

Elections + Lobbying FAQs

Can a nonprofit endorse a candidate or engage in an election?

No. According to the federal tax code “nonprofit organizations defined as 501(c)(3) charities may not conduct partisan political activities in support of or opposition to a candidate running for public office.” The key word is partisan. Activities that are considered partisan include:

- Endorsing or publicly opposing a candidate who is running for public office;
- Making campaign related contributions or expenditures; or
- Letting candidates use the agency’s facilities (unless there is equal access available to all the candidates).

However, non-profits can engage in non-partisan election activities such as promoting or assisting in voter registration.

Most of the funding available to support sexual assault support centers depends on the organization retaining its 501(c)(3) status. So, it is critical that these agencies do not engage in any activities that might be perceived as being partisan in nature.

Can nonprofits lobby?

Yes! While it is really important to be mindful of the constraints set in Maine and federal law related to lobbying and to ensure that lobbying time and associated expenses are always covered using unrestricted dollars – nonprofits can and should engage in public policy change in the areas that will enhance their mission driven work. The language enacted by Congress in 1934 which governs the relevant section of the tax code does not prohibit nonprofits from lobbying, but instead places limits on the extent to which it can be part of a non-profit’s work (assuming they want to keep their non-profit status). The tax code requires that, “no substantial part of the activities” may be for “carrying on propaganda, or otherwise attempting, to influence legislation.”(1) It is worth noting that activities that do not generate expenses (such as work completed by volunteers) do not count as lobbying.

What is lobbying?

In Maine, to be considered lobbying, an individual must communicate directly with a member of the legislative branch, an official in the executive branch or with a constitutional officer with the goal of influencing legislative action, or with the Governor or the Governor’s cabinet and staff to influence a veto or legislation and must be compensated or reimbursed for those activities. Lobbying time also includes time spent preparing testimony and the like. However, in order to be required to register as a lobbyist in Maine that individual must also lobby for more than 8 hours in any calendar month.(2)

What is lobbying? continued:

If you spend the day tabling at the State House or talking with legislators about your services, this is not considered lobbying. It is only lobbying during the time you are directly asking the legislator to support or oppose a particular piece of legislation. Since lobbying is unallowable under our federal and state funding sources, that time should be noted as lobbying on your timesheet and should be covered with unrestricted funds such as fundraising dollars.

Sources

1. 26 US Code, Section 501 (c)(3).
2. Maine Commission on Governmental Ethics and Election Practices. (2013). *2013 Guidebook for Maine lobbyists*. Retrieved from http://www.maine.gov/ethics/pdf/2013_lobbyist_guidebook_final_001.pdf

