

Civics 101:

How Congress Works & How You Can Exercise Your Right to Advocate

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Legislative Process

- Bill is introduced
- Two main types of bills: authorizing and appropriations
- Committee consideration
- Floor consideration
- Final approval

Authorization v Appropriation

Authorizations

- New proposal
 - H.R. 2197/S. 1770, The Youth PROMISE Act
- Reauthorization
 - S. 1169, The Juvenile Justice and Delinquency Prevention Reauthorization Act of 2015

Appropriations

- Annual process by fiscal year (Oct 1 – Sept 30)
- Allocates federal dollars
 - Commerce, Justice, Science and Related Agencies Appropriations Act
 - Labor, Health & Human Services, Education and Related Agencies Appropriations Act

Committee Action

- Bill is referred to the committee with jurisdiction and placed on that committee's calendar
- Information gathering
 - Input from administration and experts (testimony, hearings)
- Mark-up – Committee (or subcommittee) meeting where revisions and additions can be made
- Vote – Committee (or subcommittee) approves or rejects bill
- Approved bill is "ordered to be reported" and now ready to be placed on the calendar for consideration by the Senate or House
 - In the House, most bills go to the Rules committee before reaching the floor

Floor Action

Calendar

- **House:** The Speaker of the House and the Majority Leader decide what will reach the floor and when.
- **Senate:** Legislative and Executive calendars. Bills can be brought to the floor whenever a majority of the Senate chooses.

Debate

- **House:** Debate is limited by the rules formulated in the Rules Committee.
- **Senate:** Debate is unlimited unless cloture is invoked
 - Filibuster – using debate to kill proposal
 - Cloture – procedure to break filibuster – 2/3 vote required

Vote

- Must be passed by both chambers.
- Most major legislation goes to a Conference Committee.

Conference Committee

- Members from each chamber form a conference committee and meet to work out bill differences.
- If a compromise is reached, a written conference report is prepared and submitted to each chamber.
- The conference report must be approved by both the House and the Senate.

Executive Action

- Approved bill is sent to the President for review and signature.
- Four options:
 1. President signs bill into law
 2. Unsigned bill becomes law within 10 days as long as Congress is in session.
 3. Pocket Veto – When Congress adjourns before the 10 days and the President has not signed the bill, it does not become law.
 4. Veto – President rejects the bill and sends it back to Congress with a message listing his/her reasons.
 - The chamber that originated the legislation can attempt to override the veto by a vote of two-thirds of those present.
 - If the veto of the bill is overridden in both chambers then it becomes law.

Key Lobbying Questions

- **What types of organizations face limitations on lobbying?**
- **What is lobbying?**
- **Do I need to register as a lobbyist?**

Limitations on Lobbying

- **501(c)(3) Charitable Organizations**

- **Public Charities**

- Lobbying may not be “substantial”
- Choice to elect which standard to use to determine lobbying cap
- Formula based on the organization’s expenditures (clear cap)
- IRS “facts and circumstances” test (not a clear cap)

- **Private Foundations**

- No lobbying

Limitations on Lobbying

- **Federal Contractors or Grant Recipients**

- **Byrd Amendment**

- Prohibition: Recipients of a Federal contract, grant, loan, or cooperative agreement are prohibited from using appropriated funds to pay for certain lobbying activities related to such contracts, grants, etc.
- If an organization has non-federal funds sufficient to cover its lobbying expenditures, the government will assume that lobbying activities are paid by those non-federal funds.
- Disclosure: Any entity that receives or requests a new Federal contract, grant, or cooperative agreement of more than \$100,000 or new Federal loan of more than \$150,000 must make certain disclosures on OMB Standard Form LLL.

What is Lobbying?

- Many different definitions based on the context and jurisdiction
 - Focus on the limitations we have discussed
 - Separate definition for determining lobbying registration thresholds
- For the limitations placed on 501(c)(3) charities by the IRS, lobbying is defined as attempting to influence legislation through:
 - Directly contacting members of a legislative body or any government official who may participate in the formulation of legislation
 - Includes legislation and legislative proposals
 - Encouraging the public to contact members of a legislative body (“grassroots” and “grasstops” lobbying)
 - Advocating the adoption or rejection of a public referendum
 - Important Exceptions
 - Nonpartisan analysis, study or research
 - Examinations and discussions of broad social, economic and similar problems

What is Lobbying?

- The Byrd Amendment bans using appropriated funds to attempt to influence certain Government officials in connection with any Federal Action involving:
 - The awarding of any Federal contract.
 - The making of any Federal grant.
 - The making of any Federal loan.
 - The entering into of any cooperative agreement.
 - The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

Federal Lobbying Registration

> Who must register?

- > Under the federal Lobbying Disclosure Act (LDA), entities that employ a "Lobbyist" and spend more than \$12,500 on "Lobbying Activities" in a calendar quarter must register with Congress.

> Who is a lobbyist? An employee who:

- > Is employed for compensation;
- > Makes more than one "Lobbying Contact," at any time; and
- > Whose "Lobbying Activities" constitute 20% or more of the employee's work time in a three-month period

Federal Lobbying Registration

> What is a "Lobbying Contact"?

- > This depends on the type of organization and which set of definitions they choose to use (Tax or LDA)
- > Best to consult counsel to figure out what is a lobbying contact for a particular group

> Example: Congressional Lobbying Contacts for a 501(c)(3)

- > Use the definitions provided under the LDA
- > Telephone, written, in-person, email, etc.
- > Any Member of Congress or congressional employee
- > "With regard to" legislation, rules, regulations, any federal program, policy or position (including contracts), nominations/confirmations
- > Key exceptions (different than Tax Code exceptions)
 - > administrative requests with no attempt to influence
 - > written responses to requests for specific information
 - > congressional testimony
 - > routine participation in rulemakings

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Federal Lobbying Registration

- **What are “Lobbying Activities”?**
 - Lobbying Contacts
 - Efforts in support of Lobbying Contacts, including:
 - Preparation and planning activities
 - Research and other background work that is intended, at the time it is performed, for use in contacts
 - Coordinating the lobbying activity of others (employees, outside lobbyists, trade associations)
 - Monitoring if it occurs at a time when future lobbying contacts are contemplated
 - Can include status requests, requests for meetings, etc. if used to support future lobbying efforts

Questions?

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