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Please Note: The material in this Appendix was designed to be copied and used. The first is a simple, two-page description of policy advocacy that you can copy for use as a handout at meetings or advocacy workshops. You may find it helpful to have copies of the list of useful resources with you, but be sure to add items of particular interest to your constituency to these items.

Policy Advocacy: The Ten Minute Version By Nancy Amidei

If you have ever:

- Gone to bat for your child when there was a problem at school;
- Helped a relative or neighbor get care when they were sick; or
- Asked friends to support a favorite project—

then you have been an advocate.

Advocacy means to *speak up*, to *plead the case of another*, or to *champion a cause*. Usually advocacy involves bringing influence to bear to win change. It is something most of us do routinely on behalf of ourselves, our families, our neighbors, and our friends.

Policy advocacy is no different, except that the advocacy may be on behalf of people we don't personally know, and those being influenced work with laws, public programs, or court decisions. That includes anyone in a public policy-making role (like a county commissioner, state legislator, or government employee).

Policy advocacy can be useful at all levels of government. For example, if you have a family member with a mental or physical disability, policies at federal, state, and local levels already affect your lives:

- Local school boards must carry out the federal law that requires an Individualized Education Plan for handicapped children;
- County government is usually responsible for such social services as sheltered workshops and adult day care;
- City government is likely to be responsible for whether or not buses, roadways, and public buildings are accessible to wheelchairs;
- State government determines the income eligibility limits for Medicaid; and
- The federal government is responsible for protecting the civil rights of people with disabilities.

One way or another, legislators, government agencies and the courts all affect whether people with disabilities and their families can live full and productive lives. But sometimes it takes the help of an advocate to make everything work as it should.

If you want to make a positive difference for vulnerable people in your community, then you will need to take three steps.

1. Be informed. This part is obvious. It doesn't help to be well-meaning but misinformed. Getting the basic facts is the first step, and not very hard.

Get on the mailing list of an advocacy group that focuses on your issue. If you are concerned about the need for child care in your community, you could get on the mailing list of a national or local child advocacy group, and go to public meetings where child care needs are discussed. Local advocates can direct you to reports on the subject, and you could follow the issue in the media. Before long, you'll know a lot about child care.

2. Be involved. This step is also pretty obvious, and one that most people take almost instinctively. It makes sense to want to act once you know the need.

Here too there are many possibilities. You could volunteer at a Head Start program, attend a conference, or answer telephone inquiries at a Resource and Referral line. Others help by babysitting for the children of homeless families while their parents are out looking for housing or work.

Taking steps one and two will help alleviate some immediate problems. That is a good thing, but the problems will still be there, as will their causes — largely unchanged. Just being informed — without acting — is like going to a restaurant just to read the menu. You'd be informed, but you'd be missing the point. To be effective, one more step is needed.

3. Be an advocate. This does not come as easily to most people, but it represents the best hope for getting at why there is a problem in the first place.

Here too there are many choices for action. You could make calls or write letters about child care measures before your state legislature. You could help design and carry out a campaign to educate the voters. You can urge your governor to support adequate child care funding. You can write comments letters when federal regulations affecting child care are revised. In short, you can take steps to insure that there will be real child care choices available to meet the needs in your community.

Three Basic Tools, Two Critical Audiences

No matter what the level of government, the nature of the change desired, or the need, there are three basic tools available to every policy advocate and two key audiences. When you want to reach a policy maker, you should plan to:

Write Call Visit

If policy makers are to represent your wishes in the policy process, they need to hear from you. The fundamentals of contacting policy makers are so reasonable you'll wonder why you haven't done it (or more of it) before.

- Be brief and to the point;
- Identify yourself and how you (or people you know) will be affected by what's being proposed – that is, a new law, a cut in the budget, a change in the rules that govern a program;
- Be clear about what you want. Name the law that's being discussed or the program rules that are about to be changed, and specifically what you want the policy-maker to do.
- Mention provisions that you agree and disagree with, and if possible, offer some alternative
- Let them know how you can be reached for further information, a clarification, or help.

