

# Advocacy Check-Up

## NONPROFIT SELF-ASSESSMENT



The Advocacy Check-Up: Nonprofit Self-Assessment is designed to help your 501(c)(3) public charity assess its overall compliance with federal and state advocacy-related tracking and reporting requirements and to identify opportunities for you to build your organization's advocacy capacity. The goal is to ensure that your nonprofit is aware of the opportunities for advocacy allowed by the tax and election laws that govern lobbying and election-related activity by tax-exempt organizations.

Through this self-assessment, we hope to help you identify opportunities to enhance your organization's advocacy activities and raise potential issues about compliance with the tax, lobby, election, and other laws that govern your work. This assessment is limited in scope. It is meant to provide guidance and suggestions to your organization on how to amplify its advocacy. It is not meant as a complete organization-wide evaluation, nor does it serve as legal advice or as a replacement for a formal financial or compliance systems audit.

This compliance assessment examines the following:

- Lobbying activities
- Funding sources (including government funding and funding from foundations)
- Election-related activities
- Affiliated 501(c)(3) and 501(c)(4) organizations
- Governance/administration
- Charitable solicitations
- Grantmaking

### GETTING STARTED

To facilitate the advocacy compliance self-assessment, the following documents may be helpful:

- Most recent Form 990 and relevant schedules
- Organization time sheet samples or details regarding organizational time-tracking systems
- Cost-sharing agreements with other organizations, including affiliated organizations (if any)
- Fiscal sponsorship agreements (if any)
- Recent federal or state lobbying disclosure filings (if any)
- Current grant agreements (if any)
- Copy of Articles of Incorporation
- Copy of Bylaws

### Advocacy Compliance Self-Assessment

While the Internal Revenue Code [allows 501\(c\)\(3\) public charities to influence legislation](#) via lobbying, it limits how much lobbying they can engage in. How much lobbying your organization can do depends on which of two tests your organization chooses to measure its lobbying limits, the default insubstantial part test or the optional 501(h) expenditure test. Under either test, your 501(c)(3) public charity must track its lobbying activities and report them on its annual Form 990. Lobbying under these tests includes legislative activities only.

Lobbying disclosure is also sometimes required under local, state, and federal law. The definitions of lobbying under these bodies of law often differ from the Internal Revenue Code's definitions and can

include legislative, executive, and administrative advocacy. While lobbying disclosure laws typically do not limit how much lobbying your nonprofit can do, they do require lobbyist registration and reporting if certain thresholds are met.

**General Questions**

1. **Does your organization advocate for or against legislation at the following levels of government?**
  - a. Federal  Yes  No  Don't Know
  - b. State  Yes  No  Don't Know
  - c. Local  Yes  No  Don't Know
  - d. International  Yes  No  Don't Know
  
2. **Does your organization engage in executive branch advocacy at the following levels of government?** Executive branch advocacy could include advocacy to agencies and executive branch officials (including advocacy related to agency rulemaking, regulations, executive orders, or advocating for changing how existing laws are enforced)
  - a. Federal  Yes  No  Don't Know
  - b. State  Yes  No  Don't Know
  - c. Local  Yes  No  Don't Know
  - d. International  Yes  No  Don't Know
  
3. **Does your organization have a policy agenda?**

Yes  No  Don't Know
  
4. **Does your organization's board support your organization's advocacy activities?**

Yes  No  Don't Know

**Internal Revenue Code Compliance (Lobbying Limits)**

How much lobbying a 501(c)(3) public charity can do depends on which of two tests your organization uses to measure its lobbying limits — the “**501(h) expenditure test**” or the “**insubstantial part test**.” In issuing regulations on lobbying, the Internal Revenue Service stated that, under either test, public charities “may lobby freely” so long as lobbying is within specified limits.

5. **Which test does your 501(c)(3) public charity use to measure its lobbying limits?** *Check one.*

Insubstantial Part Test  501(h) Expenditure Test  Don't Know

If you do not know the answer to the preceding question, consult organizational leadership or reach out to our [free technical assistance hotline](#) for assistance.

**Organizations That Measure Their Lobbying Using the 501(h) Expenditure Test**

6. **Does your organization have a copy of Form 5768 that was filed with the IRS?**

Yes  No
  
7. **Has your organization ever exceeded its lobbying limit?**

Yes  No  Don't Know

8. Does your organization use time sheets for employees to keep track of lobbying and non-lobbying activity?

- Yes       No

If not, how does it keep track of lobbying expenditures?

