

**National Council of State Directors of Adult Education
Guidelines for Advocating for Adult Education and Literacy**

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Guidelines for Public Employees:

Lobbying Guidelines for Public Employees

For those of you who work for a public agency, supported by local, county or state governments, there are certain lobbying restrictions for you when working on activities that will influence the outcome of legislation.

ALWAYS CHECK YOUR AGENCY POLICIES, GET WRITTEN COPIES, AND ABIDE BY THEM. Policies vary. All are based on federal and state law, while some agencies add their own requirements. Follow the rules.

The First Amendment protects your right to lobby members of Congress, congressional staff, congressional committees and other elected officials. However, your actions cannot be interpreted as official announcements of federal or state or local policy coming from your institution. When contacting members of Congress, identify yourself as a concerned citizen in your community presenting your personal views.

At the same time, however, you shouldn't feel like you have to conceal your employer. You are allowed to tell the person you are talking with that you work for a facility that is supported by the county, state or federal government, as long you make it clear that you are speaking on behalf of your personal views and/or the National Council of State Directors of Adult Education and that the views expressed are your own.

Generally speaking, appropriated public funds may not be used, directly or indirectly, to pay for lobbying activities. This means that anything paid for by the government, including your salary, telephone, copier, letterhead, fax machine, postage, etc., may not be used to support your lobbying activities. Again, check your agency policies and understand what is expected of you. Exercise discretion.

However, personal funds or funds provided by non-governmental organizations may be used to support these activities.

Your participation in the democratic process can be personally satisfying and is critical to adult education's success, so please do not feel discouraged from lobbying. If you have any questions or need additional information, please contact your local ethics official.

Lobbying Guidelines for 501(c)(3) Organizations

It is important to know what activities tax-exempt, non-profit [i.e., 501(c)(3)] organizations can conduct. Recent rulings by the IRS have clarified many of the uncertainties expressed by some in the non-profit sector: while lobbying by non-profits is entirely lawful, political activity is strictly prohibited.

So, what is the difference between lobbying and political activity?

A Resource: If you have questions regarding appropriate activities, feel free to contact Marsha Tait at ProLiteracy at 315.422.9121 ext 322 or mtait@proliteracy.org."

Lobbying. A 501(c)(3) may not engage in *substantial lobbying*, a term that has never been clearly defined. A general guideline is to spend less than 5 percent of an organization's budget on lobbying, although the Internal Revenue Service (IRS) has not officially sanctioned this. *Lobbying*, for this purpose, includes funds used to retain a lobbyist and probably covers communication to members and the public for or against a particular piece of legislation.

Fortunately, organizations that wish to avoid the vague "insubstantiality of expenditures" test may utilize section 501(h) of the Internal Revenue Code. This "safe harbor" specifies exact dollar limits for 501(c)(3) lobbying expenditures, based on a budgetary sliding scale, with an annual cap of \$1 million. A 501(h) election carries advantages beyond a degree of certainty, including, in many cases, the imposition of penalty taxes rather than loss of tax exemption, and clearly specified favorable exclusions, such as time donated by volunteers and funds spent on executive branch advocacy. However, an organization may not spend more than 25 percent of its total lobbying budget on *grassroots lobbying*, efforts to encourage action by the general public.

A 501(c)(3) exempt organization makes a 501(h) election by filing Form 5768 with the IRS, thereafter maintaining detailed records. A reasonable allocation of expenses is required for activities that include both lobbying and nonlobbying purposes. A 501(h) election is not available to certain supporting organizations that receive their public charity status through support of another 501(c)(6) association.

Incidentally, a 501(c)(3), whether it makes a 501(h) election or not, is not affected by the 1993 law eliminating the deductibility of lobbying expenses.

Political activities. The law clearly prohibits 501(c)(3)s from engaging, directly or indirectly, in political campaigns, whether through establishing a PAC or contributing funds to candidates. The only legal way to engage in political activity would be to create a separate entity under a permissible tax code provision, preferably 501(c)(6). This is not as daunting as it may appear, although legal counsel is essential in setting up the structure and filing the proper documents. The 501(c)(3) and (6) entities may share boards of directors, headquarters, and even staff, but strict financial separation is required.