In addition to reaching policy makers directly, there's a second audience to keep in mind: other voters. If enough of them get aroused, they will help make your case, and your job will be easier.

The same basic tools apply.

Write

With a few minor changes, the letter you sent to a legislator can also be sent as a letter-to-the-editor. That way your message may reach many other voters.

Call

The same message you leave on your Congressperson's message machine can be called in to a radio call-in show. That's another way your message can reach other voters.

Visit

Or, you can take the "little speech" you memorized to speak to the county commissioner the other day at the mall, and repeat it at your church group, rotary club, or PTA. That's one more way that your message can reach other voters.

Basic Advocacy Is Not Hard

While it is certainly true that some advocacy is carried out by experts, and may involve super-sophisticated organizations and strategies, there is still much to do that is simple and easy. You don't need to be an expert, you just need to care enough to get involved and speak up. That means bringing whatever power you have – as a taxpayer and a voter – to make our democratic system work. Your influence is greater than you think and not hard to use. Just consider:

- Speaking up won't guarantee that you will win, but not speaking up guarantees that your wishes won't be known.
- Advocacy is easier, and frequently more fun, if you are part of a group. (It also helps boost your courage and bolster morale.)
- It helps to go along with someone more experienced the first few times. It won't seem so intimidating and having someone else do the talking helps a lot. Much of learning involves watching (and imitating) others. Advocacy is no different.
- Don't be afraid of being asked something you can't answer. Many politicians have message machines, so you may just be talking to a machine. And, as one Senate aide explained, her job was to record each caller's name, address, and message – not to put the Senator's constituents on the spot by interrogating them.
- What if you are asked something you can't answer? Simple, do as the politicians do: say you don't know, but you'll find out and get back to them. Then do. When Utah Governor Norman Bangerter met with human needs advocates at a "Citizen's Day At the Legislature," there were questions he couldn't answer. He acknowledged the fact and said he'd get back to the groups with the answer. You can do the same.
- Don't be afraid of being rejected. As one politician explained, even if he thought your idea was goofy, he'd fudge around or nod rather than say so. Elected officials are not likely to risk losing your vote by telling you off.
- Practice helps. Memorize a little speech, or write out a script to use on the phone. Role-play the meeting or call with a friend. And don't worry if you lack the charm of Ronald Reagan or the moral stature of Mother Teresa.

Your only task is to be yourself: a citizen and voter who wants government policies to work for the most vulnerable as well as they do for the most powerful.

Key Advocacy Infrastructure Resources

Alliance for Justice Nonprofit Advocacy Project <http://www.afj.org/fai/nonprof.html>
Information on trainings on nonprofit advocacy laws and publications, alerts on recent events impacting advocacy and an online copy of the booklet E-Advocacy for Nonprofits: The Law of Lobbying and Election-Related Activity on the Net.

Charity Lobbying in the Public Interest <http://www.clpi.org>
This training and technical assistance group offers information on effective lobbying techniques and laws governing lobbying by 501(c)(3) organizations on its site. You can also send in a message with your lobbying questions for CLPI's founder, Bob Smucker.

Council on Foundations <http://www.cof.org>
Information on philanthropy, funders and policy issues that affect them.

Independent Sector <http://www.independentsector.org>
IS is a national membership organization of diverse nonprofits. Their web site has information on the nonprofit sector, including research and policy issues.

National Council of Nonprofit Associations <http://www.ncna.org>
National network of 37 state and regional associations of nonprofits representing more than 21,000 nonprofits throughout the country.

National Committee for Responsive Philanthropy <http://www.ncrp.org/>
Publications and policy information on making philanthropy more responsive to the people with the least wealth and opportunity.

OMB Watch <http://www.ombwatch.org/>
Information on federal developments impacting nonprofit advocacy, regulation of industries, the federal budget, government accountability and availability of government information.

Helpful Web Sites for Making A Difference

The following is a small sample of the increasing number of online advocacy vehicles and resources for individuals and organizations to make a difference at the neighborhood, community, city, state, regional, national, and international level. We are actively seeking to expand this list online, in an effort to locate and highlight complementary resources (See www.ombwatch.org). We encourage you to submit suggestions, updates, and corrections to ombwatch@ombwatch.org.

