Education, Advocacy & Lobbying
501(c)(3) Rules of the Road
Definitions

Education  *education*
Noun: the act or process of imparting or acquiring general knowledge

Examples:
• The arts add value to society
• The arts create jobs and tax revenue
• Arts education diminishes the drop out rate
• Kids with an arts education score 100 points higher on their SATs on average
• The non-profit arts generate $135.2 billion a year in economic activity
Definitions

Advocacy  *advocacy*
Noun: The act of pleading or arguing in favor of something, such as a cause, idea, or policy; active support

Examples:
- Support the arts as they add value to society
- Support the arts as they create jobs and tax revenue
- Support arts education as it diminishes the drop out rate and kids with arts education score 100 points higher on their SATs on average
- Support the non-profit arts as it generates $135.2 billion a year in economic activity
- Oppose efforts to cut arts funding
Definitions

Lobbying  *lob·by·ing*
Verb: To try to influence the thinking of legislators or other public officials for or against a specific cause

**Examples:**
- Support increasing funding for the NEA and NEH in the FY15 Appropriations Bill
- Support increasing funding for arts education in the FY15 Appropriations Bill
- Cosponsor S.548 or H.R. 1524, the artist-museum partnership bill
Electioneering  

Verb: To be active in a political election or campaign  
Noun: A person who engages in this activity.  

Examples:  
• Door knocking to hand out literature 
• Registering individuals to vote 
• Hosting candidate forums or debates 
• Contributing to a campaign
Two Forms of Lobbying

1. Direct Lobbying

- when an organization attempts to influence specific legislation by stating its position to a legislator or other government employee who participates in the formulation of legislation, through its staff or members.
Two Forms of Lobbying

2. Grassroots lobbying

- When an organization urges the general public to take action on specific legislation.

- Key elements of grassroots lobbying:
  - Refer to specific legislation;
  - Reflect or state a point of view on the legislation’s merits; and
  - Encourage the general public to contact legislators.
How much can a 501(c)(3) spend on lobbying?

- A generous amount:
  - 20% of the first $500,000 of annual expenditures;
  - 15% of the next $500,000;
  - 10% of the next $500,000;
  - 5 percent for every additional $500,000 up to $1 million.

**ABC nonprofit with expenditures of $50,000.**
- 20% of $50,000 = $10,000 = Overall lobbying limit
Grassroots Lobbying
Expenditures Limited

- Charitable nonprofits may spend 25% of their total allowable lobbying expenditures on grassroots lobbying.

- ABC nonprofit with expenditures of $50,000.
  - 20% of $50,000 = $10,000 = Overall lobbying limit
  - 25% of $10,000 = $2,500 = Grassroots lobbying limit
  - Total lobbying activity $2,500 on grassroots lobbying, and $7,500 on direct lobbying or all $10,000 on direct lobbying.
Only 501(h) Electors

- These expenditure limits and lobbying definitions only apply to (c)(3)s that take the (h) election.
- Easy to do!
- If not an (h) elector, lobbying cannot be a "substantial part" of your activities.
- Substantial not defined. No set expenditure limits or definitions.
Commons Myths & Misperceptions

- If we receive government funding, we cannot lobby at all.
- We cannot use foundation funds for advocacy.
- We cannot lobby a candidate for public office during an election season.
More Latitude for (c)(4)s and 527s

- **(c)(4)s**
  - No restrictions or limitations on lobbying.
  - Can work on behalf of candidates (support or oppose) but only secondary activity.
  - Contributions are not tax deductible.

- **527s**
  - Sole focus on candidate campaigns.
  - Only work on ballot initiative if clear nexus between it and candidate’s prospects for election.
  - Funds must come from traditional political sources (donations, dues, etc)
  - Contributions not tax deductible.
Basic Rule

Section 501(c)(3) organizations may engage in educational activities related to the electoral process as long as they do not:

- participate or intervene in any political campaign
- in support of, or in opposition to, any candidate for public office
Permissible Educational Activities of a 501(c)(3) Organization

- Candidate questionnaires – but can’t distribute the answers widely
- Candidate forums
- Non-partisan voter registration
- Issue education with candidates
- Participating in town hall meetings
- Web links to each candidate’s website, not just the ones you think are the best, and not from your homepage.
Voter Guides/Candidate Questionnaires

- All candidates asked to participate
- Show no indication of preference
  - Editorial opinion
  - Comparison to organization’s positions
- Ask a variety of issues
- All responses published, unedited to only your members.
Candidate Forums

- All candidates invited
- Range of issues addressed
- Equal opportunity to respond
- No indication of preference
  - Editorial comments
Officeholder Scorecards

- Cannot release scorecards (showing judgment value) within 3-to-6 months prior to Election Day if incumbent is running for re-election
  - **Exception:** If organization can show a history of publishing voting records on a range of issues around the same time each year and the report does not show judgment value in the way scorecards do, then it’s okay.
A 501(c)(3) does not lose its ability to engage in educational activities simply because a political campaign is in process.

In fact, it is during the election season that the interest of voters in key issues may be at its highest.
Some Helpful Factors for Issue Education During a Campaign

- A history of non-electoral issue education
- Research showing the need for education
- Disclaimers of endorsements
- No reference to a candidate
Examples of Prohibited Political Conduct

- Endorsement of a candidate
  - Fundraising appeals
- Rating of candidates
- Contributions to candidates
- Establishment of a PAC
- No scorecards of incumbents’ voting records close to Election Day
- Distribution of materials prepared by candidates
- Two-click rule. Web links to election-slanted materials should be at least two clicks away from the 501(c)(3)’s homepage.
Examples of Permissible Political Conduct

- Ask your federal candidates to fill out the Art Action Fund Candidate Survey
  www.artsactionfund.org/pages/ask-your-candidate

- Talk to incumbents about their previous voting records on the arts. See Arts Action Fund’s Report Cards online:
  http://www.artsactionfund.org/pages/congressional-report-card

- Make a list of area artists willing to perform at campaign events and provide to campaigns
Other Examples of Permissible Political Conduct

- Host an open house at your local arts agency to explain what the arts offer in your community. Ask all the candidates to come participate.

- Write an op-ed on the value of arts education to the students in your community--Talk about what’s at stake in the elections.

- Ask local museums to give a "behind-the-scenes" tour of how exhibits are put together. Talk to candidates about how nonprofit institutions like these are providing public services to the entire community, especially the underserved.