Understanding Lobbying
RULES FOR NONPROFITS

Pedro Arista, MPH
Program Manager
Asian & Pacific Islander American Health Forum
March 17, 2015
FIND US ONLINE

www.apiahf.org
https://twitter.com/apiahf
https://www.facebook.com/apiahf
USING GO TO WEBINAR...

Control Panel

Grab Tab
Federal Tax Law:
Tax-exempt organizations only
Limits lobbying (including ballot measures) Lobbying at every level of govt.
No partisan political activity
Report on IRS Form 990

Federal Funds:
HHS/CDC rules
All grant recipients
Prohibits lobbying
Lobbying at federal, state, and local levels

Federal Lobbying Disclosure Act:
All entities
Federal level only
Registration and reporting

State Lobbying Disclosure Law:
All entities
State level only
Registration and reporting

State Election Law: All entities
State level only
Ballot measures
What is ADVOCACY?
Federal funds CANNOT be used for LOBBYING
HOW MUCH LOBBYING CAN WE DO AS A 501 (C) (3)?
(USING NON-FEDERAL FUNDS)
Insubstantial Part Test
1. Default test
2. What is “insubstantial?”
3. Lobbying not defined
4. Activities-based
5. Penalty

501 (H) Expenditure Test
1. One-time election – IRS Form 5768
2. Dollar-based limits
3. Expenditures only
4. Definition of lobbying
5. Penalty less severe
LOBBYING LIMITS UNDER 501 (H)
1. Calculate organization’s Annual Expenditures (for most organizations)

2. Overall lobbying limit

<table>
<thead>
<tr>
<th>Annual Expenditures</th>
<th>Overall Lobbying Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>$500,000 or less</td>
<td>20%</td>
</tr>
<tr>
<td>$500,000 to $1 million</td>
<td>$100,000 + 15% of excess over $500,000</td>
</tr>
<tr>
<td>$1 million to $1.5 million</td>
<td>$175,000 + 10% of excess over $1 million</td>
</tr>
<tr>
<td>$1.5 million to $17 million</td>
<td>$225,000 + 5% of excess over $1.5 million</td>
</tr>
<tr>
<td>Over $17 million</td>
<td>$1,000,000</td>
</tr>
</tbody>
</table>

3. Grassroots lobbying limit is 25% of overall limit

501(h) Lobbying Limits
What is LOBBYING?
(501(h) definitions)

DIRECT

Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS

Communication
General public
Expresses a view about specific legislation
Call to action
DIRECT
Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action
DIRECT
Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action

Federal
Members of Congress

State
State Legislature

Local
City Council, County Board of Supervisors
DIRECT
Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action

President, governor, mayor or other executive official who participates in the formulation of legislation
When is Secretary of Health & Human Services Sylvia Burwell a "legislator"?

DIRECT
Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action
NOT "LEGISLATORS"

DIRECT
Communication
Legislator
Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action

Special Purpose Boards:
- School boards
- Planning commissions
- Zoning commissions
- Water districts

Liberty School District
Union Calendar No. 90

111th Congress 1st Session

H.R. 2454

[Report No. 111-137, Part I]

To create clean energy jobs, achieve energy independence, reduce global warming pollution and transition to a clean energy economy.

Expresses a view about specific legislation

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action

The Department of Finance welcomes you to the California Budget
Edmund G. Brown Jr. Governor
State of California
2014-15

Governor’s Proposed Budget
Governor’s Revised Budget
Enacted Budget

 APIA HF
ASIAN & PACIFIC ISLANDER
AMERICAN HEALTH FORUM
Regulations

Executive Orders

Enforcement of Existing Laws

Litigation

**NOT** Specific Legislation
Activities you may be engaging in:

- Urging President Obama to sign new school lunch legislation: **LOBBING**

- Meeting with legislators to educate them about higher than normal asthma and cancer rates in low income neighborhoods: **NOT LOBBING**

- Urging your local school board to provide healthier food to students: **NOT LOBBING**

- Urging your city council to increase the minimum wage to $10/hour: **LOBBING**
CALL TO ACTION

DIRECT
- Communication
- Legislator
- Expresses a view about specific legislation

GRASSROOTS
- Communication
- General public
- Expresses a view about specific legislation
- Call to action
DIRECT
Communication
Legislator
Expresses a view about specific legislation

TELLING TO CONTACT legislator(s)

PROVIDING ADDRESS, telephone number, and/or other contact information of legislator(s)

GRASSROOTS
Communication
General public
Expresses a view about specific legislation
Call to action

PROVIDING MECHANISM to enable communication with legislator(s)

IDENTIFYING legislator(s)
ACTION ALERT: THE DREAM ACT - CALL CONGRESS TO PASS THE DREAM ACT AND TUNE IN FOR THE VOTE

THE HOUSE AND SENATE WILL TAKE UP THE DREAM ACT TODAY!