9. Does your time-tracking system differentiate between direct and grassroots lobbying?

- Yes       No

Under the 501(h) election, grassroots lobbying is capped at 25% of your organization’s annual lobbying limit and, as a result, must be tracked separately from direct lobbying.

For recommendations regarding potential time-tracking systems (including sample timesheets), check out [“Keeping Track: A Guide to Recordkeeping for Advocacy Charities.”](#)

10. Are staff familiar with **the definitions of lobbying** under the 501(h) expenditure test (e.g. do they understand the distinction between direct and grassroots lobbying)?

- Yes       No

11. Is your organization and staff aware of the four exceptions to lobbying under 501(h)?

- |                                                     |                              |                             |
|-----------------------------------------------------|------------------------------|-----------------------------|
| a. Nonpartisan analysis, study, or research         | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Responding to a request for technical assistance | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Self-defense                                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Examinations of broad social issues              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

12. Does your organization have a system in place to track lobbying direct costs (e.g. lobbying travel expenses, printing costs, etc.) including both direct and grassroots lobbying expenses?

- Yes       No

13. Do you report any lobbying on your Form 990? Lobbying expenditures are reported on Schedule C of Form 990.

- Yes       No

If not, why not?

14. If your organization serves as a fiscal sponsor, do you capture the lobbying expenses (and expenditures) of all fiscally sponsored projects?

- Yes       No       Not Applicable

15. If your organization is under fiscal sponsorship (e.g. you are fiscally sponsored), do you capture and report any lobbying expenses to your sponsor?

- Yes       No       Not Applicable

**Organizations that Do Not Measure Their Lobbying Using Section 501(h) of the Tax Code**  
 (also known as “Non-electing Organizations”)

16. **Does your organization understand the pros and cons of the insubstantial part test v. the 501(h) expenditure test?**

Yes       No

If no, here are some resources which may help:

- [Lobbying Under the Insubstantial Part Test](#)
- [What is Lobbying Under the 501\(h\) Election?](#)

If yes, does it make sense to consider making the 501(h) election at this time based on your organization’s lobbying activities?

Yes       No

*Keep in mind that churches and other houses of worship organized under Section 170(b)(1)(A)(i) of the Internal Revenue Code (and their auxiliaries) are ineligible to make the 501(h) election.*

17. **Does your organization use time sheets for employees, board members, and volunteers to keep track of lobbying and non-lobbying activity?** Keep in mind that non-electing public charities must track and report their lobbying activities even when those activities are conducted at no-cost to your organization.

Yes       No

18. **Does your organization have a system to keep track of lobbying-related expenditures?**

Yes       No

19. **Does staff know the definition of lobbying for non-electing public charities?**

Yes       No

Lobbying under the insubstantial part test includes all efforts to influence legislation at every level of government.

20. **Does your organization have a system in place to ensure that lobbying remains an “insubstantial part” of its overall activities (approx. 3-5% of overall activities)?**

Yes       No

21. **Does your organization report any lobbying on its Form 990?**

Yes       No

*If not, why not?*

22. **If your organization is a fiscal sponsor, do you have a system in place to capture the lobbying activities and expenditures of all fiscally sponsored projects?**

Yes       No       Not Applicable

23. **If your organization is under fiscal sponsorship (e.g. you are fiscally sponsored), do you capture and report any lobbying expenses or lobbying activities to your sponsor?**

Yes       No       Not Applicable

**All Organizations**

- 24. **Does your organization take any steps to inform its staff (and others associated with your organization, including consultants) of the requirements for tracking and reporting lobbying?**  
 Yes     No     Don't Know
- 25. **Does your organization require its staff to track time spent both on actual lobbying communications as well as preparation for lobbying?** Both should be tracked against your organization's lobbying limits.  
 Yes     No     Don't Know
- 26. **Does your organization allocate a percentage of overhead costs against its lobbying limit?**  
 Yes     No     Don't Know