Political activity is defined as influencing the outcome of an election-federal, state, or local-and is not permitted under the law. Failure to comply with the law could cause the organizations to lose both its tax-exempt status and its ability to assure donors that their contributions are tax deductible.

As a 501(c)(3) you can:

- Inform candidates of your position on issues and urge them to support your interests;
- Distribute position papers to the general public and your members
- Publish and distribute a voting record that lists pieces of legislation, describes it, and notes how a member voted;
- Host a public forum to allow candidates to discuss their views on subjects of interest to the organization;

As a 501(c)(3) you cannot:

- Work for or against the election of a candidate, or endorse or oppose a particular candidate;
- Direct financial contributions to a candidate, political party or political action committee (PAC), or

provide in-kind contributions to a candidate, political party or PAC.

While this information is intended as a resource guide, it in no way represents legal advice. You may wish to seek legal counsel for specific legal advice on what is/is not permitted under the law. (provided by the Independent Sector)

Communicating with your Legislator:

Go to the web site (<http://www.senate.gov> or <http://www.house.gov>), click on your state to find your Congressman. Click on "contact us" for the address, phone numbers and fax numbers for the district offices and the Washington Office).

1. Meet, 2. Write, 3. Telephone

1. Meeting with your legislator

It always makes an impact on members of Congress when constituents take the time to visit in person.

The purpose of the meeting:

- to persuade your legislator to take appropriate position on issues related to adult education by supporting (or opposing) a particular bill
- to continue a relationship with your elected officials and their staff, and let them know you are a resource for adult education and literacy issues.

Simply walking through the door raises the awareness of the importance of the adult education program and services. And, you don't have to travel to Washington to meet with your legislators. Members of Congress return to district or state offices most weekends and holidays.

The following suggestions may help make your meeting effective:

Contact Policy Committee or Washington Staff. We can help you put your visit in the context of current adult education issues, and brief you on how you can help advance our legislative efforts. E-mail the the Council at dc2@ncsdae.org or call 202 624 5250. Check the House (http://www.house.gov/house/2005_House_Calendar.shtml) and Senate (http://www.senate.gov/pagelayout/legislative/one_item_and_teasers/2005_schedule.htm) web sites for times when your Congressman may be in the home district.

Plan Your Visit Carefully. Small groups are generally best (the Director, a teacher, and an adult learner for example). You probably will not have a lot of time with your legislator, so be clear about what you want to achieve. Remember to begin and end the conversation with a specific request that you'd like your legislator to follow up on.

Make an Appointment. Contact the legislators' appointments scheduler to arrange a meeting. Explain your purpose and whom you represent, because it is easier for the staff to arrange a meeting if they know what you will be discussing and your relationship to the issue. You may need to be persistent, but be polite.

Be Prompt, Patient and Polite. It is not uncommon for a legislator to be late, or if you are visiting the Washington office, to have a meeting interrupted due to committee or floor actions. Be flexible. If you are interrupted, if possible, continue your meeting with a member's staff.

Be Prepared. Prepare a brief fact sheet about your adult education program to leave with your legislator. Legislators must take a position on many issues and may lack details about the specific issues. Leaving a one-page document on the impact of your program is especially helpful.

Put Your Issue in Context. Legislators want to represent the best interests of their district or state. Wherever possible, demonstrate the connection between what you are requesting and the broader interests of the member's constituency. How many adults do you serve? Your success related to learner outcomes. Collaborations you have with other agencies.

Be Responsive. Be prepared to answer questions or promptly provide follow-up information. While it is important to know the substance of an issue, you are not expected to know all the technical details. It is always acceptable to say, "I don't know, but I'll find out and get back to you." Follow up with a thank you letter that outlines the different points covered during the meeting and answer any remaining questions; send other items as requested. Use a meeting as an opportunity to build and continue a relationship with an elected official and their staff.