WASHINGTON, D.C. - For close to ten years, MALDEF and other organizations have pushed to make the DREAM Act (the Development, Relief and Education for Alien Minors Act) into a reality. Earlier this year, the Migration Policy Institute estimated that roughly 825,000 immigrants would benefit from the Act. According to recent research from UCLA, a conservative estimate of the combined income generated by those benefiting from the DREAM Act would amount to $14 trillion (in current dollars) over the next four decades. If Congress passes the DREAM Act, President Obama will sign it into law.

TODAY, both the House and Senate will be taking up the DREAM Act. Call your respective senators and house member NOW! Dial: 1-888-254-5087 or 202-224-3121.

The House will take up the DREAM Act by 3:30PM EST. The Senate session begins at 3:30PM EST with a vote scheduled for later in the afternoon or evening. Tune into CSPAN to watch coverage.
Urge your representative not to harm California's water and wildlife

This summer the House of Representatives will consider H.R. 1837, a bill that would overturn the congressionally approved landmark agreement to restore the San Joaquin River and radically undermine Endangered Species Act protections for salmon and other species in California’s Bay-Delta estuary. Urge your representative to vote No on H.R. 1837.

Learn more about this issue.

Send Your Message
Use our sample text or write your own

Your message will be sent to:
Your representative

Subject:
Vote No on H.R. 1837 and protect California’s water and environment

Dear Representative,

I urge you to oppose and vote No on H.R. 1837, a bill that threatens the health of the Bay-Delta estuary, California’s salmon fishery and the restoration of the San Joaquin River. This radical legislation seeks to guarantee water deliveries to the politically connected Westlands Water District at the expense of farmers in northern California and in the Delta, salmon fishermen, the environment and the long-term reliability of California’s water supplies.
**DIRECT**
Communication
Legislator
Expresses a view about specific legislation

**GRASSROOTS**
Communication
General public
Expresses a view about specific legislation

---

**Not** Calls to Action:
"Learn more"
"Take action"
"Support our efforts"
"Get involved"

---

**Not** Lobbying
Nonpartisan analysis, study, or research

Request for technical assistance

Self defense

Examinations and discussions of broad social, economic, and similar problems

Lobbying EXCEPTIONS
Responding to the Needs of Young Latino Children: State Efforts to Build Comprehensive Early Learning Systems

By Erika Beltran*

INTRODUCTION

Recent federal and state policy developments and investments in early care and education (ECE) reflect a renewed commitment to improving the school readiness and, ultimately, the school success of young children. Most importantly, these new proposals present a prime opportunity to incentivize states to design early learning systems that meet the needs of all children. For Latino* and English language learner (ELL) children, this opportunity could not come any sooner.

Latino children now constitute almost one-quarter (24%) of the child population in the United States under the age of five and are the fastest-growing subgroup of children.1 Despite these demographics, Hispanic children have the least access to formal early care and education programs and low levels of school readiness.2 Largely due to low levels of parental education and high levels of poverty, Hispanic children are forced to confront many barriers to school success before ever stepping foot in the classroom.

Without access to high-quality early learning programs, it is no surprise that Hispanic students have consistently lower levels of academic achievement than their White peers. For example, in 2007, Hispanics scored an average of 26 points lower in reading and 21 points lower in math than their White peers on the fourth-grade National Assessment of Educational Progress (NAEP).3 Eighth-grade NAEP results demonstrate similar gaps in reading and math, showing that Latino students are not catching up. In fact, Latinos are dropping out at rates much higher than their non-Latino peers. Only 51% of Hispanic students who entered ninth grade completed twelfth grade and graduated with a traditional high school diploma in 2005.4
MUST

Invitation in Writing on behalf of Committee

Available to all members of Committee

MAY

Express a View on Specific Legislation

Technical ASSISTANCE
Federal funds *CANNOT* be used for *LOBBYING*
CAN be used to
- Enhance prevention
- Collect and analyze data
- Publish and disseminate results of research and surveillance data
- Implement prevention strategies
- Conduct community outreach services
- Provide leadership
- Foster safe and healthful environments

CDC FUNDS

- State and Local Government Grantees
- Non-Government Grantees
CANNOT be used for:

- Grassroots lobbying
  - Inducing members of the public
  - To contact their elected representatives to urge support of, or opposition to
  - Proposed or pending legislation or appropriations or any regulation, administrative action, or order issued by the executive branch of any Federal, state or local government

- Direct lobbying by grantees
  - Attempts to influence deliberations or actions by Federal, state, or local legislative branches (except for normal and recognized executive-legislative relationships)
  - Attempts to influence a decision by an executive agency
NATIONAL CALL-IN 2015

What is the National Call-in?
The National Call-in is an opportunity for all Pancreatic Cancer Action Network supporters across the country to add their voices to those of the advocates who will be in Washington, D.C., for Advocacy Day on June 23. We need as many people as possible to tell Congress that pancreatic cancer research needs to be a national priority!

How does it work?
On Monday, June 22, you will receive an email with instructions on how to place calls to your three members of Congress. The email will include the office phone numbers and a short script of what we’d like you to say. These five-minute calls will strengthen the impact of our in-person meetings with Congress and amplify the voice of the pancreatic cancer community on Capitol Hill.