Act for Change <http://www.actforchange.com>

Provides tools for visitors to receive news, contribute to causes by direct donation or shopping online, volunteer, or to speak out on a range of progressive issues.

Activist Central <http://capwiz.com/ombwatch>

Allows users to locate and send electronic messages to Congressional, federal agency, state legislative, and media figures via e-mail and allows them to print letter to send; and to make their correspondence available for public viewing. Users can also register to receive updates of their members' votes and to locate action alerts of interests according to policy areas.

Advocacy Project <http://www.advocacynet.org>

Nonprofit virtual partnership assisting advocates who are working on the front lines for social justice, peace and human rights, through content development and dissemination, needs assessment and technical support, web site design, networking, policy analysis, and campaigning support.

COMM-ORG: The On-Line Conference On Community Organizing and Development

<http://comm-org.utoledo.edu>

Discussion list and online archive connecting the community organizing and academic worlds. Includes discussion around assessing and evaluating organizing techniques and strategies, papers and course syllabi.

DemocracyNet <http://www.dnet.org>

Interactive online resource serving to increase voter understanding and participation. It currently highlights issues of over 17,000 candidates in over 7,000 federal, state and local elections through a searchable database of issues, and facilitates candidate "electronic town halls" before on-line audiences to foster greater civic participation and interaction between voters and candidates.

E-activist <http://www.eactivist.org>

Consisting of issue-based online electronic advocacy "e-actions," set up in partnership with a range of progressive nonprofits in the areas of animal rights, anti-racism, corporate accountability, environment, grassroots democracy and civil rights, health and safety, human rights, labor, media, peace and nonviolence, and women's and children's rights.

Helpful Web Sites for Making A Difference (con't)

E-thepeople <http://www.e-thepeople.org>

Integrates a petitioning application with Quorum's discussion methodology, allowing individuals to electronically communicate with federal, state, and local officials, and to interact with other citizens through online forums, debates, and petitions. It also provides news and updates on legislation of general interest

eBase <http://www.ebase.org>

Free Windows-based contact management database of members, donors, volunteers, activists, funders developed by Tech Rocks.

Idealist <http://www.idealists.org>

A global online network of nearly 30,000 community and nonprofit organizations in over 150 countries working to create and sustain practical solutions to social and environmental problems. Idealist connects individuals and social change actors through a searchable online database and customizable e-mail notifications of events, volunteer and job opportunities, and resources.

Internal Revenue Service <http://www.irs.gov/charities>

The IRS has created a special section on its website that has information on lobbying and election rules for nonprofits, as well as publications, forms and information on reporting, tax exemption and other issues of interest.

Midwest Academy <http://www.midwestacademy.com>

Information on direct action organizing training and publications, along with online tutorials.

National Association of Child Advocates <http://www.childadvocacy.org>

Information to help build the capacity of state and local child advocacy organizations containing information ranging from the basics of child advocacy to process and selection of issues.

National Council of State Legislatures http://www.ncsl.org/programs/ethics/e_lobbinfo.htm

State by state information on registration and reporting laws for lobbying.

NPAAction <http://www.npaction.org>

This one-stop resource for nonprofits has a wealth of material on advocacy, including tips sheets, downloadable forms and handouts, articles explaining laws on advocacy for nonprofits, forums for sharing ideas and more. Contains tools for engaging in advocacy and links to key web sites provide vital information about strategies for success and laws governing nonprofit policy involvement. An online contact system gives visitors access to the federal government, state and local elected officials and the media. The site is sponsored by OMB Watch.

Helpful Web Sites for Making A Difference (con't)

ONE/Northwest <http://www.onenw.org>

Nonprofit advocacy technology training and assistance group, supporting environmental groups in the Pacific Northwest, and providing free advocacy and technology capacity assessment resources online.

One World <http://www.oneworld.net>

An international network of over 1000 organizations organized into regional and topical online centers collaboratively hosting a directory of progressive nonprofit organizations, news, calendars, specialized policy news and reference information "mini portals" focused on specific issue areas, as well as the means to work or volunteer with organizations and engage in online advocacy campaigns.