2. Writing your Legislator

Surprisingly, few people ever write their elected officials, but for members of Congress, mail is an important connection to the opinions of their constituents. For every letter received, it is assumed that many constituents feel the same way. Because of the delay in mail due to the anthrax issue, it is wise to fax (not from your business fax machine) your letter.

Go to the web site (<http://www.senate.gov> or <http://www.house.gov>), click on your state to find your Congressman. Click on "contact us" for the phone numbers and fax numbers)

Before you write a letter, consider the following suggestions:

Identify the bill or issue first. Your purpose for writing should be contained in the first paragraph. About 20,000 bills are introduced each year in Congress, so it is important to be specific about a bill number(s). The NCSDAE web site (www.ncsdae.org) and the [Policy Committee](#) will reference the appropriate bill numbers in the action alerts that are sent out.

Identify yourself and whom you represent. Whether you are a single concerned constituent or you represent your adult education organization, the effort you are making on behalf of adult education sends an important signal. If you take the time to write, you probably take the time to vote too.

Be brief. Keep letters concise and to the point. As a rule of thumb, stick to one issue per letter and try to keep the letter to one page.

Include anecdotal or local information. Let your legislator know how the issue may affect you and your program. Include specific examples or success stories where appropriate. Key information would include how many adults you serve, how you meet your performance standards and other learner outcomes, and your services have done for workers, families, and the community you serve. Describe the reaction(s) you often receive from the adults who are successful in your program.

Be courteous. Even if you do not agree with the person, maintain a level of respect. Also, be sure to appropriately commend the legislator for any past help or support on the issue.

Ask for a specific action. Tell your representative that you want them to take some specific action, such as cosponsoring a bill, supporting an amendment or making a floor statement about a particular

issue. Again, the Policy Committee and staff at NCSDAE can help you compose your request — check the Council web site (www.ncsdae.org) to see what most recent request is.

Personalize letters. The more personal the letter, the more impact it will have. If letters are typed, a handwritten postscript at the bottom can be helpful. Also, include your home address on your letter. The envelope may be separated from the letter and your letter will be thrown away if your name and return address is not labeled clearly. If you choose to e-mail a letter, be sure to include your mailing address in the text.

Address the letter as follows:

[Date]

The Honorable [_____]
United States Senate
Washington, DC 20510

or

The Honorable [_____]
U.S. House of Representatives
Washington, DC 20515

Dear [Senator/Representative _____]:

Follow up. Never underestimate the power of constituent reaction — positive or negative — to a legislator! Did he/she respond to your request? If so, thank them for their support. If not, don't be shy about expressing your disappointment. Describe the importance of your request and its impact on your adult education services. Be sure to ask for the legislator's support in the future.

3. Telephoning your Legislator

The effect of the telephone call is similar to that of letter writing. If a significant number of calls on an issue are coming into an office it alerts staff to specific constituent concerns. Like written communications, volume counts. If your time is limited, making a quick phone call might be a better way to communicate with your legislators.

Contact the appropriate staff person. Ask to speak with the staff person that deals with the issue you would like to address. Adult education is funded through the Department of Education, so you should first ask for the staff person that handles education. If he or she is not available, ask to leave a message so that your inquiry is recorded. Keep the message brief and focused. If referencing a specific bill, it helps if you include the bill number or sponsors.

Do not be intimidated. Although telephone calls may make you nervous as compared to writing a letter because you are speaking with someone personally, you are still a constituent with concerns that they must take seriously.

Keep in mind the most successful advocacy is not a single event or communication. Advocacy is an ongoing process. Each of the methods described above will provide a way for you to establish a

relationship with your legislators and to nurture those relationships that already exist. Your legislator needs to be reminded what adult education is and the role the services play in ensuring that adults and families in their communities are able to take advantage of all the benefits of living the community and make full contributions to the community.

Thanks to Reach out and Read(<http://www.reachoutandread.org/index.html>) and The American Society of Association Executives, the sources for these guidelines.

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