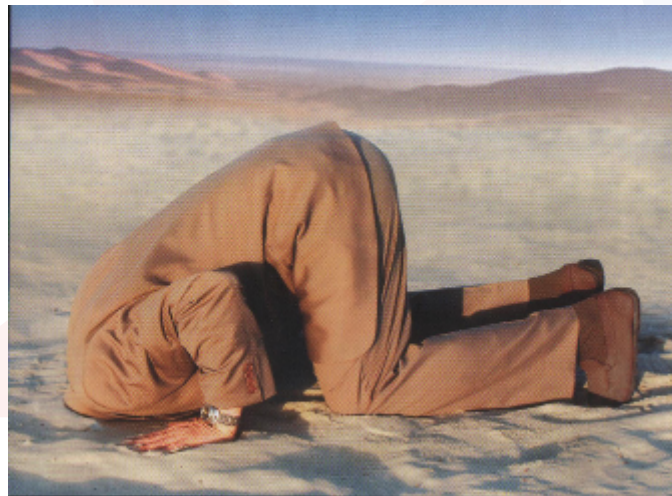


Education and Lobbying: Where's The Line

Sue Thau
Public Policy Consultant
CADCA

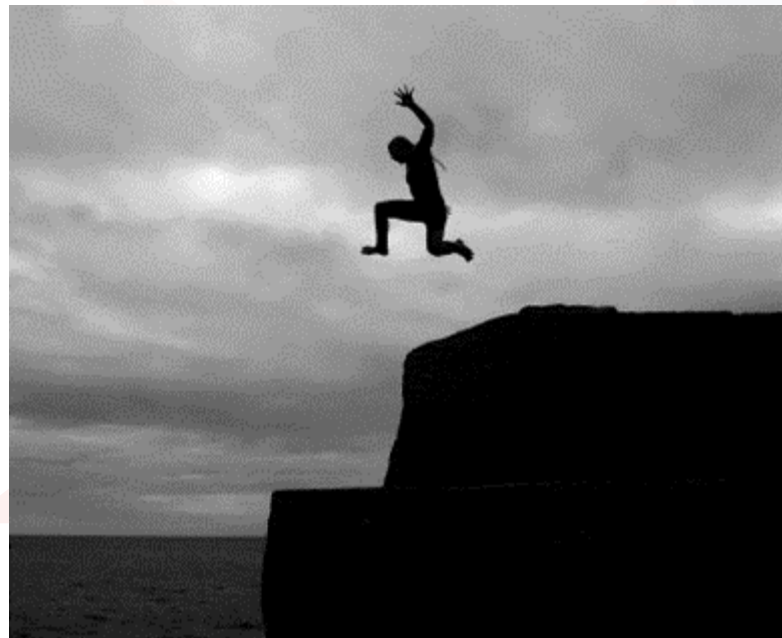
**When it comes to education and lobbying,
do you feel like this?**



Or this?



Or this?



Q: What is education in a policy context?

**A: Education is sharing data
and information**

If Your Organization is Solely Funded With Federal Dollars, Can You Educate Your Elected Officials?

YES!

- Education is *not* considered lobbying.
- You are permitted to educate elected officials about issues you are facing and how to address them, **as long as you are not mentioning or taking specific positions on specific bills.**

Education

Those receiving federal or state funds CAN educate elected officials at any level of government about:

- ✓ Who you are;
- ✓ What you do;
- ✓ The issues impacting your community;
- ✓ Your local data; and
- ✓ What you are doing to address these issues



Education

Those receiving federal or state funds **CAN** educate elected officials at any level of government about:



- ✓ **Your success and outcomes**
- ✓ **Effects of specific drugs; and**
- ✓ **Effects of specific policies**

Education

- Those receiving federal or state funds **CAN** educate elected officials at any level of government by:



- ✓ **Conducting public education campaigns; and**
- ✓ **Pushing for better enforcement of existing laws**