**Lobbying Disclosure Compliance**

- 27. **Is your organization aware that some states, municipalities, and the federal government require nonprofits (and/or their staff) that lobby to register as lobbyists or lobbying entities and report their lobbying activities when certain thresholds/triggers are met?**  
 Yes     No
- 28. **Is your organization aware that lobbying disclosure laws often require tracking and reporting of both legislative and executive branch advocacy activities (including advocacy related to agency rulemaking, regulations, executive orders, etc.)?**  
 Yes     No
- 29. **Have you ever investigated whether your organization or staff meet the thresholds for registration as a lobbyist in the following jurisdictions:**
  - a. Federal (Lobbying Disclosure Act)     Yes     No     Don't Know
  - b. State     Yes     No     Don't Know
  - c. County     Yes     No     Don't Know
  - d. City     Yes     No     Don't Know
  - e. Special Districts (e.g., school districts or transportation authorities)     Yes     No     Don't Know

For information about state-level lobbying disclosure rules, check out Bolder Advocacy's [Practical Guidance lobbying resource series](#).

- 30. **If your organization or staff are required to register as lobbyists, what systems do you have in place to ensure the proper and timely filing of required lobbying disclosure reports?**

**Ballot Measures**

- 31. **Does your organization seek to influence the outcome of initiatives, referendums, or other ballot measures?**  
 Yes     No

a. Are you tracking your ballot measure advocacy activities and expenditures and counting them against your organization’s Internal Revenue Code lobbying limits?

Yes       No

Advocacy for or against a ballot measure counts as lobbying under both the insubstantial part test and 501(h) expenditure test.

b. Is your organization aware that many jurisdictions (e.g. cities and states) regulate ballot measure advocacy under their campaign finance and/or election laws?

Yes       No

What systems does your organization have in place to ensure the proper tracking and reporting of ballot measure activities to relevant local and state officials?

### Specific Activities

501(c)(3) public charities can engage in a number of activities to influence public policy that do not qualify as lobbying under the Internal Revenue Code. If an organization is limited in the amount of lobbying it can do because it is nearing its lobbying limit, or because of restricted grant funds, it can still maximize its influence by taking advantage of various rules.

32. **If your organization has made the 501(h) election, is your organization aware that it can encourage its members to contact legislators about specific legislation and treat those communications as direct, as opposed to grassroots, lobbying?**

Yes       No

33. **If your organization has made the 501(h) election, is your organization aware that it can communicate with the general public and express a view about specific legislation, and not consider it grassroots lobbying if it does not contain a “call to action” within the communication?**

Yes       No

34. **Does your organization conduct administrative advocacy by influencing regulations, executive orders, and/or enforcement of existing laws?**

Yes       No

**If yes**, is your organization aware that it does not need to count these activities against its Internal Revenue Code lobbying limits, but it may need to track these activities to comply with local, state, and federal lobbying disclosure laws?

Yes       No

35. **Does your organization litigate to influence policy?**

Yes       No

**Funding Sources**

36. Does your organization receive funding from any of the following public sources?

- a. Federal agency (or agencies)  Yes  No  Don't Know
- b. Funds from a state or local agency that are "passed through" from a federal source  Yes  No  Don't Know
- c. State or local funds that are **not** passed through from a federal source  Yes  No  Don't Know

37. Is your organization aware of any restrictions on these funds that limit your ability to use these funds on lobbying or election-related activities?

- Yes  No

38. Does your organization receive grants from private foundations?

- Yes  No

Does your organization receive grants from public foundations (including community foundations)?

- Yes  No

If **yes** to either,

a. Have you reviewed your grant agreements to determine whether they restrict the use of funds for lobbying or election-related activities?

- Yes  No

b. If the grants do contain restrictive language, what steps does your organization take to ensure compliance with the restrictions?

39. Does your organization understand that special rules that apply to private foundations' ability to make advocacy grants (including grants to support lobbying and voter registration programs)?

- Yes  No  Don't Know

If **no**, consider reviewing Bolder Advocacy's "[Foundation Advocacy Grants: What Grantees Need to Know](#)" resource.

**Election-Related Activities for 501(c)(3) Organizations**

Federal tax law prohibits 501(c)(3) organizations from supporting or opposing candidates for public office. However, 501(c)(3)s may participate in **electoral activities** that do not support or oppose candidates for public office – referred to in shorthand as "nonpartisan" election-related activities.

