

POLICY BRIEF

OCTOBER 2025



ATRÓMITOS
CONSULTING DONE FEARLESSLY

NAVIGATING NONPROFIT ADVOCACY AND LOBBYING FOR 501(C)3 ORGANIZATIONS

Nonprofit health, human services and philanthropic organizations and places of worship do not operate in a vacuum. Every day they are affected by unprecedented policy revisions and fiscal uncertainties at all levels of government. As the municipal, county, state and federal government agencies grapple with a rapidly changing environment, nonprofit leaders must be prepared to speak up for the people and communities you serve. More importantly, engaging with decision-makers about the impacts of proposed adjustments on your clients or broader community is an essential strategy to safeguard your organization's mission. But navigating the rules around advocacy and lobbying can feel overwhelming, especially with significant Internal Revenue Service (IRS) modifications on the horizon.

To help 501(c)(3) nonprofits cut through these complexities and protect their tax-exempt status, the Atrómitos team has created a Policy Brief with clear guidance on what your organization can and cannot do now and in the future.

FIRST THINGS FIRST: UNDERSTANDING THE DIFFERENCE

Advocacy and lobbying are not the same thing. Understanding the distinction is critical for your organization:

THE BOTTOM LINE

YOU CAN DO MORE THAN
YOU MIGHT THINK

UNDERSTAND THE
BRIGHT LINES

PAY ATTENTION TO
PROPOSED CHANGES

THERE ARE THINGS YOU
CAN DO TODAY

- **Advocacy** is publicly supporting a cause, policy or idea and working to shape policy conversations. Most organizations raise awareness of the impacts of a proposed policy by educating and informing decision makers as well as specific public audiences. When your organization publishes research on maternal health outcomes, hosts a community forum on housing instability, or shares data with policymakers about service gaps, that is advocacy. For 501(c)(3) organizations, advocacy is generally unrestricted and essential to fulfilling your mission.
- **Lobbying** is a specific type of advocacy that attempts to influence decisions made by legislators or regulators. Examples of lobbying include contacting decision makers about proposed regulations, organizing grassroots campaigns to support or oppose specific bills, or taking positions on ballot measures. Lobbying is permitted for 501(c)(3) organizations, but it is limited.

WHAT YOU CAN DO: MORE THAN YOU THINK

Your organization has significant freedom to engage in advocacy work:

Unlimited Advocacy Activities

- Educate policymakers and the public on issues related to your mission
- Conduct and share research on health and social issues
- Respond to requests from legislators for information or technical assistance
- Provide nonpartisan analysis of legislation/regulations and policy proposals
- Host community forums and educational events
- Join coalitions working on policy issues
- Conduct nonpartisan voter registration, education, and get-out-the-vote activities. However, new IRS guidance, expected by June 2026, may clarify or limit these activities (see below).

Limited Lobbying: Know Your Options

You can lobby, but it cannot be a "substantial part" of your activities. Excessive lobbying can jeopardize your tax-exempt status. The IRS gives you two ways to measure this:



Option 1: Substantial Part Test (Default)

This is the default test that applies if your organization does not make an election. It is based on "all facts and circumstances." While there is no defined percentage, many practitioners suggest limiting lobbying expenses to no more than 5 percent of your annual budget as a conservative threshold.

Option 2: 501(h) Election (Expenditure Test)

Your organization can file IRS Form 5768 to elect specific spending limits. Organizations with budgets under \$500,000 may spend up to 20 percent of their budget on lobbying. Larger organizations follow a sliding scale. This option provides clear numerical thresholds and legal protection.

Important note: Federal grant funds cannot be used for lobbying activities. This is a separate restriction under federal grant rules that apply regardless of which lobbying test you use.

WHAT YOU CANNOT DO: UNDERSTAND THE BRIGHT LINES

Johnson Amendment

Since 1954, federal law has absolutely prohibited 501(c)(3) organizations from participating in political campaigns. This is a complete ban, not a limitation. Engaging in a campaign in any way can jeopardize your organization's tax-exempt status.

