



**March 2021**

## **I. Overview of 501(c)(3) Organizations (Charitable Purposes)**

- **Limited lobbying is permitted**, but it must be insubstantial in relation to overall activity
  - “no substantial part” of the organization’s activities may be “carrying on propaganda, or otherwise attempting, to influence legislation” ([501\(c\)\(3\)](#))
    - Legislation includes action by Congress, state legislatures, local councils, or similar governing bodies, with respect to acts, bills, resolutions, or similar items, or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies. ([IRS – Lobbying](#))
    - Lobbying includes both direct lobbying (attempting to influence legislatures) and grassroots lobbying (attempting to influence legislation by influencing the general public) ([Form 990 Instructions](#))
      - Detailed definitions of direct and grassroots lobbying are found in the [Form 990 Schedule C Instructions](#)
    - There are 2 tests that can be used to assess whether lobbying activity is “substantial” – the “Substantial Part Test” and the “Expenditure Test.”
  - Examples of lobbying activities include: ([IRS – Lobbying](#))
    - Contacting, or urging the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation
    - Advocating for the adoption or rejection of legislation
- **Political campaign intervention is prohibited**
  - May “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.” ([501\(c\)\(3\)](#) and [IRS - The Restriction of Political Campaign Intervention by Section 501\(c\)\(3\) Tax-Exempt Organizations](#))
  - Examples of prohibited political campaign intervention include: ([IRS - The Restriction of Political Campaign Intervention by Section 501\(c\)\(3\) Tax-Exempt Organizations](#))
    - Contributions to political campaign funds or public statements of position (verbal or written) in favor of or in opposition to any candidate for public office
    - Voter education or registration activities with evidence of a bias that favor or oppose one candidate or group



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- Directors, officers or other charity officials *may* participate or intervene in political campaigns as long as they act in a private, not an official, capacity.
- ***Unlimited nonpartisan advocacy is permitted, but context is important***
  - Examples of nonpartisan activities include:
    - Holding educational meetings, preparing and distributing educational materials, or otherwise considering public policy issues in an educational manner ([IRS – Lobbying](#))
    - Conducting, in a non-partisan manner, certain activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives ([IRS - The Restriction of Political Campaign Intervention by Section 501\(c\)\(3\) Tax-Exempt Organizations](#))

## **II. Overview of 501(c)(4) Organizations (Social Welfare Purposes)**

- ***Unlimited lobbying is permitted*** as long as it is in support of the organization's social welfare purpose
  - Seeking legislation germane to the organization's programs is a permissible means of attaining social welfare purposes. ([IRS – Social Welfare Organizations](#))
  - *Note:* "a section 501(c)(4) organization that engages in lobbying may be required to either provide notice to its members regarding the percentage of dues paid that are applicable to lobbying activities or pay a proxy tax." ([IRS – Social Welfare Organizations](#))
- ***Limited political campaign intervention is permitted***
  - A 501(c)(4) social welfare organization must be primarily engaged in activities to promote the social welfare. It may, however, engage in some political activities, so long as that is not its primary activity ([IRS – Social Welfare Organizations](#), [IRS Private Letter Ruling 200833021](#))
    - The determination of whether activity is "primary" is a "facts and circumstances" determination.
  - Political activities include influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any federal, state, local public office or office in a political organization, or the election of the Presidential or Vice Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed ([Political Activities of Exempt Organizations](#))
  - *Note:* "any expenditure it makes for political activities may be subject to tax under section 527(f)" ([IRS – Social Welfare Organizations](#))
- ***Unlimited nonpartisan advocacy is permitted, but context is important***



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