Organizers' Database <http://organizenow.net/odb.html>

Free Windows-based membership management system and grassroots contact manager developed by the Organizers' Collaborative.

SPIN Project <http://www.spinproject.org>

Media technical assistance to nonprofit public-interest organizations, including online tutorials on everything from developing a media plan to photo ops and media events.

Virginia Organizing Project <http://www.virginia-organizing.org>

This statewide grassroots organization has an Organizing Toolbox on its web site with articles and tip sheets on everything from "Build Public Relationships With Elected Officials" to "Tips For Chairing Meetings."

VolunteerMatch <http://www.volunteermatch.org>

Nonprofit online service connecting individuals with causes in their communities through a ZIP code locator service.

WebActive <http://www.webactive.com>

Progressive media and nonprofit directory portal emphasizing the use of streaming media and newsfeeds to keep audiences abreast of policy issues, as well as providing a searchable database of progressive nonprofit organizations online.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 26 2000

Charity Lobbying in the Public Interest, a Project of
Independent Sector
2040 S Street, NW
Washington, DC 20009

Dear Sir or Madam:

This is in response to a letter, dated April 18, 2000, submitted on your behalf by your attorneys, in which you request information on questions related to lobbying by publicly supported charitable organizations recognized as exempt from federal income tax because they are described in section 501(c)(3) of the Internal Revenue Code. Your questions and our responses are set forth below.

1. Is lobbying by section 501(c)(3) organizations permissible under federal tax laws?

Yes (except for private foundations under most circumstances).

2. How much lobbying may a "public charity" (a section 501(c)(3) organization other than a private foundation or an organization testing for public safety) conduct?

There are two sets of rules, and with the exception of churches, public charities can choose which set to follow. One rule is that no substantial part of the organization's activities can be lobbying. The alternative rule, that an organization must affirmatively elect, provides for sliding scales (up to \$1,000,000 on total lobbying and up to \$250,000 on grass roots lobbying) that can be spent on lobbying. (The scales are based on a percentage of the organization's exempt purpose expenditures.)

3. What are the advantages and disadvantages of the two options?

Organizations covered by the "no substantial part" rule are not subject to any specific dollar-base limitation. However, few definitions exist under this standard as to what activities constitute lobbying, and difficult-to-value factors, such as volunteer time, are involved.

Organizations seeking clear and more definite rules covering this area may wish to avail themselves of the election. By electing the optional sliding scale, an organization can take advantage of specific, narrow definitions of lobbying and clear dollar-based safe harbors that generally permit significantly more lobbying than the "no substantial part" rule. However, as noted above, there are ceilings (unadjusted for inflation) on the amount of funds that can be spent on lobbying. Thus, these dollar limits should be considered when making the election.

4. How does a public charity elect? May an election be revoked?

The organization files a simple, one-page Form 5768 with the Internal Revenue Service. The election only needs to be made once. It can be revoked by filing a second Form 5768, noting the revocation.

5. Does making the election expose the organization to an increased risk of an audit?

No. The Internal Revenue Manual specifically informs our examination personnel that making the election will not be a basis for initiating an examination.

6. Does the Internal Revenue Code allow public charities that receive federal grant funds and contracts to lobby with their private funds?

Yes. However, while it is not a matter of federal tax law, it should be noted that charities should be careful not to use federal grant funds for lobbying except where authorized to do so.

7. May private foundations make grants to public charities that lobby?

Yes, so long as the grants are not earmarked for lobbying and are either (1) general purpose grants, or (2) specific project grants that meet the requirements of section 53.4945-2(a)(6) of the Foundation Excise Tax Regulations.

8. May section 501(c)(3) organizations educate voters during a political campaign?

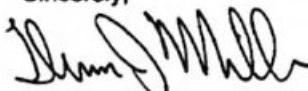
Yes. However, organizations should be careful that their voter education efforts do not constitute support or opposition to any candidate.

