



As coalitions, may we lobby? Should we? It all seems so unclear, and many coalitions struggle with the particulars of lobbying. By its nature, a coalition is the advocacy organization for the state or territory on issues related to sexual violence. Coalitions may and should lobby. This resource presents the current federal guidelines and limitations as they affect coalitions and any coalition staff responsible for lobbying. State provisions also apply and you will need to seek out resources and legal assistance in your state or territory to help your coalition navigate and maintain compliance with any restrictions on lobbying.

**What is direct lobbying?**

Communication + with a **legislative body** + that expresses a view about specific legislation

**What is grassroots lobbying?**

Communication + to the **general public** + that expresses a view about specific legislation + that includes a call to action.

Grassroots Lobbying	Direct Lobbying	Not Lobbying
Communication with the public, such as “calls to action” urging the public to contact a legislator on an issue, providing a means for the public to communicate with the legislator, and identifying the legislator’s position.	Communicating directly with a legislator’s office by phone, email or fax urging them to vote a certain way on specific legislation.	Giving a tour of your program to a legislator or their staff.
Paid mass media advertisements referring to a specific legislation.	Meeting with your legislator on specific legislation.	Sending information about your program to your legislator’s offices.

A guiding principle for a nonprofit’s permissible advocacy activities is to remain nonpartisan. As long as an organization has not aligned itself with a party, it can engage in substantive issue-driven lobbying on behalf of survivors.

Nonprofits CAN\*

- Write letters and make calls to legislators
- Invite legislator to visit your program/event
- Conduct educational meetings with legislative offices and share stories
- Write letters to the editor in local media
- Send action alerts

- Prepare and distribute educational materials such as nonpartisan analysis, study, or research that incorporates survivor-driven perspectives of an issue
- Respond to requests for assistance from committees or other legislative bodies
- Engage in collaborative policy development with government agencies
- Examine broad social, economic, or similar problems
- Conduct voter education activities (including presenting public forums and publishing voter education guides)
- Conduct activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote (GOVT) drives (so long as they are not attached to a party or candidate). GOVT drives are often conducted by a party or candidate, so it is important to pay attention to how these are organized.

\*From <http://www.nationallatinonetwork.org/policy-action/policy/policy-101/non-profits-a-lobbying>

### **There are three federal guidelines on lobbying that are of interest to coalitions.**

First, as nonprofit organizations, coalitions are subject to IRS Sec. 501(c)(3).

- *No substantial part of the 501 (c) (3)'s activities is used for carrying on propaganda, or otherwise attempting, to influence legislation.*
- *The 501 (c) (3) does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.*

Second, the 2002 Anti-Lobbying Act, 18 USC 1913 says:

*No part of the money appropriated by any enactment of Congress shall in the absence of express authorization by Congress be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device intended or designed to influence in any manner a Member of Congress, a jurisdiction, or any official of any government to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation.*

Third, 2005 VAWA Reauthorization -- 42 USC 13925(b)(10) reiterates compliance with the above Anti-Lobbying Act as a condition for grantees of Office of Violence Against Women grant programs:

*Any funds appropriated for the grant program shall be subject to the prohibition in section 1913 of title 18, relating to lobbying with appropriated moneys.*

In summary, there are only three limitations:

- Don't, for any reason at all, participate or intervene in a political campaign.
- Don't use a *substantial part* of organization's funds to lobby.
- Don't use any federal funds (including VAWA funds) to lobby.

Doing any of those can put your tax-exempt status in jeopardy or subject you to applicable taxes. Coalition must follow IRS requirements, in addition to federal funding restrictions.

**There are two standards to help you figure out how much lobbying is allowed:**

**The Insubstantial Part Test** is the default standard that the IRS uses unless an organization chooses the alternative standard. This test requires that “no substantial part” of a 501(c)(3) organization’s activities be “carrying on propaganda or otherwise attempting to influence legislation.” This test is somewhat problematic, however, because the IRS and the courts have not yet clearly defined what constitutes a “substantial part.” In addition, the Insubstantial Part Test does not provide adequate guidelines on what exactly constitutes lobbying.

