NCLR
NATIONAL COUNCIL OF LA RAZA

LOBBYING RULES FOR 501(C)(3) ORGANIZATIONS

ADVOCACY vs. LOBBYING

Given fairly strict regulations about what nonprofit organizations can and cannot do to influence the legislative process, many groups are reluctant to engage in any type of advocacy or lobbying activities, or simply believe that it is against the law for nonprofit organizations to do so. In fact, nonprofits can engage in advocacy. Additionally, the activities that constitute lobbying, and are therefore restricted by government regulations or private foundation policies, are quite limited.

I. Basic Rules for Lobbying

The law has fairly well-defined definitions of the amount of lobbying that nonprofits can do, and what exactly constitutes lobbying. Some basic guidelines:

- Federal or other government funds cannot be used for lobbying.
- Foundations are governed by the same rules as nonprofits; many of them forbid their grantees from using grant funds to support lobbying.
- Nonprofits can elect to make limited expenditures to lobby under Sections 501(h) and 4911 of the Tax Reform Act of 1976. Under this law (known as the Conable amendment), nonprofits cannot spend more than 20% of their total budget on lobbying activities.
- The Conable amendment has a second limit that applies to grassroots lobbying. Expenditures for this kind of lobbying cannot exceed 25% of total lobbying or 5% of the total budget of the nonprofit.

II. The Law

Most policy analyses are not considered lobbying:

- "Reasonable man (person)" test
- Nonpartisan analysis test
- Simple statement of an organizational position is not lobbying

"Direct" lobbying involves the following three-part test:

- A **communication** with a legislator, staff person, or policy-making administration official that is made...
- For the purpose of influencing a **specific** piece of legislation...
- Which asks the legislator, staff person, or official to take an **action** that may be considered lobbying.