Prizes for participating!
After making your calls on June 23, be sure to fill out the feedback form below the talking points you will receive. Everyone who does so will be entered into a drawing for one of these two prizes:

- A two-night stay at a Washington, D.C., hotel for Advocacy Day 2016
- A $100 gift certificate to our Shop Purple store

Mark your calendar today!
Please mark your calendar now for the 2015 National Call-in on Tuesday, June 23, and ask your friends and family to do the same.

During the 2014 National Call-in, more than 2,300 phone calls were placed to Congress. With your help, we can double the number of calls that are placed to members of Congress during this year’s Advocacy Day and make sure that legislators hear our message loud and clear.
CAN be used for:

- Nonpartisan analysis, study, or research
- Examinations and discussions of broad social, economic, and similar problems in conferences and reports
- Information provided upon request by a legislative body or committee for technical advice and assistance

CDC FUNDS
- Educate the public on personal health behaviors and choices
- Conduct research on policy alternatives and their impact
- Compile and communicate the results of research on health issues and policy approaches that have successfully addressed them
- Educate the public with examples of best practices or success stories across states or localities
- Identify and broadly disseminate balanced, objective evidence on options and alternatives for legislative or executive actions that would achieve a policy outcome

NONPROFITS CAN
Cancer Health Briefs

STATE CANCER HEALTH BRIEFS

Research shows that cancer continues to be the leading cause of death among Asian Americans (AAs). AAs also continue to experience the lowest screening rates (breast, cervical, colorectal cancers) compared to all other racial groups. Among AAs, breast cancer is the most common cancer, followed by prostate, lung, colorectal, liver, and stomach cancers. Native Hawaiians and Pacific Islanders (NHPs) share a similar burden in common cancers such as breast, prostate, lung, and colorectal as non-Hispanic Whites (NHWs), but they face higher risks from cancers such as stomach, liver, and uterus. In addition, NHPs have higher cancer incidence rates compared to AAs.

The cancer health briefs below provide information and data on the top 21 states with the largest Asian American, Native Hawaiian and Pacific Islander populations. Included in the health briefs is the most up-to-date cancer information available that identifies current cancer trends for each state. Also included are demographic data from the U.S. Census Bureau’s American Community Survey 2011, except where otherwise noted, and AA and NHPI data to show population change, languages spoken, income, educational attainment, and health insurance coverage for each state. Health departments and community organizations can utilize this state-specific information to increase cancer awareness and promote action on the impact of cancer among AA and NHPI communities across the nation. Targeted ethnic-specific community prevention and screening efforts are critical to reducing AA and NHPI cancer disparities as well as understanding social factors such as migration, acculturation, and geography that impact how AA and NHPI communities receive and access care.
Anti-Lobbying Restrictions for CDC Grantees

Language included in Section 503 of Division F, Title V, of the FY 12 Consolidated Appropriations Act (P.L. 112-74, excerpted below) reinforces and (in selected respects) expands long-standing statutory and other provisions governing the use of appropriated funds by CDC and its grantees for advocacy, lobbying, and related activities. These long-standing provisions include Office of Management and Budget (OMB) Circular A-122: Cost Principles for Non-Profit Organizations; OMB Circular A-87; and Cost Principles for State, Local, and Indian Tribal Governments.

The discussion below provides a general overview of lobbying restrictions on the work of CDC grantees, along with examples of restricted and permissible activities. The examples are provided for illustrative purposes, but should not be regarded as definitive legal guidance, as they may not apply to the specific circumstances of the work of any specific grantee.

As a renewed expression of Congressional intent, Section 503 serves as an important reminder of limits on lobbying activities that have always governed CDC grantees. These parameters have enabled CDC and its public health partners to advance a strong public health agenda, and the new language continues to enable many of these same activities.

Overview of Application of Section 503 to CDC Grantees

General examples of allowable and restricted activities are included in the material below and attached. For further guidance on the applicability of Section 503 to CDC grantees please see the attached Additional Requirement (AR) 12 (attached below), which is CDC’s policy on impermissible lobbying activities by CDC grantees. AR 12 is part of the terms and conditions of all CDC grants.

CDC Guidance

Tools for Effective Advocacy

Nonprofits often face stiff competition from well-funded special interests as they advocate for smart public policies. Bolder Advocacy, an initiative of Alliance for Justice, helps to level the playing field by providing free tools for nonprofits to build their capacity in advocacy and organizing: moving the dial from good to great advocacy. Our online tool center helps the most sophisticated to the smallest nonprofits — focused in education, health, environment and a host of other important issues — to evaluate their advocacy and organizing and find opportunities to do better. Bolder Advocacy is an expert ally — helping nonprofits advocate more strategically and more effectively and reach their important social goals.

NEW RESOURCE
PowerCheck
Community organizing can be a complex process. To be successful, it’s important to organize for success.

http://bolderadvocacy.org/tools-for-effective-advocacy
For more information
Please feel free to contact me

Pedro Arista, MPH
Program Manager
(415) 568-3311
parista@apiahf.org
Q&A SESSION
thank you