

Democracy is Not a Spectator Sport

State and Federal Laws as They Impact the Ability of Individuals and Organizations to Engage in Advocacy and Lobbying

Advocacy and lobbying are not interchangeable terms. Lobbying has a very specific legal definition in federal IRS code and the State of Wisconsin's lobby laws.

Lobbying occurs under a very specific set of circumstances, which includes compensation, requesting legislators or state officials to take a specified position on a specific piece of legislation or proposing specific language as part of an administrative rule is lobbying.

Advocacy is more general; advancing a cause or issue not tied to a specific piece of legislation or administrative rule.

It is also important to clearly distinguish between

- prohibiting or limiting an activity and
- requiring disclosure of the activity.

Acting as Private Citizens

Citizens have the right to express their personal opinion and can support specific legislation to

- any elected official.
- government administrative officials.

Simply communicate your opinions as your own, not the "official" views of an organization you belong to or work for. Your views may be identical to those professed by the group, but communicate them as your personal views. Of course, if you are ever asked if you belong to a specific group or are employed by a specific organization, you are free to answer. It isn't lobbying – it's citizenship!

Acting as an Employee of an Organization

As an employee, board member or volunteer representing an organization you may provide information to elected officials on any issue or topic area so long as you are not attempting to influence legislation or administrative rule. You should check the organization's policy to determine what restraints the organization places on this activity during business hours or using office equipment (telephone, computer, and internet).

Some employers require employees or officers to report all contacts with elected officials on topics that fall within the scope of their duties, even if it is not lobbying. After hours, you are acting as a citizen.

For example, if you run into State Senator Madison (an old family friend) on the street and he asks your thoughts on an issue that impacts your employer, internal policy may require you to report the contact. Responding to direct questions won't run afoul of the law but some groups or your employer may wish to know.

If you are an employee, board member or volunteer representing an organization and want to influence legislation or administrative rule you may do so within specific guidelines and the organization's rules.

1. Rules Affecting You as an Employee Based on the Employer's Tax Status

A. If you work for a 501(c)3 non-profit organization you should know that IRS rules allow lobbying by nonprofit groups, but place limits on the amount of lobbying the organization may undertake. All 501(c)3 groups select one of two ways to report the amount spent on lobbying. Individual lobbying must be reported and calculated into the organization's overall lobbying, which is reported each year. Individuals may confuse the organization's legitimate need to be aware of lobbying activity with a prohibition on lobbying. More importantly, these limitations should not curtail your personal involvement in the legislative process.

Federal IRS regulations allow 501(c)3 organizations to engage in limited amounts of lobbying activities as outlined below:

Direct lobbying: Narrowly defined as communication with a legislator, staff member or government employee that refers to a specific piece of legislation **and** reflects a view on that legislation. Lobbying is limited to *legislative* activities; efforts to influence federal *regulations* are not considered lobbying.

Direct lobbying example: You meet with an elected official. During the course of the meeting you say, "On behalf of the XYZ Coalition I'm asking for you to support SB1".

Grassroots lobbying: Communications to the general public naming specific legislation, reflecting a view on the legislation and a call to action. The phrase "call to action" means it requests the reader to contact legislators with a request to support or defeat the legislation. Information without the call to action is not grassroots lobbying.

Grassroots lobbying example: A radio or newspaper ad that says "Call Senator Madison today and tell him that you want him to vote YES on SB 1."

Advocacy example: A radio or newspaper ad that says "Underage alcohol use is a serious problem in our community. Studies show that when the excise tax on beer goes up underage drinking goes down".

B. If you are employed by the federal, state, or local government you will generally not be allowed to engage in lobbying or advocacy as part of your job or during business hours unless it is part of your job description.

C. If you work for a private, for-profit organization you should check your personnel policies to determine whether and to what degree you may represent the views of your organization during business hours.

2. State or Local Lobbying Laws

In addition to the guidelines covered in Section 1, above, you need to understand applicable state and local lobbying laws. These laws may not prohibit specific activities, but may require you to register and report your lobbying activities.

A. Local Lobbying Laws. Not all municipalities or local units of government require lobbyists to limit, register, report or otherwise disclose their actions. Contact your local municipal clerk to determine the requirements in your area. Most local lobby ordinances stress public disclosure of activity rather than place restrictions on specific activities. Your organization may be permitted to undertake any type of education, advocacy or lobbying activities in support of local ordinances (e.g., smoke-free laws) with the local elected officials, but may be required to report that activity or face penalties.

B. Wisconsin Lobby Laws. Wisconsin requires individuals and organizations that engage in lobbying to register as lobbyists if certain conditions are met.

You must register with the Ethics Board only if **all four** of these conditions apply:

- You attempt to influence state legislation or an administrative rule by representing the views of a business or organization, and
- Are paid by the organization for this purpose, and
- Convey the views to Legislators from districts outside the one in which you reside, and
- Do so on more than 4 days in a six-month period (Jan.-June, July – Dec.)

Therefore, you **do not** need to register if:

- You are an unpaid volunteer or board member for an organization whose views you are representing, or
- You communicate **ONLY** with legislators within your district, or
- You are paid to represent your organization's views but do so on four or fewer days in the six month period.

Funding Advocacy & Lobbying

You may be able to use federal or state grant funds for grant related advocacy activities. For example, federal Drug Free Community Support grants can be used to recruit, train and organize volunteers (including youth), conduct public education events, educate legislative officials about local alcohol and other drug abuse conditions, concerns and data, etc.

You cannot use federal grant funds to lobby federal or state legislatures or executive branches. Because some funds that come from the State are federal funds, organizations need to understand the source of all funds received.

Check with your granting agencies or your contract to determine whether you may utilize any state grant funds to support lobbying activities. Unless you establish otherwise you should assume that you may not use state grant funds to support lobbying activities.

Foundations operate under more stringent rules. In general, foundation grants may not be used for lobbying.

Electoral Activities

Groups classified as 501(c)3 organizations may not engage in any partisan electoral activities. Specifically, they may not endorse or support a specific candidate. However, these organizations can sponsor candidate forums and questionnaires on issues of interest to the organization.

- Individuals acting as private citizens can, of course, participate to the full extent that they wish in electoral activities.
- Government employees are prohibited from engaging in political work during paid work time.
- Individuals employed by private for-profit organizations will be subject to the work rules and policies of those organizations.