Examples of Education

Effects of Specific Drugs

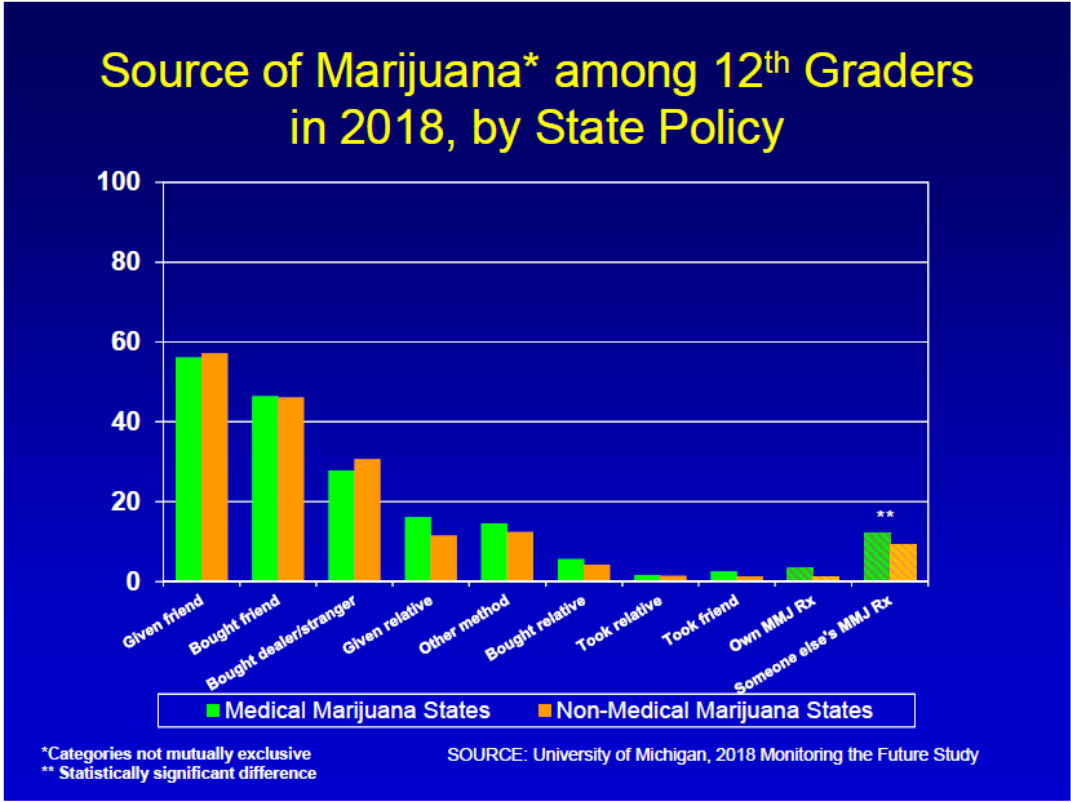
- A NIDA funded study shows that early persistent use of marijuana causes a permanent drop in IQ of 8 points
- A loss of 8 IQ points could drop a person of average intelligence into the lowest third of the intelligence range.



¹M.H. Meier, Avshalom Caspi, et al. 2012. "Persistent cannabis users show neuropsychological decline from childhood to midlife." Proceedings of the National Academy of Sciences

Examples of Education

Effects of Specific Policies



Strategies DFCs CAN Use That Are Education

- Share data and information about the effects in other states or jurisdictions about the policy changes being considered.
- Do general public education about the science of ATOD use, abuse, and addiction to raise awareness.
- Partner with local newspapers to do a series about the science related to youth ATOD use.

Strategies DFCs CAN Use To Address ATOD Issues That Are Education

- Provide parent education workshops
- Provide education and toolkits to teachers
- Do focus groups on youth/parent attitudes
- Implement strategies to change community norms
- Convene a community forum to educate key leaders and elected officials about the effects of ATOD issues on the developing brain and other science based information.

Education

Education crosses the line into lobbying when you take a specific position on a specific bill or ballot proposition/initiative

Education
& General
Advocacy



Lobbying

Q: What Is Lobbying?

A: Lobbying is taking a specific position on a specific piece of legislation or ballot proposition/initiative

Example

- This week the Senate Judiciary heard testimony on the Taxation and Legalization of marijuana. (BS 334)

- Community members need to oppose BS 334 if we want to prevent the legalization of recreational marijuana use in RI.

