



RWJF Lobbying Guidelines: Policy Research and Technical Assistance

What are the rules?

Robert Wood Johnson Foundation is classified as a private foundation under the Internal Revenue Code. Under the Internal Revenue Service (IRS) rules, private foundations are prohibited from engaging in lobbying or providing grant funds that are earmarked for lobbying. The definition of “lobbying” for the purpose of the IRS rules is different than other definitions of “lobbying,” such as the “lobbying” prohibited under grants and contracts received from state and federal agencies, or the activities that can trigger lobbying registration obligations under the federal Lobbying Disclosure Act and various state laws. These guidelines only address the Internal Revenue Code lobbying prohibition that applies to private foundation funds, but various other laws may also be relevant to your activities.

What are the consequences of violations?

RWJF is required to publicly disclose prohibited lobbying activities and pay a penalty tax on them. In addition, repeated and/or serious violations can result in the possible revocation of RWJF’s tax-exempt status as a private foundation described in Section 501(c)(3) of the Internal Revenue Code. In addition to these legal consequences, any violation of these rules could negatively impact RWJF’s reputation and/or those of its grantees.

What is considered lobbying for these purposes?

For these purposes, there are two forms of prohibited lobbying:

Direct lobbying. A communication (or the planning of a communication) that:

- refers to specific pending or proposed legislation;
- expresses a view on such legislation; AND
- is directly communicated to a member or employee of a legislative body or any government official or employee who participates in the formulation of the legislation.

Grassroots lobbying. A communication (or the planning of a communication) that:

- refers to specific pending or proposed legislation;
- expresses a view on such legislation; AND
- encourages the recipient of the communication to take action with respect to such legislation by including any one of the following “calls to action:”
 - urges contact with a legislator,
 - provides contact information for a legislator,
 - provides a petition, draft email, postcard, or other means to communicate with a legislator,
 - identifies a legislator as being for, against, or undecided on the legislation or serving on the committee that will vote on the legislation, or
 - identifies a legislator as the audience’s representative.

What is legislation?

Any action taken through a vote of Congress, any state legislature, local council, or similar publicly elected legislative body or a law that must be enacted by public vote (a ballot measure). Legislation includes: authorizing and appropriations legislation; legislative confirmation of administration appointees; legislative resolutions, even if they have no binding effect; treaties subject to legislative approval; and a ballot initiative or referendum.

Legislation DOES NOT include: regulations of an administrative agency or department, even if the regulations are needed to implement specific legislation; executive actions; actions of special purpose bodies, such as school boards and zoning boards; and judicial or other government action that is not subject to legislative vote or approval.



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In order to have direct or grassroots lobbying, each of the three elements of the lobbying definition must be present. If one element is missing, the communication is not lobbying unless one of the special rules below apply.

Are there any special rules?

Ballot measures. Ballot measures are treated as legislation; the voters are the legislative body. As a result, a communication to the general public that refers to a ballot measure and reflects a view on it is considered direct lobbying.

Paid mass media ads. Paid mass media ads that run within two weeks before a legislative vote (committee or full vote) on “highly publicized” legislation is presumed to be grassroots lobbying if it:

- reflects a view on the general subject of the legislation and either:
 - refers to that legislation, or
 - asks people to contact legislators on that general subject.

Are there any exceptions to the lobbying rules?

Yes, there are exceptions to the lobbying prohibition that permits foundation funds to be used for communications that would otherwise be considered lobbying.

- **Technical advice or assistance.** Assistance in response to a written invitation from a legislative or other governmental body. The invitation must:
 - predate the assistance,
 - come from the individual with the authority to bind the body, on behalf of the entity as a whole, and
 - specify the assistance requested.

- **Nonpartisan analysis, study, or research.** A full and fair exposition of an issue that has a clear educational purpose and is distributed broadly (including persons on both sides of the issue) and there are no calls to action that urge readers to contact their legislator.
- **Examination of broad social issues.** Public discussion, or communication with legislative officials, addressing broad social, economic, and similar problems that do not address specific legislation. (Remember a legislation does not need to be introduced in the legislative body to be “specific legislation.”)
- **Self-defense.** Direct communications with legislators about specific pending/proposed legislation that could impact a charitable organization’s existence, powers, duties, tax-exempt status, or the deductibility of its contributions.

Are there other non-lobbying advocacy activities?

The following activities are routinely conducted by grantees in furtherance of their programmatic goals and are not considered lobbying:

- Communications with executive branch officials or other staff who do not participate in formulating legislation.
- Communications with executive or legislative officials on non-legislative action, such as communications intended to influence the rule-making process or influence the allocation of previously appropriated funds.
- Communications with the general public that refer to pending/proposed legislation and reflect a view, but do not contain a call to action and are not paid advertisements on highly publicized legislation.