

Managing Advocacy and Political Engagement

Nonprofit Organizations Institute



Austin, Texas • January 18, 2019



John Pomeranz

Harmon, Curran, Spielberg + Eisenberg, LLP

1725 DeSales Street, NW, Suite 500 • Washington, DC • 20036
202-328-3500 • jpomeranz@harmoncurran.com

Emiliano Martinez



1991 Broadway, Suite 200 • Redwood City, CA 94063
424-832-6389 • emartinez@omidyar.com

Agenda

- Overview: 501(c)(3), 501(c)(4), political orgs
 - Tax law rules for lobbying and election-related activity
- Lobbying issues
 - 501(c)(3) tax rules
 - Strategic and practical considerations
- Election-related activities
 - Limits and strategies for exempt organizations
 - Campaign finance laws and strategies
- General practical considerations



Harmon, Curran, Spielberg + Eisenberg, LLP

Tax Benefits or Advocacy?

	501(c)(3) "Public Charity" (All for public good)	501(c)(4) "Social Welfare Org." (Most for public good)	527 "Political Org." (Most for political work)
Examples	<ul style="list-style-type: none"> • Amer. Red Cross • Heritage Foundation 	<ul style="list-style-type: none"> • Sierra Club • Crossroads GPS 	<ul style="list-style-type: none"> • Sierra Club PAC • EMILY's List
Tax Benefits	<ul style="list-style-type: none"> • Tax-Exemption • Deductible Contribs • Foundation Grants 	<ul style="list-style-type: none"> • Tax-Exemption 	<ul style="list-style-type: none"> • Tax-Exemption
Lobbying	Limited	Unlimited	Rare (and usually taxable)
Election-Related Activity	Can't support or oppose candidates. Nonpartisan activities OK	Partisan activity can't be primary activity. May be taxable	Primary purpose is partisan activity

501(c)(3) Lobbying Limits: Two Tests

- “No Substantial Part” Test
- 501(h) Expenditure Test



Harmon, Curran, Spielberg + Eisenberg, LLP

501(h) Expenditure Test

- Clear definitions of lobbying
 - Distinguishing grassroots vs. direct lobbying
 - Various exceptions (nonpartisan analysis, requests for technical assistance, etc.)
- Clear dollar-based limits
 - Grassroots limit: 25% of overall limit
 - Maximum lobbying: \$1 million (\$250,000 grassroots)



Harmon, Curran, Spielberg + Eisenberg, LLP

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Managing Advocacy and Political Engagement

Also available as part of the eCourse

[2019 Nonprofit Organizations eConference](#)

First appeared as part of the conference materials for the
36th Annual Nonprofit Organizations Institute session
"Managing Advocacy and Political Engagement"