Refers to a specific piece of legislation

Takes a position

Using Facts to EDUCATE

“Hello Congressman. I wanted to share some information with you that you might not be aware of:

- States that have legalized are clustered at the top of the list in terms of marijuana use among 12-17 year olds;
- A NIDA funded study shows that early persistent use of marijuana causes a permanent drop in IQ of 8 points

If I can provide you with any additional information, please let me know.

Using The Same Facts to Lobby

“Hello Congressman, I know you are considering legislation to legalize marijuana. It is critical that you know some key facts about this issue

- States that have legalized marijuana are clustered at the top of the list in terms of marijuana use among 12-17 year olds; and
- A NIDA funded study shows that early persistent use of marijuana causes a permanent drop in IQ of 8 points

Based on this information, **I urge you to vote against any marijuana legalization legislation.**

Examples of Lobbying

- Please oppose H.R. 2564, a bill to commercialize marijuana
- H.R. 2564, a bill to commercialize marijuana, will be voted on next week. We urge Senator Smith to oppose HR 2564.

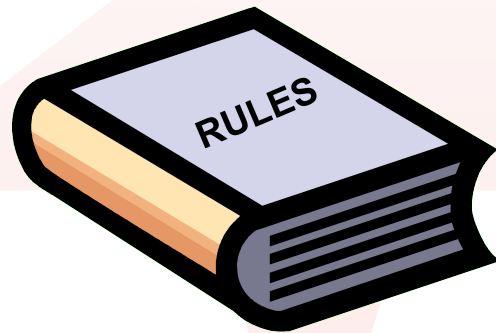
Lobbying Language

Support
Oppose, Object
Pass
Vote No
Vote For
Vote Against
Do Not Support

Examples of Non-Lobbying Phrases

- We appreciate your work on...
- We thank you for...
- We are concerned/have concerns with...
- We want to you understand that/you need to know that...
- We want to bring to your attention...
- There are the following issues regarding...
- We want to make you aware of...
- We know from X that X would be a positive development/would be a problem regarding...

