

# 501(c)(3) Advocacy Boundaries Reference

Module 4.4 — Organizational Advocacy: Permitted, Restricted, and Prohibited Activity

**IMPORTANT:** This reference card reflects general IRS guidance as of 2024. It is not legal advice. Have an attorney familiar with nonprofit law review this before relying on it for organizational decisions.

## The Three Categories

Category	Examples	Compliance Note
PERMITTED (broadly allowed)	Public education on issues Research and publishing findings Testimony at legislative hearings Coalition-building around issues Voter registration (nonpartisan) Candidate forums (all candidates, nonpartisan) Lobbying within substantial-part limits	No approval needed beyond board awareness. Document activities for annual reporting.
RESTRICTED (lobbying — limited)	Direct lobbying: communicating with legislators to influence specific legislation Grassroots lobbying: asking the public to contact legislators about specific legislation Ballot measure campaigns (treated as lobbying)	Subject to the 'substantial part' test OR the expenditure election (see below). Track time and dollars spent.
PROHIBITED (zero tolerance)	Endorsing or opposing candidates for public office Making direct or in-kind contributions to candidate campaigns Publishing materials that favor or oppose candidates Coordinating with candidate campaigns	Even a single violation can trigger IRS investigation and potential revocation of tax-exempt status.

## The Substantial-Part Test

By default, 501(c)(3) organizations may lobby, but lobbying cannot constitute a 'substantial part' of activities. The IRS has never defined 'substantial' precisely — 5% of budget is generally considered safe; 20%+ creates risk. This vagueness is why many organizations under-advocate out of unfounded caution.

Lobbying Level	Risk Assessment
~5% of budget / time	Generally safe zone — no documented IRS enforcement at this level
5–15% of budget / time	Gray zone — document carefully, consult attorney
15–20%+ of budget / time	Elevated risk — expenditure election strongly recommended
Majority of activities	Jeopardizes tax-exempt status

## The Expenditure Election (Section 501(h))

Organizations can elect under Section 501(h) to have their lobbying limits calculated by a clear expenditure formula rather than the vague 'substantial part' test. This election provides **more lobbying room** for most organizations and replaces uncertainty with a defined limit. File IRS Form 5768 to make the election.

Organization Budget	Total Lobbying Limit	Direct Lobbying Limit
Exempt purpose expenditures	Lobbying limit (20% of first \$500K, declining scale above)	Direct lobbying limit (25% of total lobbying limit)

\$500,000	\$100,000 (20%)	\$25,000
\$1,000,000	\$175,000 (17.5%)	\$43,750
\$1,500,000	\$225,000 (15%)	\$56,250

Most 501(c)(3) organizations dramatically underuse the advocacy they're legally permitted to do. Unfounded legal fear — not actual legal limits — is the primary constraint. **Flag for attorney review before publication.**