

# Public Charities Can Lobby in Texas

## How is Lobbying Defined?

Public charities in Texas can and should engage in lobbying to influence public policy and protect the interests of their communities. The Internal Revenue Code (federal law) permits lobbying by 501(c)(3) public charities, subject to generous limits. Texas state law also allows public charities to lobby, but if organizations or their staff are compensated to lobby or spend money to do so, they may need to register with the state as a lobbyist and disclose their lobbying activities. For more information on state-level lobbyist registration and reporting requirements, check out our factsheet on [Texas Lobbying Disclosure](#).

**It is important to note that the Internal Revenue Code and the Texas lobbyist registration law define lobbying differently.**

For example:

- Some efforts to influence the decisions of state agencies may trigger state-level lobbying registration and disclosure, but will not count against an organization's federal lobbying limit since administrative advocacy does not fall into the tax code's definition of lobbying.
- Conversely, it is possible that some public policy activities, particularly those geared toward influencing the opinions and actions of the general public, may count against an organization's federal lobbying limits but not require Texas lobbying disclosure.

The following definitions and [flowchart](#) are designed to help you navigate these lobbying rules and remain in compliance with state law and the Internal Revenue Code.

## Texas State Law Lobbying Definition

Texas law defines lobbying as direct communication with members of the legislative or executive branch of Texas state government to influence legislation or administrative action. Legislation includes any matter that is (or may be) the subject of action by the Texas House of Representatives, Senate, or a legislative committee. So, if an organization's employee holds one-on-one meetings with legislators to persuade them to vote for a bill to decriminalize marijuana use in Texas, that employee may trigger lobbyist registration and reporting requirements with the Texas Ethics Commission. Likewise, lobbyist registration may also be triggered if an organization directly communicates with state agencies or executive branch officials to influence their decision-making (including decisions made on matters such as the purchasing of products or services by an agency, and matters related to rulemaking or licensing).

## Federal Tax Code Lobbying Definitions

The Internal Revenue Code simultaneously defines lobbying more narrowly and more broadly than Texas state law. While it only covers efforts to influence legislation (not administrative action), it also includes in the definition of lobbying attempts to influence the opinions and actions of members of the general public, and it includes legislative advocacy activities at all levels of government (e.g. local, state, federal). The specific definitions of lobbying for a public charity depend on whether the organization measures its lobbying limits using the “[insubstantial part](#)” test or the “[501\(h\) expenditure](#)” test.

- Under the **insubstantial part test**, lobbying is broadly defined to include all efforts that advocate for the adoption or rejection of legislation, including efforts to influence the budget and nominations requiring legislative confirmation.<sup>1</sup> These definitions include communications that express a viewpoint on legislation to legislators, but they also include communications that are designed to sway the opinion of the general public on a legislative proposal.
- Under the **501(h) expenditure test**, lobbying is defined as either direct or grassroots. Direct lobbying consists of communications to a legislator that express a view on specific legislation. Grassroots lobbying includes communications to the general public that express a view on specific legislation and contain a call to action, encouraging dialogue between the public and their legislators.<sup>2</sup>

Public charities should be aware of the different lobbying definitions at the state and federal level to ensure that staff are keeping their time accurately and that the organization is appropriately complying with both state law and the Internal Revenue Code as it boldly advocates for change.

<sup>1</sup> [Lobbying Under the Insubstantial Part Test Factsheet](#)

<sup>2</sup> [What is Lobbying Under the 501\(h\) Election? Factsheet](#)



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