**You CAN educate and lobby,
as long as you know and
play by the rules!**



Lobbying Rules for 501(c)3's



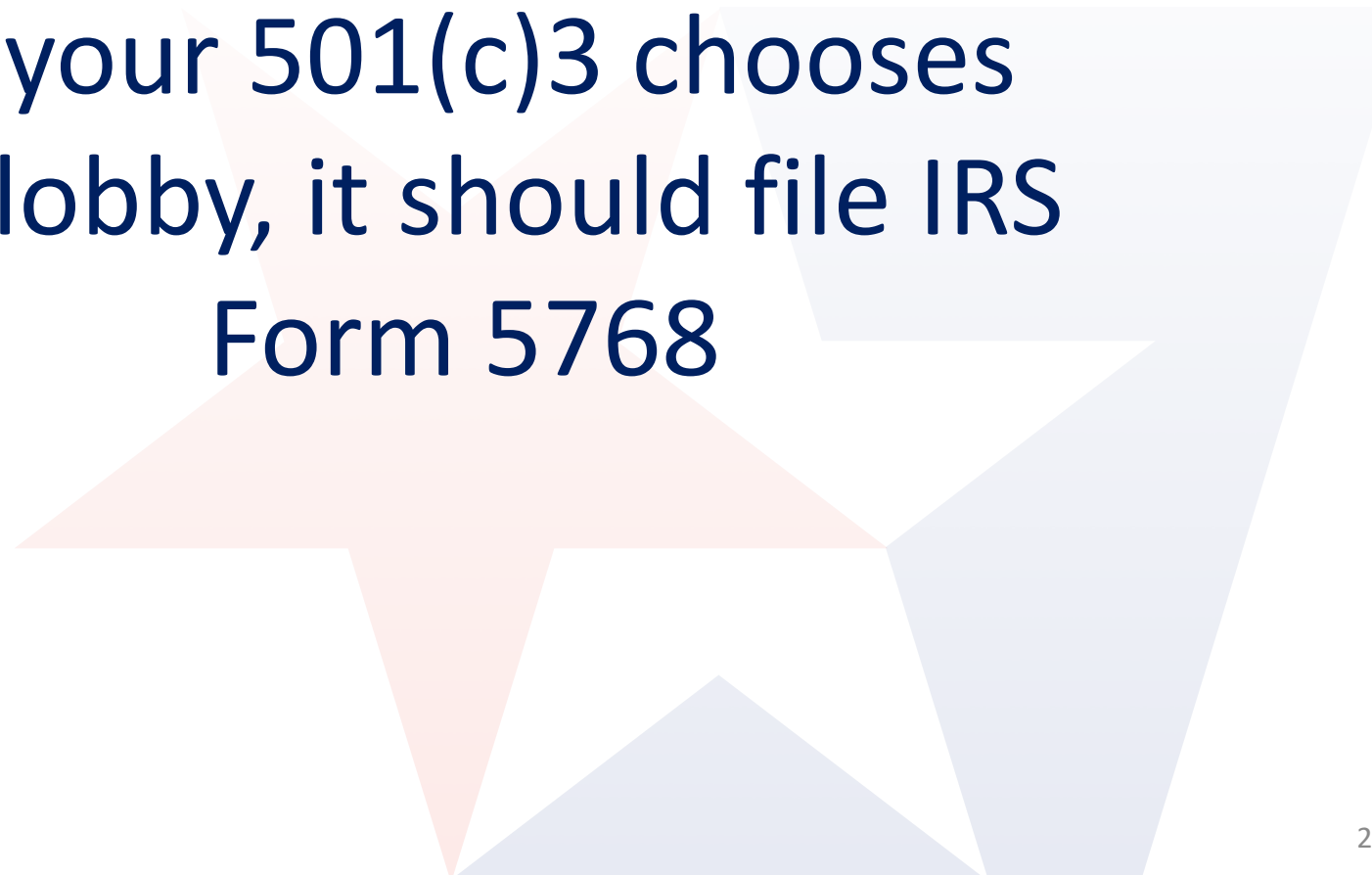
If Your 501(c)3 Organization Receives A Mixture of Federal *and* Non-federal, Non-restricted Funds, Can You Lobby?

Yes!

- You can use up to 20% of your 501(c)3 **organization's** first \$500K in tax-exempt expenditures to lobby **BUT** you cannot use any of your federal funds to lobby.

How Much Lobbying Are 501(c)3s Permitted To Do?

Allowable Lobbying Expenditures	
Tax Exempt Income	Amount that can be spent on lobbying
First \$500,000	20% - \$100,000
2 nd \$500,000	15% - \$75,000
3 rd \$500,000	10% - \$50,000
All income over the first \$1.5 million	5% - up to a total of \$1 million
Some coalitions come under the 501'(3) status of a larger organization. In that case, calculations of allowable lobbying expenditures are based on the budget and expenditures of the larger organization.	



If your 501(c)3 chooses
to lobby, it should file IRS
Form 5768

Why?

- Filing provides:
 - liberal limits on how much money can be spent on lobbying
 - very clear definitions of what activities don't include lobbying
 - The ability to monetize your actual lobbying expenses to protect you in an audit or if questions are raised about expenditures and funds.

How to File IRS Form 5768 – Begin with Form 990, Part IV

Form 990 (2015)

Page **3**

Part IV Checklist of Required Schedules

	Yes	No
1 Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	<input type="checkbox"/>	<input type="checkbox"/>
2 Is the organization required to complete <i>Schedule B, Schedule of Contributors</i> (see instructions)? . . .	<input type="checkbox"/>	<input type="checkbox"/>
3 Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>	<input type="checkbox"/>	<input type="checkbox"/>
4 Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>	<input type="checkbox"/>	<input type="checkbox"/>

How to File IRS Form 5768 – Schedule C of Form 990

SCHEDULE C
(Form 990 or 990-EZ)

Political Campaign and Lobbying Activities

OMB No. 1545-0047

2015

**Open to Public
Inspection**

Department of the Treasury
Internal Revenue Service

For Organizations Exempt From Income Tax Under section 501(c) and section 527

- ▶ **Complete if the organization is described below.**
- ▶ **Attach to Form 990 or Form 990-EZ.**
- ▶ **Information about Schedule C (Form 990 or 990-EZ) and its instructions is at www.irs.gov/form990.**