9. May public charities continue to lobby incumbent legislators even though the legislators are running for reelection?

Yes. Charities should be careful, however, to avoid any reference to the reelection campaign in their lobbying efforts.

If you have any further questions, please feel free to contact me at (202) 283-9472, or John F. Reilly, Identification Number 50-05984, of my office at (202) 283-8971.

Sincerely,



Thomas J. Miller
Manager, Exempt Organizations Technical

cc: Mr. Thomas A. Troyer
Caplin & Drysdale, Chartered
1 Thomas Cir., N.W.,
Washington, D.C. 20005

cc: Mr. Marcus S. Owens
Caplin & Drysdale, Chartered
2005 Thomas Cir., N.W.
Washington, D.C. 20005

STATEMENT BY THE EXEMPT ORGANIZATIONS COMMITTEE OF THE SECTION OF TAXATION OF THE AMERICAN BAR ASSOCIATION

PARTICIPATION BY PUBLIC CHARITIES IN THE PUBLIC POLICY PROCESS

Given persistent misunderstanding within the charitable sector about the scope of permitted participation by public charities¹ in the public policy process, the purpose of this statement is to clarify the relevant federal tax rules.

Section 501(c)(3) and its predecessors have long included a statement that charities may not attempt to influence legislation as a "substantial part" of their activities. The absence of clear definitions of both "influencing legislation" and "substantial" had a predictable and powerful chilling effect on public charities' participation in the legislative process.

To dispel this chilling effect, Congress in 1976 enacted sections 501(h) and 4911 of the Code to clarify both key aspects of the rules. Section 4911 provides a detailed, and quite favorable, definition of what does — and does not — constitute lobbying. Section 501(h) establishes, as an alternative to the vague "substantial" test, specific rules on the portion of its budget a public charity can spend on lobbying activities. Both aspects of these rules were helpfully clarified

by detailed regulations issued in 1990. Under these rules, broad categories of public policy activity directly related to the legislative process are specifically excluded from the definition of lobbying.

At charities' request, Congress made the section 501(h)/4911 rules elective. Public charities (other than churches) may opt into the

501(h)/4911 rules by filing IRS Form 5768 (a very simple, one-page form). The election is retroactive to the beginning of the tax year in which it is filed, continues in place for subsequent years, but can be revoked by the charity as to future years.

IRS officials have repeatedly stated that making the election does not increase a charity's audit risk. Nor does it increase a charity's reporting burden; indeed, electing charities are required to report only their lobbying expenditures while non-electing charities must also provide a detailed description of their lobbying activities. Further, in certain circumstances, non-electing charities may also be subject to a broader definition of lobbying and a significantly less favorable standard as to the amount of permitted lobbying.

Accordingly, with the possible exceptions of very large organizations and organizations whose lobbying is predominantly grass roots, public charities that engage in lobbying will generally find it in their interest to make the 501(h) election. Even in such cases, however, the advantages from not making an election may be more than offset if a less favorable definition of grass roots lobbying is applied by the Service. ■



1. "Public charities" are organizations exempt under section 501(c)(3) of the Internal Revenue Code which are not classified as private foundations under section 509.

WHY YOUR CHARITY SHOULD ELECT TO COME UNDER THE 1976 LOBBY LAW - AND HOW TO DO IT

The right of citizens to petition their government is basic to our democratic way of life, and charitable organizations are one of the most effective vehicles for making use of citizen participation in shaping public policy. Fortunately, legislation passed by Congress in 1976 makes it possible for charities to lobby freely for their causes, communities and individuals they serve. The federal government clearly supports lobbying by charities. Congress sent this unambiguous message when it enacted the exceedingly helpful 1976 lobby law. The same message came from the IRS in regulations issued in 1990. Together, the law and regulations provide wide latitude for charities to lobby.

But the law only provides this latitude for charities that elect to be covered by it. In most circumstances, charities should become subject to this law not only because it provides liberal limits on how much they can spend on lobbying, but also because it provides very clear and helpful definitions of what activities related to legislation do not constitute lobbying. If you are formally asked to testify before a congressional committee, for example, your testimony would not constitute a lobbying expense.

