

501(C)(3) ADVOCACY CHEAT-SHEET

Wisconsin Rules

Under Wisconsin law, organizations must register as lobbying “principal” at the state level if it employs an individual:

- for compensation
- to communicate with state officials
- to attempt to influence state legislation or administrative rule-making on its behalf, and
- that individual communicates with state officials on 5 or more days during either the first or last six months of the year

A “*lobbyist*” is an individual, who for compensation communicates with state officials for the purpose of lobbying on 5 or more days in a six-month period (1/1 -6/30 and 7/1 -12/31). A lobbyist must have a license to lobby. See <http://gab.wi.gov/lobbying/register-report/registration>.

“*Lobbying*” is attempting to influence legislation or administrative rulemaking.

- Includes development of proposal before introduction or attempting to block introduction of a proposal
- Does not include seeking a contract or grant
- Does not include individual speaking to own legislator

Reporting requirements: must identify bills, rulemaking proceedings, budget subjects, and lobbying topics

- Bills, rules, and budget subjects within 15 days of first communication, after introduction
- Lobbying topics not yet assigned a bill or rule number within 15 days of first communication

Lobbyist Time Report

- Provide a daily itemization of time
- Meeting and preparation time
- Lobbyists and non-lobbyist employees – except clerical employees, individuals devoting less than 10 hours to lobbying, unpaid volunteers To report online:
<http://gab.wi.gov/lobbying/register-report/report>
- Organization’s 6 month statement of Lobbying Activities and Expenditures
- Report online.

Caution: Registered lobbyists cannot provide food, money, anything of pecuniary value and cannot make campaign contributions during legislative sessions.

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Federal Rules

Under federal law, 501(c)(3) organizations (“C3s”) may participate in different kinds of advocacy, e.g., lots of education. When it turns to “lobbying,” it may be regulated but it is PERMISSIBLE, within appropriate limits. Lobbying must be “insubstantial” for a C3 (public charity) but if “501h” election is made that could mean:

- up to 20% of a <\$500k budget); 15% of next \$500k, 10% of next \$500k, 5% of rest, not to exceed \$1m. in total (the Lobbying Allowance)
- IRS rules distinguish between *direct* lobbying and *grassroots* lobbying
- C3 can spend up to 25% of the amount allowed for direct lobbying (Lobbying Allowance) on grassroots lobbying, with decreasing amounts allowed, not to exceed \$250k
- Political activity is never permitted (e.g., no efforts to support/oppose a candidate); voter guides & candidate forums can be OK, if done right
- Private foundations can’t directly fund or engage in “lobbying” activities, but they can give general purpose grants to C3s that lobby & do other advocacy.

“*Direct lobbying*” is any attempt to influence legislation through communication with any member or employee of a legislative body or with any government official or employee – local, state or federal – who may participate in the formulation of legislation

- includes the development, drafting, introduction, modification of legislation

“*Grassroots lobbying*” is any attempt to influence any legislation through an effort to affect the opinions of the public with a communication that includes these 3 elements:

- refers to specific legislation
- reflects a view on such legislation; and
- encourages the recipient to take action with respect to that legislation

These activities are not *lobbying* from the IRS’s perspective (state rules may vary):

- Discussing broad social/policy issues, without mentioning specific legislation
- Responding to a request for technical advice or assistance from a governmental body/committee, not an individual legislator
- Preparing and distributing a “white paper” on a topic
- Litigation (e.g., signing on to *amicus briefs* or filing a suit)
- Testifying before a “special purpose body,” such as a school or zoning board
- Communication with C3’s members, if no direct encouragement to act
- Conducting public education campaigns that do not include calls to action or mention of specific legislation
- Lobbying in “self-defense” of an organization’s existence (e.g., foundation responding to plan to change pay-out requirements)
- Time spent by volunteers lobbying on behalf of the C3
 - Expenses associated with supporting volunteers’ work are counted