If the organization answered “Yes,” on Form 990, Part IV, line 3, or Form 990-EZ, Part V, line 46 (Political Campaign Activities), then

- Section 501(c)(3) organizations: Complete Parts I-A and B. Do not complete Part I-C.
- Section 501(c) (other than section 501(c)(3)) organizations: Complete Parts I-A and C below. Do not complete Part I-B.
- Section 527 organizations: Complete Part I-A only.

If the organization answered “Yes,” on Form 990, Part IV, line 4, or Form 990-EZ, Part VI, line 47 (Lobbying Activities), then

- Section 501(c)(3) organizations that have filed Form 5768 (election under section 501(h)): Complete Part II-A. Do not complete Part II-B.
- Section 501(c)(3) organizations that have NOT filed Form 5768 (election under section 501(h)): Complete Part II-B. Do not complete Part II-A.

If the organization answered “Yes,” on Form 990, Part IV, line 5 (Proxy Tax) (see separate instructions) or Form 990-EZ, Part V, line 35c (Proxy Tax) (see separate instructions), then

How to File IRS Form 5768

Form **5768**
(Rev. August 2013)
Department of the Treasury
Internal Revenue Service

**Election/Revocation of Election by an Eligible
Section 501(c)(3) Organization To Make
Expenditures To Influence Legislation**
(Under Section 501(h) of the Internal Revenue Code)
► Information about Form 5768 and its instructions is at www.irs.gov/form5768.

For IRS
Use Only ►

Name of organization	Employer identification number
Number and street (or P.O. box no., if mail is not delivered to street address)	Room/suite
City, town or post office, and state	ZIP + 4

1 Election— As an eligible organization, we hereby elect to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending _____ and all subsequent tax years until revoked.
(Month, day, and year)

Note: *This election must be signed and postmarked within the first taxable year to which it applies.*

2 Revocation— As an eligible organization, we hereby revoke our election to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending _____ and all subsequent tax years (until a new election is made).
(Month, day, and year)

Note: *This revocation must be signed and postmarked before the first day of the tax year to which it applies.*

Under penalties of perjury, I declare that I am authorized to make this (check applicable box) ► ☐ election ☐ revocation on behalf of the above named organization.

_____ (Signature of officer or trustee)	_____ (Type or print name and title)	_____ (Date)
--	---	-----------------

General Instructions
Section references are to the Internal

To make or revoke the election, enter the ending date of the tax year to which the election or revocation applies in item

b. An integrated auxiliary of a church or of a convention or association of churches, or

If Your Organization Receives Only Federal Funds,
Can It Lobby/Fight Propositions?

NO!

- All lobbying is a **PROHIBITED** use of federal funds and federal matching funds.

DFC Terms & Conditions

- **RESTRICTIONS ON GRANTEE LOBBYING**
- (c) Title 18 > Part I > Chapter 93 > Section 1913: **No part of the money appropriated by any enactment of Congress shall**, in the absence of express authorization by Congress, **be used directly or indirectly to pay for** any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, **intended or designed to influence** in any manner a **Member of Congress, a jurisdiction, or any official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation**, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation.

BUT

- When you are off duty from your position and are acting as a private citizen, you are allowed to lobby/take positions on propositions.
- You can use coalition board members or volunteers to cross the line into lobbying as long as **NO** federal funds are used.

You Should Know That:

- Communications to the public that refer to a ballot initiative/proposition are treated as direct lobbying.
- IRS regulations recognize that for initiatives, the public itself is the legislature.

- Coalitions are free to support or oppose legislation, as well as ballot initiatives/propositions.
- But if you are federally funded, you cannot use ANY federal or state dollars to do so AND you should NOT use your coalition's grantee name, even if it does not involve any funding.
- You can, however:
 - use non-restricted funds from non-governmental sources; or
 - do this during non-working hours on your own time.

What Else Can You Do If You Are ONLY Federally Funded?