Generally, organizations that elect the 1976 lobby law may spend 20% of the first \$500,000 of their annual expenditures on lobbying (\$100,000), 15% of the next \$500,000, and so on, up to \$1 million dollars!

If you do lobbying but don't elect to be subject to the 1976 law, your lobbying must be "insubstantial." This is a vague term that has never been defined. If you remain subject to this rule, you cannot be certain how much lobbying your charity can do.

Some charities have been reluctant to elect the 1976 law for fear that this action will either change their section 501(c)(3) status or serve as a "red flag" to the IRS and prompt an audit of the organization. Neither concern is justified. Electing to come under the 1976 law does not affect a charity's tax exempt status. Electing charities remain exempt under section 501(c)(3) of the Internal Revenue Code.

Further, the IRS has made clear in a letter to INDEPENDENT SECTOR that far from singling out for audit charities that elect, the reverse is true. The letter states, "... our intent has been, and continues to be, one of encouragement [of charities] to make the election ... Experience also suggests that organizations that have made the election are usually in compliance with the restrictions on lobbying activities."

CHARITY LOBBYING. IT'S THE RIGHT THING TO DO!



THE 1976 LAW GOVERNING CHARITY LOBBYING

www.clpi.org

The federal government, including Congress and the Internal Revenue Service, supports lobbying by charities. Congress sent that unambiguous message when it enacted the liberal provisions under the 1976 lobby law. The same message came from the Internal Revenue Service in regulations issued in 1990, which support both the spirit and intent of the 1976 legislation.

The 1976 law is clear regarding what constitutes lobbying by charities. Following are key points about that legislation. *They apply only to charities that have "elected" to come under the 1976 law.** Non-electing charities remain subject to the ambiguous "insubstantial" test. Under this test, it is unclear which charity legislation-related activities constitute lobbying and how much lobbying is permitted.

- ◆ The most important feature of the law is that it provides ample leeway for charities to lobby, and it protects those that elect the advantages of the 1976 rules from the uncertainties they would be subject to if they remained under the insubstantial test.
- ◆ Generally, organizations that elect the 1976 lobby law may spend 20% of the first \$500,000 of their annual expenditures on lobbying (\$100,000), 15% of the next \$500,000, and so on, up to \$1 million dollars a year! (See attached chart.) Equally important, there are eight critically important legislation-related activities that charities may conduct that are not considered lobbying by the IRS. (See "Important Lobbying Exclusions Under the 1976 Law.")
- ◆ Understanding what constitutes lobbying under the 1976 law is not difficult. In general, you are lobbying when you state your position on specific legislation to legislators or other government employees who participate in the formulation of legislation, or urge your members to do so (direct lobbying). In addition, you are lobbying when you state your position on legislation to the general public and ask the general public to contact legislators or other government employees who participate in the formulation of legislation (grassroots lobbying).
- ◆ The Internal Revenue Service encourages groups to elect to come under the 1976 law. The IRS has found groups that have elected are more often in compliance with the law than those that have not. Also, it is easy to elect. Just have your governing body vote to come under the provisions of the 1976 law and file the one page IRS Form 5768 with the IRS. IRS Form 5768 is included in the CLPI information packet as well as on the website at www.clpi.org/pdf/f5768.pdf.

* Please see www.clpi.org for a more detailed explanation of the 1976 lobby law.

CHARITY LOBBYING IN THE PUBLIC INTEREST

2040 S Street, NW, Washington, DC 20009 | phone 202-387-5048 | fax 202-387-5149 | www.clpi.org | charity.lobbying@clpi.org

Lobbying Ceilings Under the 1976 Lobby Law

Annual Exempt-Purpose Expenditures	Total Direct Lobbying Expenditures Allowable	Total Grassroots Lobbying Expenditures Allowable
Up to \$500,000	20% of exempt-purpose expenditures up to \$100,000	One-quarter of the total direct lobbying expenditure ceiling
\$500,000-\$1 million	\$100,000 + 15% of excess over \$500,000	\$25,000 + 3.75% of excess over \$500,000
\$1 million-\$1.5 million	\$175,000 + 10% of excess over \$1 million	\$43,750 + 2.5% of excess over \$1 million
\$1.5 million-\$17 million	\$225,000 + 5% of excess over \$1.5 million	\$56,250 + 1.25% of excess over \$1.5 million
Over \$17 million	\$1 million	\$250,000