Your organization cannot:

- Endorse or oppose candidates for public office
- Contribute to political campaigns or political action committees (PACs)
- Distribute campaign literature
- Use organizational resources for campaign activities
- Issue public statements favoring or opposing candidates

WHAT'S CHANGING: WHY YOU NEED TO PAY ATTENTION

The landscape for nonprofit political and civic engagement is shifting:

New IRS Guidance on the Johnson Amendment¹

On Sept. 30, 2025, the U.S. Treasury Department and IRS announced its intention to issue new guidance on political campaign activity restrictions by June 30, 2026. The first official, formal guidance in 18 years, may:

- Create a narrow exemption for churches to communicate with congregations "through customary channels of communication on matters of faith"
- Clarify or restrict nonpartisan voter registration, education, and get-out-the-vote activities

Why New Guidance Matters: Many health and human services organizations and philanthropies conduct voter engagement activities as part of their community empowerment work. New limitations could have a significant effect on these efforts to increase voter participation nationwide.

Federal Court Decision on 501(c)(4) Standards²

In October 2025, a federal court in Washington, D.C., ruled that IRS guidance on political activities by 501(c)(4) social welfare organizations is unconstitutionally vague. The court's decision could require the IRS to develop clearer standards for what constitutes political activity. While this case does not directly involve 501(c)(3) organizations, any new IRS standards could influence definitions of political engagement for public charity or private foundation nonprofits.

Legislative and Executive Actions to Weaken Nonpartisanship³

During his second term, President Donald Trump's administration has renewed efforts to modify the Johnson Amendment through:

- Legislative proposals that would allow churches and religious organizations to engage in political speech
- Executive actions directing minimal IRS enforcement
- Judicial challenges, including a July 2025 joint motion by the IRS and National Religious Broadcasters requesting a federal court declare the Johnson Amendment unconstitutional.

WHAT YOU SHOULD DO TODAY

Despite all these developments, **the Johnson Amendment remains federal law.**

To navigate both current requirements and potential future changes, Atrómitos recommends the following short- and long-term action plan:

Immediate Actions

- Continue operating under current IRS regulations as the law has not changed yet
- Review your voter engagement activities in light of potential new restrictions
- Evaluate whether the 501(h) election would provide greater clarity for your lobbying activities

Ongoing Monitoring

- ❑ Subscribe to updates from the National Council of Nonprofits and your statewide association (see list of additional resources below)
- ❑ Watch for IRS guidance expected by June 30, 2026
- ❑ Track federal court decisions and any resulting IRS guidance on political activity standards

Smart Organizational Practices

- ❑ Develop clear written policies distinguishing advocacy from lobbying
- ❑ Track lobbying expenditures systematically
- ❑ Train staff and board members on what activities are permitted and prohibited
- ❑ Create or revise policies about separating organizational advocacy from personal political activities
- ❑ Ensure federal grant funds are not used for lobbying activities
- ❑ Consult legal counsel when questions arise



Need Help?

Navigating these complicated regulations while staying focused on your mission is challenging. If you need strategic guidance on advocacy, policy engagement, or organizational compliance, Atrómitos works with health and human services organizations and philanthropies to flip policy challenges into strategic opportunities.

For more free resources including templates, toolkits, workshops, podcasts and blogs, please visit our Knowledge Hub.

SOURCES

1. U.S. Department of the Treasury and Internal Revenue Service. "2025-2026 Priority Guidance Plan." September 30, 2025. <https://www.irs.gov/pub/irs-counsel/2025-2026-initial-pgp.pdf>
2. National Council of Nonprofits. "Nonprofit Champion – October 6, 2025: Treasury Publishes Priority Guidance Plan." <https://www.councilofnonprofits.org/nonprofit-champion-october-6-2025>
3. National Council of Nonprofits. "Protecting the Johnson Amendment and Nonprofit Nonpartisanship." <https://www.councilofnonprofits.org/trends-and-policy-issues/protecting-johnson-amendment-and-nonprofit-nonpartisanship>
4. Internal Revenue Service. "Revenue Ruling 2007-41: Political Campaign Activities by Section 501(c)(3) Organizations." Internal Revenue Bulletin 2007-25, June 18, 2007. <https://www.irs.gov/pub/irs-tege/rr2007-41.pdf>

Additional Resources for Nonprofit Leaders

- IRS: Political Campaign Intervention Restrictions. <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>
- IRS: 501(h) Expenditure Test for Lobbying. <https://www.irs.gov/charities-non-profits/measuring-lobbying-activity-expenditure-test>
- Alliance for Justice: Know the Rules (Advocacy and Lobbying Guide). <https://bolderadvocacy.org/resource/know-the-rules>

This policy brief provides general information and should not be construed as legal advice. Consult qualified legal counsel regarding your specific circumstances.