- Partner with groups that can lobby (faith community, civic organizations, business, etc.)
- Use your board members and volunteers **BUT as themselves not as members of the coalition.**

(But don't use any grant funds or matching funds you delineated in your grant application to do any of this)

Examples of Activities That Are NOT Considered Lobbying Under Federal Tax Law

- Meeting with a legislator to talk about a social problem, without mentioning a specific legislative proposal (remember-context, timing, and motivation matter).
- Responding to a written request from a legislative committee or subcommittee for information about a specific piece of legislation.

Examples of Activities That Are NOT Considered Lobbying Under Federal Tax Law

- Advocating for better enforcement of existing laws, e.g. those that control alcohol sales to minors.
- Advocating the enactment and enforcement of "private or voluntary policies", e.g. alcohol purchase restrictions in stadiums.
- Conducting public education campaigns to affect the opinions of the general public, e.g. a mass media educational campaign about the importance of not providing alcohol to minors or about the real dangers of marijuana to youth brain development (**context, timing, and motivation matter here - be careful, use discretion**).

Raise Unrestricted Funds



What Are Unrestricted Funds?

- Unrestricted funds are non-state, non-federal, non-matching dollars.
- They are privately raised funds that can be used to lobby and take positions on legislation and initiatives/propositions.

How Can You Raise Money Above and Beyond Your Federal Funding Lobby?

- Have everyone in your coalition contribute \$50
- Ask a partner organization or business for an unrestricted donation

Why Are Unrestricted Funds Needed?

- Because they can legally be used to lobby for or against legislation and/or take positions for/against legislation or ballot initiatives.

Monetizing Lobbying Efforts

- A salary of 50,000 year translates into \$1,000 a week, \$200 a day, \$24 an hour, .40 a minute.

Monetizing Lobbying Efforts

- Determine how many hours actual lobbying tasks will take/who will do them and the hourly rate
- Add these up to get the total estimated cost
- Use/Raise unrestricted funds to do this!!

Monetized time to respond to a CADCA legislative alert

Time: 2 minutes x .40 = .80

.80 x 10 alerts/year = \$8.00

Or do this from home on your own time

Monetized time to share CADCA's legislative alerts with your network

Time: 2 minutes x .40 = .80

.80 x 10 alerts/year = \$8.00

Or do this from home on your own time

Context, Timing, and Motivation Matter



Must consider timing, circumstance and
the intent of your coalition's education
efforts



Is there a bill being considered on the topic?



Is there a ballot initiative being considered
as the topic?



For a ballot initiative, the public
becomes the legislators, and DFCs
should not be using Federal Funds to
influence how they vote

How will your message be perceived by the voters?



Messages targeted to voters prior to a ballot initiative are likely to be perceived as lobbying/political advocacy

QUESTIONABLE TO USE ONCE AN INITIATIVE IS ON THE BALLOT

FACTS ABOUT MARIJUANA
MARIJUANA IS NOT AN APPROVED MEDICINE



Medicines in the United States are approved by the Food & Drug Administration. not popular vote.

Education versus Lobbying for Bills/Ordinances

- 1. Gather data and analysis to make your case
- 2. Identify and engage allies
- 3. Set up a meeting with your potential legislative champions to brief them on the general issue
- 4. Research model legislation/ordinance

EDUCATION

- 5. Draft the language of the bill or ordinance
- 6. Present the draft bill to potential champions
- 7. Recruit bipartisan support in the city council/state legislator
- 8. Testify for or against a bill/ordinance at a hearing
- 9. Prepare for the vote by mobilizing grassroots and grassroots support for the specific bill/ordinance

LOBBYING/NO
FEDERAL FUNDS

Be aware of “grey areas” and ask CADCA for guidance if you feel your education might be moving towards the line with lobbying.





Summary

- Education vs. Lobbying
- Know the difference!!
- Federal grantees are **legally prohibited** from using Federal dollars for lobbying
- The prohibition includes work done by key personnel paid with Federal dollars or any match for the grant
- These limitations do not apply to you as an individual on your own time

Questions?

Ask us!

Sue Thau – suerthau@aol.com