Form **5768**

(Rev. December 1996)

Department of the Treasury
Internal Revenue Service**Election/Revocation of Election by an Eligible
Section 501(c)(3) Organization To Make
Expenditures To Influence Legislation****(Under Section 501(h) of the Internal Revenue Code)**For IRS
Use Only ▶

Name of organization

Employer identification number

Number and street (or P.O. box no., if mail is not delivered to street address)

Room/suite

City, town or post office, and state

ZIP + 4

1 Election—As an eligible organization, we hereby elect to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending and all subsequent tax years until revoked. (Month, day, and year)

Note: This election must be signed and postmarked within the first taxable year to which it applies.

2 Revocation—As an eligible organization, we hereby revoke our election to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending (Month, day, and year)

Note: This revocation must be signed and postmarked before the first day of the tax year to which it applies.

Under penalties of perjury, I declare that I am authorized to make this (check applicable box) election revocation on behalf of the above named organization.

.....
(Signature of officer or trustee).....
(Type or print name and title).....
(Date)**General Instructions**

Section references are to the Internal Revenue Code.

Section 501(c)(3) states that an organization exempt under that section will lose its tax-exempt status and its qualification to receive deductible charitable contributions if a substantial part of its activities are carried on to influence legislation. Section 501(h), however, permits certain eligible 501(c)(3) organizations to elect to make limited expenditures to influence legislation. An organization making the election will, however, be subject to an excise tax under section 4911 if it spends more than the amounts permitted by that section. Also, the organization may lose its exempt status if its lobbying expenditures exceed the permitted amounts by more than 50% over a 4-year period. For any tax year in which an election under section 501(h) is in effect, an electing organization must report the actual and permitted amounts of its lobbying expenditures and grass roots expenditures (as defined in section 4911(c)) on its annual return required under section 6033. See Schedule A (Form 990). Each electing member of an affiliated group must report these amounts for both itself and the affiliated group as a whole.

To make or revoke the election, enter the ending date of the tax year to which the election or revocation applies in item 1 or 2, as applicable, and sign and date the form in the spaces provided.

Eligible Organizations.—A section 501(c)(3) organization is permitted to make the election if it is not a disqualified organization (see below) and is described in:

1. Section 170(b)(1)(A)(ii) (relating to educational institutions),
2. Section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),
3. Section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),
4. Section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),
5. Section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or
6. Section 509(a)(3) (relating to organizations supporting certain types of public charities other than those section 509(a)(3) organizations that support section 501(c)(4), (5), or (6) organizations).

Disqualified Organizations.—The following types of organizations are not permitted to make the election:

- a. Section 170(b)(1)(A)(i) organizations (relating to churches),

- b. An integrated auxiliary of a church or of a convention or association of churches, or

- c. A member of an affiliated group of organizations if one or more members of such group is described in a or b of this paragraph.

Affiliated Organizations.—Organizations are members of an affiliated group of organizations only if (1) the governing instrument of one such organization requires it to be bound by the decisions of the other organization on legislative issues, or (2) the governing board of one such organization includes persons (i) who are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and (ii) who, by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

For more details, see section 4911 and section 501(h).

Note: A private foundation (including a private operating foundation) is not an eligible organization.

Where To File.—Mail Form 5768 to the Internal Revenue Service Center, Ogden, UT 84201-0027.

Cat. No. 12125M

Form **5768** (Rev. 12-96)

FOUR IMPORTANT FACTS ABOUT LOBBYING WITH FOUNDATION GRANT FUNDS

Did you know that:

1. Public charities may use private foundation general purpose grant funds for lobbying?
2. A private foundation may make a grant to a public charity to support a project that includes lobbying as long as its own grant is less than the amount budgeted for the non-lobbying part of the project and the grant is not earmarked for lobbying?
3. Community foundations may make grants to public charities that are earmarked for lobbying?
4. Foundations may fund a number of activities that are not considered lobbying under the 1976 lobby law but affect public policy.

