephone number, and/or other contact information of legislators

**PROVIDING MECHANISM** to enable communication with legislators

**IDENTIFYING** legislators

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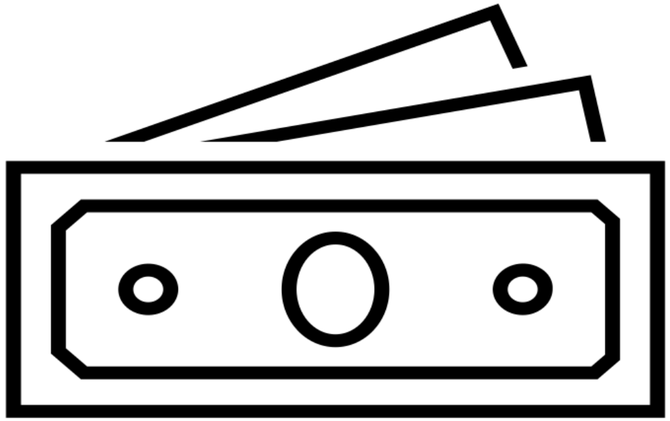
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| EXCEPTIONS | Nonpartisan Analysis | Request for Technical Assistance | Self-Defense | Examinations and Discussions of Social Issues |
|---|---|---|---|---|
| | • Full and fair discussion of all sides of the issue which would allow the reader to make an independent conclusion<br>• Broadly disseminated | • Organization invited in writing by committee<br>• Opinion or testimony must be available to all members of the committee | • Communication with a legislative body regarding possible actions which could affect the organization's existence, powers, duties, tax- exempt status, or the deductibility of contributions to the organization | • Communications to the public, legislative bodies, or governmental employees on general topics<br>• Must not refer to specific legislation or directly encourage the recipients to take action |

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# Texas Lobbyist Registration



Direct communication with certain government officials to influence legislation **or** administrative action

**Expenditures**

2026: Spending more than $990 in calendar quarter

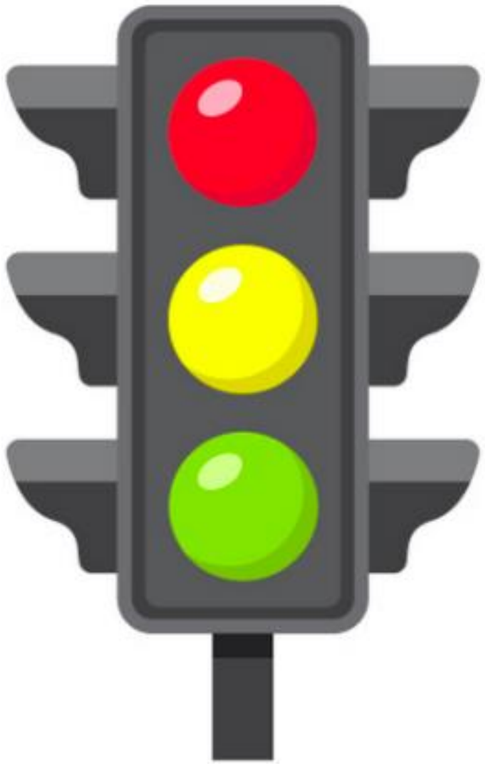
**Compensation Reimbursement**

2026: Receiving more than $1990 in calendar quarter

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# What Does it Mean to Remain Nonpartisan?



## “Facts and Circumstances”

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# "Facts and Circumstances"

## "Good" Facts

- ☺ No reference to a candidate or an election
- ☺ Timing driven by factors other than an election
- ☺ Targets a specific sector of the community for reason unrelated to a candidate election

## "Bad" Facts

- ☹ Refers to candidate as a candidate
- ☹ Timing motivated by an election
- ☹ Targets a specific sector of the community to influence the outcome of a candidate election

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# "Facts and Circumstances"

## "Good" Facts

- ☺ Provides information about issues with no mention of a candidate's position
- ☺ Organization's history of similar advocacy on the issue

## "Bad" Facts

- ☹ Compares a candidate's position to the organization's position
- ☹ Emphasizes wedge issue dividing candidates, especially if the organization is doing it for the first time

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# 501(c)(4) Social Welfare Advocacy

# Advocacy for 501(c)(4)s



Partisan Political, Secondary Activity



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

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# Primary Purpose Activities for 501(c)(4)s

**Issue Advocacy**
Advocating for organization's issues, including unlimited lobbying

**Candidate Education**
Helping candidates understand the importance of your issues

**Voter Education**
Educating voters in a nonpartisan way about candidates

**Voter Outreach/Civic Engagement**
Registering voters, getting out the vote

**Ballot Measures**
Support or oppose state or local ballot measures

**Influencing Platforms and Policy Positions**
of political parties and candidates

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# Secondary Purpose Activities for 501(c)(4)s

**Endorsements**
For candidates or political parties

**Statements or Activities**
In favor of or against candidates

**Independent Expenditures**
Not coordinated with candidates or campaigns

**Partisan GOTV Targeting**
Based on how you think voters will vote on candidates

**Publicizing Issue Positions**
of candidates and / or highlighting how they compare with org stance

**Payments**
For administrative or fundraising costs of connected PAC

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# PAC Advocacy

# Political Action Committees



Partisan Political Activity Only (Support & Opposition of Candidates)

| | Traditional PACs | Super PACs | State PACs |
|---|---|---|---|
| **Contribution Limits** | $5000 per contributor | None | Consult state law |
| **Contribution Sources** | • No funds from foreign nationals, national banks, or government contractors<br>• No corporate or union funds<br>• If connected PAC, only contributions from restricted class | • No funds from foreign nationals, national banks, or government contractors<br>• Corporate and union funds permitted | • No funds from foreign nationals, national banks, or government contractors<br>• See state law for additional restrictions |

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