

# Lobbying by Fraternal Foundations

*Advance Your Charitable Mission and  
Protect Your Tax-Exempt Status*

North American Interfraternity Conference Foundation  
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# Why Lobby?

- Preserve charitable tax deduction
- Increase funding for student financial aid
- Enact Collegiate Housing and Infrastructure Act
- Protect freedom of association
- Advance your organization's charitable agenda
- Provide leadership development opportunities for your students
- And more . . .

# Overview

Lobbying or Legislative Activities	Political Campaign Activities	Nonpartisan Study, Research and Analysis; Assistance to a Governmental Body; Examination of Broad Social, Economic and Similar Problems
No substantial part of the organization's activities may consist of carrying on of propaganda or otherwise attempting to influence legislation	Prohibited, so organization may not intervene on behalf of or against a candidate for public office  Certain voter registration drives permissible	Unlimited

# Two Types of Lobbying

- (1) Direct Lobbying for or against *specific* legislation or ballot measure, and
- (2) Grassroots or Indirect Lobbying for or against *specific* legislation or ballot measure (“call to action”)

Members ≠ General public

# What is NOT Lobbying

- **Nonpartisan analysis, study, or research**
- **Responses to written requests for assistance from a legislative body or committee**
- **Narrow “self-defense” exception for appearances or communications that might impact the organization’s existence, powers, or duties**
- **Internal communications between bona fide members of an organization**
- **Judicial communication, executive, and administrative communication, to the extent that the individual is not involved in the formulation of the legislation**
- **Examinations of broad social, economic, or other similar problems**
- **Action in personal capacity**

# Measuring Lobbying – Alternate Tests

- **Insubstantial Part Test**
  - facts and circumstances
  - violation = 5% excise taxes on all lobbying expenditures and revocation of tax-exempt status
- **501(h) Expenditure Test**
  - elect by filing Form 5768
  - violation = 25% excise tax on excess expenditures (revocation only if exceed limit by 50% averaged over four-year period)

# 501(h) Expenditure Test

- Overall limit based on “exempt purpose expenditures”
  - 20% of first \$500,000
  - +15% of next \$500,000
  - +10% of next \$500,000
  - +5% of remaining
- \$1 million overall cap
- 25% grassroots lobbying sublimit
- N/A to churches and affiliates

# Funding Student Lobbying

- Funding student participation in lobbying activities:
  - Grants to fraternity pursuant to written agreement, or
  - Direct reimbursement/payment of expenses
- In aggregate, lobbying conducted and funded by the organization must be insubstantial



# Lobbying by Private Foundations

- Distinguish public charity rules
- Lobbying by private foundations is generally prohibited
- Fraternal “foundations” are not private foundations

# Political Campaign Activity

- Neither public charities nor private foundations may engage in political campaigns
- However, individual directors and officers may participate in political campaigns in their personal capacities
- Professional staff must use particular caution
- Adopt board resolution to clarify

# Questions? Concerns?

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