In short, there is considerably more latitude to use foundation funds to lobby than is commonly understood by many foundations and public charities. Following is more information.

1. **Using private foundation general purpose grant funds for lobbying.** Charities are not disqualified from lobbying because they receive foundation funds, but charities and, even more, foundations have been slow to recognize and act on this fact. While grant funds from a private foundation to a charity must not be earmarked for lobbying, it is perfectly legal for the charity to use unearmarked general support foundation funds to lobby. Foundation funds are considered to be earmarked only if there has been an oral or written agreement that the grant will be used for specific purposes.
2. **Using private foundation funds for the nonlobbying portion of a specific project.** A private foundation may make an unearmarked grant to support a specific project that includes lobbying, as long as its own grant is less than the amount budgeted for the nonlobbying parts of the project and the grant is not earmarked for lobbying. For example, if a specific project has a \$200,000 budget, of which \$20,000 is to be spent on lobbying, the private foundation can give the project up to \$180,000 because that part of the project budget is allocated to nonlobbying uses.
3. **Receiving community foundation funds that are earmarked for lobbying.**

Community foundations are tax exempt under section 501(c)(3) of the Internal Revenue Code and are not treated as private foundations so they are permitted the same lobbying latitude as public charities. For example, a community foundation that has elected to come under the 1976 lobby law may spend part of their annual expenditures on lobbying. It may also grant earmarked funds to a charity for lobbying up to the limits permitted by law. A community foundation grant, earmarked for lobbying, would count against the community foundation 's own lobbying ceiling.

4. **Foundation funding of activities that are not lobbying but are related to public policy.** There are eight public policy related activities that charities may conduct which are not considered lobbying under the 1976 lobby law and therefore can be fully funded by foundations. For example, a charity 's response to written requests from a legislative body (not just a single legislator) for technical advice on pending legislation is not considered lobbying.

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The foregoing information is for general guidance and is not intended to replace legal counsel. Additional information is available from the Charity Lobbying in the Public Interest website at www.clpi.org or Charity Lobbying in the Public Interest, 2040 S Street, NW, Washington, DC 20009, telephone - 202/387-5048.



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Restrictions on Use of Federal Funds for Lobbying

Q: Who is subject to restrictions on use of federal funds for lobbying?

A: Nonprofit that get federal funds through categorical grants, contracts or cooperative agreements, whether directly or through an intermediary. Hospitals, universities, state and local government agencies, public nonprofits like the Legal Services Corporation and large nonprofits are governed by separate OMB rules.

Q: What activity cannot be paid for with federal funds?

A: "Disallowed" costs that cannot be reimbursed include:

- Attempts to influence legislation in Congress or state legislatures by direct contact with legislators
- Grassroots appeals that have a "reasonably foreseeable consequence of leading to concerted action"
- Legislative liaison work, including attending hearings, tracking and analyzing bills
- Gathering and publicizing information about actions of elected officials
- Research and nonpartisan analysis made in knowing preparation for lobbying
- Referendum campaigns
- "Electioneering", including helping candidates, parties or PACs
- Lobbying for awarding or renewal of a grant, contract or cooperative agreement

Q: What are the exceptions to these prohibitions?

A: Exceptions allow lobbying in the following circumstances:

- Block Grants: general purpose grants to state and local governments (but must comply with state or local rules)
- Local legislation
- Items that would directly reduce the cost of carrying out the grant
- Legislation that would cause "material impairment" of the groups ability or authority to carry out the grant
- Advocating changes in administrative regulations of federal agencies
- Providing information and assistance to legislators or their staff at their request if:
 1. the request is specific
 2. the request is directed to the group or the general public
 3. you respond only to the requestor
 4. presentations can be in writing or oral, but must be mostly informational
 5. presentation related directly to performance of the grant
 6. the information must be readily obtainable

Source: OMB Circular A-122