So, for most 501(c)(3) organizations, **the 501(h) Expenditure Test** is a better option because it provides greater clarity. The 501(h) Expenditure Test is the alternative standard used by the IRS to measure lobbying activities (resource listed below). This test authorizes a percentage (beginning with 20% for an organization with a budget of \$500,000 or less) of the organization’s budget that may be used on lobbying. Activities that do not generate expenses (such as work completed by volunteers) do not count as lobbying. The 501(h) test is generally preferable because the test provides clearer definitions of how much lobbying you can do which is arguably more lobbying than allowed under the Insubstantial Part Test.

Regarding policy changes/legislation, coalitions may use VAWA funds to provide information, under two sections of VAWA:

**Special VAWA Grantees “Advocacy” Permission 42 USC 19325(b)(3)**

In carrying out the activities under VAWA grantees and sub-grantees may use VAWA funds to:

- collaborate with and provide information to Federal, state, local, tribal, and territorial public officials and agencies
- develop and implement policies to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.

**Under VAWA 2013, there is new language that provides for some (very specific) lobbying activity:**

- Purpose Area: “developing and promoting state, local, or tribal legislation and policies that enhance best practices for responding to domestic violence, dating violence, sexual assault, and stalking;”
- Approved activities: “grantees ...may collaborate with or provide information to Federal, State, local, tribal, and territorial public officials and agencies to develop and implement policies and develop and promote State, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking.”
- The lobbying prohibition describes activities that constitute lobbying “unless prior authorization has been provided.” The new language in VAWA 2013 provides the direct authorization needed, thereby waiving the lobbying restrictions in regard to these activities.

Final word regarding direct lobbying:

- Do **not** use federal dollars for lobbying, but feel free to lobby using unrestricted funds
- Use only an “insubstantial part” of your overall budget (or apply for the 501 (h) election); and
- Know your other funding restrictions (state, local, or private)

And most importantly, DOCUMENT, DOCUMENT, DOCUMENT on your timesheets and in your 990 filings.

#### Resources

---

**Alliance for Justice** helps nonprofits and foundations navigate the rules and regulations, and better understand what’s possible through advocacy. Resources include, navigating nonprofit rules, multiple toolkits for effective advocacy, and resources for funding your advocacy: <http://bolderadvocacy.org/>.

**The Internal Revenue Service** has a page on the Published Guidance on Political Campaign Activity of 501(c)(3) Organizations: [http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Published-Guidance-on-Political-Campaign-Activity-of-501\(c\)\(3\)-Organizations](http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Published-Guidance-on-Political-Campaign-Activity-of-501(c)(3)-Organizations).

The **National Alliance to End Sexual Violence** has an excellent introduction to federal lobbying, with information on understanding the federal legislative process, including action tools such as tips for meeting with your legislator: <http://www.nsvrc.org/publications/guides/sexual-assault-advocacy-guide-advocate%E2%80%99s-guide-sexual-assault-policy>.

**The National Council of Nonprofits** describes the 501(h) election referenced above: <https://www.councilofnonprofits.org/taking-the-501h-election>.

**The National Latin@ Network** is a project of Casa de Esperanza. They engage in federal and state public policy advocacy and conduct research on issues that affect Latin@s in the US and abroad. Their section on Policy 101 is a useful tool and includes:

- How a Bill Becomes Law with a helpful flow chart <http://www.nationallatinonetwork.org/policy-action/policy/policy-101/legislative-process>
- Definitions of lobbying and permissible activities <http://www.nationallatinonetwork.org/policy-action/policy/policy-101/non-profits-a-lobbying>

*Adapted from Cat Fribley and Kim Gandy’s presentation, Yes, You May Lobby from the RSP/NNEDV New ED Training Oct. 2014, The National Latin@ Network’s definitions of lobbying and permissible activities, and NAESV’s Sexual Assault Advocacy Guide.*

*This project was supported by Grant No. 2011-TA-AX-K054 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the authors and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.*