40. Does your organization provide training or other guidance for staff about the partisan political activity restrictions for 501(c)(3)s?

- Yes  No

If not, consider **scheduling a workshop** for your team, or join us online for an upcoming **public webinar** or **on-demand training**.

41. Does your organization have a policy prohibiting staff, board members, volunteers, and other representatives from using organizational resources, including its name, for partisan political activities?

- Yes     No     Don't Know

If not, consider adopting an [election season advocacy policy](#), and ensure that staff, volunteers, and board members have reviewed and signed the policy. Keep copies of signed agreements for your records.

42. Does your organization engage in, support, sponsor, or otherwise participate in the following activities, either on its own or in conjunction with other entities:

- |                                                                 |                              |                             |
|-----------------------------------------------------------------|------------------------------|-----------------------------|
| a. Candidate forums/townhalls                                   | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| b. Candidate debates                                            | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| c. Candidate appearances unrelated to the election              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| d. Legislative scorecards                                       | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| e. Candidate questionnaires                                     | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| f. Voter registration                                           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| g. Get Out the Vote (GOTV)                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| h. Issue advocacy                                               | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| i. Facility or equipment rentals                                | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| j. Polling                                                      | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| k. Invite candidates to public events                           | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| l. Use candidates in fundraising                                | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| m. Link to non-(c)(3) websites from your organization's website | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| n. Criticizing/praising incumbents                              | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

For best practices related to ensuring these events remain nonpartisan, review "[Rules of the Game: A Guide to Election-Related Activities for 501\(c\)\(3\) Organizations.](#)"

43. Does your organization have any safeguards in place to ensure that its activities are nonpartisan?

- Yes     No

**Affiliated Organizations**

44. If your organization has an affiliated 501(c)(4), do you have a cost-sharing agreement in place to ensure that each organization pays its fair share of costs?

- Yes     No

If so, what procedures do you have in place to ensure compliance with your cost-sharing agreement?



If not, consider adopting a cost-sharing agreement. A sample agreement can be found in Bolder Advocacy’s [guide to creating and operating 501\(c\)\(3\)s, 501\(c\)\(4\)s, and political organizations](#).

45. **Do your 501(c)(3) and 501(c)(4) share staff?**

Yes  No  Don't Know

If **yes**, do you have a time-tracking system in place to ensure that staff track their 501(c)(3) and 501(c)(4) work separately?

Yes  No

46. **Are 501(c)(4) staff members aware that unlike 501(c)(3)s, which are prohibited from engaging in partisan political activities, 501(c)(4) organizations may engage in some partisan political activity?**

Yes  No

47. **If your 501(c)(4) engages in partisan political activity (support or opposition of candidates for public office), does it have a system in place to track partisan work separate and apart from lobbying and other organizational activities?**

Yes  No

48. **If your 501(c)(4) organization engages in partisan political activity (support or opposition of candidates for public office), is it aware that this activity may trigger reporting to local, state, and federal government?**

Yes  No

49. **Is your affiliated 501(c)(4) organization aware that federal law and many state laws prohibit corporations (including tax-exempt corporations) from making both monetary and in-kind contributions to candidates (including coordination with candidates)?**

Yes  No

50. **What systems do your affiliated organizations have in place to ensure that no 501(c)(3) resources or staff time are used for partisan political purposes (support or opposition of candidates for public office)?**

**Governance/Administration**

51. **Does your organization have an attorney (preferably with expertise in the nonprofit space), either in-house or with whom it regularly consults?**

Yes  No

52. **Does your organization have an agent for service of process?**

Yes  No

53. **Does your organization have a gift acceptance policy?**

Yes  No

54. **Does your organization have appropriate financial oversight?**

Yes  No

55. Does your organization have an accountant (preferably with expertise in the nonprofit space), either in-house or with whom it regularly consults?

Yes  No

56. Does your organization file some version of Form 990 with the IRS?

Yes  No

57. Does your organization file Form 990-T (reporting taxable unrelated business income) with the IRS?

Yes  No

58. Has your organization been audited or investigated by the IRS for any reason within the past five (5) years?

Yes  No

59. Are you aware of the requirements on Form 990 that require you to describe whether you have certain policies, including:

- a. Document retention and destruction policy?  Yes  No
- b. Whistleblower policy?  Yes  No
- c. Written conflict of interest policy?  Yes  No
- d. Joint venture policy?  Yes  No

For more information on governance policies recommended by the IRS, see their article on ["Governance and Related Topics - 501\(c\)\(3\) Organizations."](#)

60. Does your organization have liability insurance?

Yes  No

61. Does your organization provide Directors & Officers insurance?

Yes  No

62. Does your organization engage in legal or other professional work?

Yes  No

63. Is your organization licensed to do business in any state other than the state of its incorporation (or is it registered as a foreign corporation)?

