



Silicon Valley Council of Nonprofits

Sobrato Center for Nonprofits - San Jose
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www.svcn.org

Re: Lobbyist Registration for nonprofit 501 c3

From Silicon Valley Council of Nonprofits

The Silicon Valley Council of Nonprofits champions the interest of health and human service nonprofits in Santa Clara County. We have a network of 200 agencies that serve a variety of our clients within the City of San Jose from homelessness, housing, senior day care, foster care youth, mental health and many health related services.

SVCN's major concern is to ensure nonprofit agencies are clearly viewed as advocates for their clients not lobbyists. Similar to the work of neighborhood associations, nonprofits are key to the health and well being of our community. What nonprofits do is deliver services to make communities healthier, environmentally clean, enhanced with art and culture and much more. Our advocacy is on behalf of others and surely the only financial gain can be seen as an investment in community services such as more low-income housing, early childhood services, health care for poor, etc.

SVCN opposes nonprofit organizations and their staff or volunteers needing to register as a lobbyist particularly on issues that are the central mission of their agency, to improve community well-being, promote the arts, and on issues that advocate for clients rights to services.

We are most concerned about any ordinance that would require Executive Directors, key staff, volunteers or Board Members of Health and Human Services, Arts Groups, Environmental nonprofits or others whose primary mission is to serve this community become registered lobbyists. These individuals are advocates for clients, at risk individuals, spokespeople for a variety of community benefit issues which arise within the City of San Jose.

- Nonprofits are already regulated with reporting requirements based on federal tax law and in Section 1307 of Public Law 94-455 which recognized lobbying as a proper and legitimate function for charitable nonprofit organizations. We are also concerned that any ordinance is not in conflict with existing federal rules for nonprofit lobbying.
- Nonprofits have to sign letters with private foundations that state that their funds will not be used for lobbying and this would require nonprofits to administer greater paperwork and reporting with foundations.

- Nonprofits are advocates not lobbyists. Our advocacy is on behalf of others and surely the only financial gain can be seen as an investment in community services such as more low-income housing, early childhood services, health care for poor, etc.
- Numerous groups including members of the Mayor Ethics Review Panel has opposed nonprofit lobbyist registration.
- Nonprofits are already regulated and reporting is already required by federal law as part of our nonprofit tax status on our 990 forms and it is available on www.guidestar.org for full transparency.

SVCN would strongly oppose any recommendation to include nonprofits in the lobbyist ordinance.

Patricia Gardner
Executive Director

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Background Information from the California Association of Nonprofits

Section 1307 of Public Law 94-455 recognized lobbying a proper and legitimate function for charitable nonprofit organizations.) The lobbying activities of Nonprofit organizations are also clearly defined in the Federal 1976 Lobby Law and Section 501 (c)(3) of the Internal Revenue Code.

Although lobbying is an important part of the advocacy and public policy work nonprofit organizations do for their constituents and the community. Most of the work – and for most nonprofits the only work they do—is advocacy. Very little of what we do is actually lobbying. Under the Federal 1976 Lobby Law, three characteristics must be in present for an organization to be engaged in lobbying:

1. Communication of any kind that expresses the organization’s point of view: (via phone, fax, e-mail or mail, or in person.)
2. That is intended to influence legislation: (Legislation is action by a legislative body that includes the “introduction, amendment, enactment, defeat or repeat of Acts, bills resolutions and similar terms.”)
3. Either directly by contacting the public official or their staff or indirectly by asking others to contact public officials. (Legislative bodies are Congress, state and local legislatures, and the general public in referenda, initiatives or proposed constitutional amendments. Legislative bodies do not usually include groups like judicial, executive or school and zoning boards.) (*Worry-Free Lobbying for Nonprofits: How to use the 5-1 (h) Election to Maximize Effectiveness*, Alliance for Justice, 2002, page 5 and 6.)

Charitable nonprofit organizations also face strict limits on political involvement, including federal laws that prohibit 501(c)(3) organizations from supporting or opposing candidates for election to public office. In Section 501(c)(3) of the Internal Revenue Code states that tax-exempt charitable nonprofits, “may not participate in, or intervene in (including publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” Perhaps that is where the misperception that charitable nonprofits cannot lobbying comes from. However, there are no restrictions on cause-related or public interest-related lobbying. Lobbying can be undertaken by a charitable nonprofit without any risk to its tax-exemption, so long as these efforts are not a substantial part of the organization’s activities or are within the limits on nonprofit spending on lobbying efforts.

All charitable nonprofits (except churches, associations of churches and integrated religious associations) are required to report their lobbying expenditures to the IRS on Form 990.