



## NAfME Field Guide to State Lobbying

*prepared in consultation with NAfME legal counsel*

### Introduction

NAfME state affiliated associations are advised to consult this Field Guide prior to engaging in advocacy activities which could be construed as lobbying. This resource is not intended to take the place of the advice of local legal counsel and should be viewed as a basic set of guidelines for pursuing such actions. The Field Guide should be made readily available to all persons intimately or tangentially involved with music education advocacy. Advocacy on behalf of the cause is your RIGHT and we strongly encourage you to take advantage of it!

### What is lobbying?

Each state has its own statutes and regulations on lobbying and you should consult your state's definitions. The definitions given here are general in nature and do not apply to any particular state.

Lobbying – a communication arguing for or against a specific piece of legislation; also called “issue advocacy”

Grassroots lobbying – communicating with the general public

Direct – communicating with a legislator or his/her staff or a member of the administration (note that communications with an organization's members are also considered to be direct lobbying communications under the federal definitions)

### Who regulates lobbying?

Organizations that engage in lobbying activity are regulated by the IRS and applicable state and federal lobbying laws.

### What is political activity?

Political activity is generally defined as taking a position for or against a particular candidate, political party, or “planks” of a party's campaign platform. Organizations that are exempt under IRC § 501(c)(3) are prohibited from engaging in political activity.

### Who regulates lobbying?

You can engage in lobbying activity at the state level so long as you comply with **state laws** regulating lobbying registration and reporting and **federal laws** requiring organizations to report their lobbying

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nditures on their Form 990.

If you engage in lobbying at the federal level, you will have to comply with federal lobbying registration and reporting requirements. The IRS and Congress have different definitions and requirements so you should become familiar with both sets of rules if you plan to lobby at the federal level.

If your organization receives federal grants, you may not use federal grant money for lobbying.

### **What can state affiliate leaders do?**

All lobbying activity must be related to your organization's tax-exempt purpose, i.e. supporting music education.

You can:

- call, write or visit with a state legislator or a member of their staff to make your views known
- encourage your members to make similar calls or visits or write letters
- organize a letter writing, postcard or email campaign around an issue
- pay for an advertisement (print, radio, tv or online) that contains your organization's views on a particular bill
- hire a lobbyist to represent your organization in your state house

### **Nonpartisan Activities**

While your organizations may not engage in partisan political activity, there are many nonpartisan activities that you can undertake. These nonpartisan activities are aimed at educating the general public on issues (such as candidate debates or questionnaires) or in getting out the vote.

BUT there are strict regulations on how this activity can be safely conducted without jeopardizing the organization's exempt status. 501(c)(3)'s may not provide their mailing list, volunteers, office space, office equipment or other resources to aid a political candidate unless the resource is made available to all candidates on the same basis.

To be safe, check out the regulations before engaging in any nonpartisan activity.

### **State Level Lobbying**

Most states regulate lobbying. Usually a lobbyist who is paid must register as a lobbyist with a state agency and/or the state legislature. Some states only require lobbyist registration if the person meets a certain threshold for either payments received or expenditures made for the lobbying activity.

Often a nonprofit organization that pays someone to lobby (either a staff member or a consultant) must also register. Registration is usually for a specific legislative session and must be renewed if the lobbying activity continues. A report of lobbying activity and expenditures is usually filed at the end of the legislative session.

Organizations with limited lobbying activity conducted solely by volunteers should be able to take advantage of the available exemptions from lobbying registration and reporting in most states. Some states, such as Colorado and Rhode Island, do not provide exemptions from the registration requirements even when the lobbying is done by volunteers.

Your organization might be able to take advantage of exemptions from reporting requirements for lobbying at the state level such as exemptions for presenting testimony at a public hearing or activities conducted solely by volunteers. Check out the exemptions available in your state.

### **Political Appointees at the State Level**

Political appointee or issue advocacy is treated the same under state lobbying laws. The minimum thresholds that must be crossed before there is a reporting requirement vary for each state.

Some states identify contacts about political appointments as being a lobbying communication. Advocating for or against a nominee for a political appointment might meet the definition of a lobbying communication in your state. Check to see what exemptions might be available in your state if your organization plans to support or oppose a state political appointee.

### **Beware: Federal and State Laws are Not the Same**

You should keep in mind that your state's definition of what constitutes a lobbying communication or a lobbying expense is not necessarily the same as the federal definitions. You must use the federal lobbying definitions for purposes of reporting lobbying activity on the organization's Form 990. The IRS limits the amount of money that your organization may spend on lobbying activities. An accountant familiar with nonprofit accounting should be able to provide advice on tracking your organization's lobbying expenses.

### **Resources**

For links to your state's lobbying registration and reporting laws, go to the website for the National Conference of State Legislatures at <http://www.ncsl.org/default.aspx?tabid=15318>.

For information about how much money your organization can spend on lobbying, visit the IRS website at <http://www.irs.gov/charities/article/0,,id=163392,00.html>.

For information on allowable nonpartisan activities, go to one of these IRS websites:

<http://www.irs.gov/newsroom/article/0,,id=154712,00.html>

<http://www.irs.gov/charities/charitable/article/0,,id=179773,00.html> or

<http://www.stayexempt.irs.gov/EOMiniCourses.aspx> (select "Presentation 2").

For additional information on your organization's right to lobby, see the materials available from the Alliance for Justice such as this article: <http://www.afj.org/assets/resources/nap/guidelines-for-501c3-public-charities-lobbying.pdf>.

### **Questions?**

If you should have questions about conducting advocacy activities, please e-mail NAFME advocacy staff directly at [advocacy@nafme2.org](mailto:advocacy@nafme2.org). For all questions concerning state laws, please consult your local legal counsel as NAFME is not able to answer inquiries regarding individual state lobbying registration or reporting requirements.