Yes  No

64. Does your organization have offices, employees, or programs in any state other than the state of incorporation that might require corporate/business registration in that jurisdiction?

Yes  No

If **yes**, list states.

65. Are you a fiscal sponsor for any projects or organizations?

Yes  No

If **yes**,

a. Do you have a fiscal sponsorship agreement in place with the projects?

Yes  No

b. Do you have a mechanism for projects to report back to you regarding their activities, including lobbying?

Yes  No

c. Do you limit the amount of lobbying the projects can do?

Yes  No

d. Do you educate the projects about the prohibitions on political campaign intervention (prohibition on support or opposition of candidates)?

Yes  No

66. Does your organization have the following policies for its website?

a. Privacy  Yes  No

b. Data collection  Yes  No

c. Minors  Yes  No

**Charitable Solicitations for 501(c)(3) Organizations**

67. Has your organization determined whether it is required to register with a charitable solicitation office in the state(s) where your organization is located?

Yes  No

68. Has your organization determined whether it is required to register with a charitable solicitation office in every state where your organization solicits funds?

Yes  No

69. Does your organization solicit contributions through its website?

Yes  No

70. Does your organization file annual reporting forms with each charitable solicitation office in which such reports are required?

Yes  No

71. Is your organization aware that earmarked lobbying contributions are not tax-deductible for the donor?

Yes  No

72. Is your organization aware that contributions to 501(c)(4)s are not tax-deductible for the donor?

Yes  No

If **yes**, is this information clearly disclosed to potential 501(c)(4) donors?

Yes  No

73. Does your organization have a systematic approach to receiving and acknowledging donations from donors?

Yes  No

74. Does the acknowledgment clearly state what portion of the donation may be tax-deductible?

Yes  No

**Grantmaking**

501(c)(3) public charities may make grants to other organizations for charitable or educational activities, or for lobbying. For information on how the IRS regards grants from 501(c)(3) public charities to organizations that lobby, see Alliance for Justice’s factsheet entitled, “[Private and Public Foundations May Fund Charities that Lobby.](#)”

75. Does your organization make grants to any other organizations?

Yes  No

If **no**, skip this section.

76. Do you provide a written grant agreement with every grant?

Yes  No

77. Do you make grants to:

- a. 501(c)(3) public charities  Yes  No
- b. Non-501(c)(3)s (e.g. 501(c)(4) social welfare organizations)  Yes  No
- c. International organizations  Yes  No
- d. Individuals  Yes  No

78. Do you prohibit the use of grant funds for partisan electoral activities?

Yes  No  Don’t Know

If not, ensure that a prohibition on using grant funds for partisan political activity (support or opposition of candidates for public office) is included in every grant agreement.

79. Do you require written grant reports from the grantee about how they spent your funds?

Yes  No  Don’t Know

80. What types of grants do you make to 501(c)(3) public charities, if any?

General operating support grants  Specific grant projects

81. If you make specific project grants to 501(c)(3)s, do you limit the use of funds for lobbying?

Yes  No  Don’t Know

82. If you make specific project grants to 501(c)(3)s, are you aware that you can take advantage of the **project grant rule** to avoid a lobbying expenditure that needs to be tracked against your lobbying limits (even when the project includes a lobbying component)?

Yes  No

83. Are you aware that general operating support grants to a 501(c)(3) do not need to count against your lobbying limits?

Yes  No

84. Are you aware that if you make a grant to an organization that is not a 501(c)(3) (e.g. to a 501(c)(4) social welfare organization), there is a presumption that the grant is a grassroots lobbying expense that needs to be tracked against your lobbying limit?

Yes  No

For information on how to structure your grant agreements to avoid a lobbying expenditure when making grants to non-public charities, see Bolder Advocacy's "[Investing in Change](#)" guide.

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