

***Legislative Advocacy & Lobbying Policy Guide***

***For Community Mediation Centers***

**Resolution Washington – a 501(c)(6) organization**

Trade associations (501(c)(6) organizations) may lobby without limits and engage in some partisan political activities.

**Individual Dispute Resolution Centers - 501(c)(3) organizations**

501(c)(3) organizations have some restrictions on their activities, and there are a number of ways that nonprofits can be involved in the policy and electoral process. 501(c)(3) public charities are permitted to lobby up to a certain amount each year. Lobbying, under federal tax law, is a specifically defined activity and is just one form of advocacy that an organization may engage in to achieve its particular goals and serve its constituencies. Other forms of advocacy include educating policymakers and the public about broad social issues, encouraging people to register to vote, organizing communities, and educating voters about candidate positions.

To determine how much they can lobby, 501(c)(3) public charities first must choose how they will measure their lobbying limits. There are two ways for public charities to measure their lobbying: the *insubstantial part test* and the *501(h) expenditure test*.

*Insubstantial Part Test*

The insubstantial part test is the default test under which 501(c)(3) public charities measure their lobbying. Under this test, lobbying may not be a substantial part of an organization's overall activity. Unfortunately, the IRS has not provided guidance on what is an appropriate "insubstantial" amount of lobbying, and has not defined what exactly it considers to be lobbying under this test. Most tax practitioners believe that if a public charity's lobbying activity is less than 5 percent of its overall activities, it would be an insubstantial amount of lobbying.

Reporting requirement: a public charity operating under the insubstantial part test, or a "non-electing public charity," reports its lobbying activities on its annual Form 990 information return to the IRS. The 990 requires a public charity to provide a detailed written description of the lobbying activities it has engaged in that tax year. The public charity must account for the time that any unpaid volunteers have spent on lobbying for the organization.

*501(h) expenditure test*

An organization that has made the 501(h) election may generally spend up to 20 percent of its annual expenditures on lobbying in general, and not more than one-quarter of its overall lobbying limit may be spent on grassroots lobbying. Under this expenditure test, there are two different types of lobbying: direct lobbying and grassroots lobbying.

**Communication w/ Legislator + Mentioning Specific Legislation = Direct Lobbying**

**Communication w/ Public + Call to Action = Grassroots Lobbying**

Reporting requirement: a public charity operating under the 501(h) expenditure test, or an "electing public charity," only has to report on the Form 990 its expenditures on lobbying activities. There is no need to provide a written description of the organization's lobbying activities or count the time of volunteers lobbying on behalf of the organization; there is an absolute prohibition on engaging in partisan political activities. No 501(c)(3) may support or oppose any candidate for public office. This prohibits direct endorsements or contributions by the organization as well as even the use of 501(c)(3) resources to support or oppose a particular candidate or party.

**Key Takeaways**

As 501(c)(3) organizations, individual dispute resolutions centers:

***Must-***

Know how the IRS defines lobbying (see above).

Know how your organization chooses to report lobbying activities to the IRS (see above).

***Must Not-***

Support or oppose a candidate for public office.