**Questions about Lobbying and Political Activity by 501(c)(3) Organizations**

**September 13, 2018**

**Partnership for the Public Good**

1. **How is lobbying by volunteers considered?** You should keep track of lobbying by volunteers. If you file the Expenditure Election Form (IRS Form 5768), then you will not have to count volunteer time, since it involves no expenditures, but you will need to include any related expenses (for example, if you print literature that a volunteer prepared). If you have not filed the form, then the test for how much lobbying you can do is the more vague “substantial part of your activities” test, which is based on all facts and circumstances and not just expenditures. If you are an organization run totally by 2 volunteers, and they spend one third of their time lobbying, you might have a problem. Remember, however, that the definition of lobbying is narrow, so that scenario is very unlikely for most groups. Final reminder: if you spend more than $5,000 in a year on lobbying, you need to register with state of NY as a lobbyist.
2. **What if your organization is part of an advisory board (or collaborative) that talks about a specific bill? And/or takes a specific stance on it.** You can talk about bills all you want and take stands on them. It only becomes lobbying when you are communicating with law-makers about the bill, in favor or against it, or you are urging members of the public to contact law-makers in favor or against a specific bill.
3. **On work time, can you tell someone who you are voting for if you don’t say that your organization is endorsing the candidate?** Opining on candidates should not be done on work time, work email accounts, work phones, etc.
4. **What if people use your nonpolitical materials to advocate, lobby, or endorse a specific candidate? Relatedly, what if you are an umbrella organization and people use your materials to advocate, lobby, or endorse a specific candidate?** If you put non-political materials in the public domain, and someone then uses them politically, you should be okay, but you would be wise to go on the record stating that you did not provide them for political purposes and are not endorsing any candidates, so that someone does not get the wrong impression and file a complaint, or, on the off-chance that the IRS did investigate, you had made a clear record.
5. **What “is” considered “campaign season”?** I don’t have a definitive answer for this, but I would view as a candidate anyone who has publicly announced that they are running for office and/or filed paperwork to run. Remember, too, that your organization should not be involved in attempts to draft candidates to run or discourage candidates from running. Of course, incumbents are to some extent always running for re-election. In dealing with them outside of campaign season, just be sure that you are dealing with them as elected officials, not as candidates (i.e., don’t let them fundraise or give out political materials at your events). If you go to their fundraisers, do so on your own time and do not represent your organization at the event. For example, if you host a house party/fundraiser, make sure your organization plays no part in it, and if you give a speech at it, make sure you mention you are doing so as private citizen.

6.       **If you participate in a leadership training with an organization who endorses candidates, and there is a specific section on a candidate that THEY are endorsing….what do you do?** To be safe, skip that session, if you are doing this on work time.