MACH Board Guidance Document

501(c)(3) Advocacy, Lobbying, and IRS Compliance

A Fiduciary Reference for MACH Board Members

Introduction: Why This Document Matters to the MACH Board

This document explains in plain language how the IRS distinguishes acceptable advocacy and education from lobbying for 501(c)(3) organizations. It is designed to help this Board exercise informed oversight without requiring tax-law expertise. The IRS evaluates exemption integrity holistically—governance, operations, finances, advocacy, and research must align continuously. An indicator to the MACH Board is that failure in one domain often exposes weaknesses in others.

MACH may engage in lobbying to a limited degree, but excessive lobbying can threaten tax-exempt status.[1] Board members are expected to ensure that lobbying is monitored, limited, and accurately reported on Form 990. This guidance synthesizes IRS definitions, legal frameworks, and practical boundaries into actionable oversight principles.

Section 1: The Three-Element Test for Lobbying

A MACH communication usually becomes IRS-defined lobbying when it includes **all three** of the following elements:[2]

1. It refers to specific legislation (bill numbers, named acts, pending appropriations);
2. It takes a position on that legislation (support or oppose); and
3. It is directed to legislators **OR** urges the public to take action.

Insight: If one of these elements is missing, the communication is *typically advocacy or education* rather than lobbying. Board members can use this test as a quick screening tool when reviewing organizational communications.

Section 2: Two Types of Lobbying the IRS Recognizes

[1]IRS, "Lobbying" (Charities & Non-Profits): substantial part rule; risk of loss of tax-exempt status (Aug. 20, 2025).

[2]IRS, "Direct and grass roots lobbying": definitions and required elements (specific legislation + view; grassroots includes public call to action).

IRS guidance divides lobbying into two main types. Both require that the communication (i) refers to specific legislation and (ii) reflects a view on that legislation:[3]

Direct Lobbying

Direct lobbying refers to attempts to influence a legislative body through communication with a member or employee of a legislative body, or with a government official who participates in formulating legislation. To qualify as direct lobbying, the communication must refer to and reflect a view on specific legislation.

Grassroots Lobbying

Grassroots lobbying refers to attempts to influence legislation by affecting the opinion of the public with respect to that legislation AND encouraging the audience to take action (e.g., "contact your Senator," "urge Congress"). The communication must refer to and reflect a view on specific legislation.

Practical Board Oversight Distinction:

1. Communicating directly with legislators or staff about a bill while taking a position → likely direct lobbying.
2. Communicating to the public about a bill while taking a position AND urging action → likely grassroots lobbying.
3. Communicating about a public problem without referencing specific legislation or taking a position → generally advocacy/education (not lobbying).

Section 3: Grassroots Advocacy:

Board members should understand grassroots advocacy as broad public education and issue awareness that advances the organization's mission WITHOUT crossing the IRS line into "*attempting to influence legislation*." These activities can be robust and even passionate—provided they do not become communications that reference specific legislation and take a position on it.

Examples of permissible grassroots advocacy:

- Publishing research findings and explaining scientific findings to the public
- Educating stakeholders about disease burden, exposure pathways, or safety practices
- Convening scientific workshops and building consensus guidance
- Presenting multiple policy options without endorsing or opposing a specific bill
- Encouraging civic participation without addressing specific legislation

Medical and research organizations may freely publish studies, explain health risks, and educate policymakers so long as they avoid endorsing or opposing specific legislation.

Section 4: Two IRS Measurement Regimes

The IRS baseline rule is that no organization may qualify for 501(c)(3) status if a "*substantial part*" of its activities is attempting to influence legislation.[4] A 501(c)(3) may lobby to some degree but must stay within one of two compliance measurement regimes:[5]

Option A: Substantial Part Test (Default Rule)

Under the substantial part test, excessive lobbying in ANY taxable year can jeopardize exemption. Loss of exemption can subject all income to tax, and certain organizations may also face an excise tax. The IRS describes this as a year-by-year risk under a facts-and-circumstances analysis rather than a clear percentage safe harbor.[6]

Risk: This test offers no bright-line rule, making compliance harder to verify.

Option B: §501(h) Expenditure Test Election (Clearer Rules)

Eligible 501(c)(3) public charities (not private foundations) may elect §501(h), which measures lobbying in terms of expenditures rather than whether lobbying is "substantial."[7] {MACH does not choose this path. It is presented here as a FYI.] An electing charity that exceeds its lobbying nontaxable amount in a year pays an excise tax on the excess, and sustained excessive lobbying over a four-year period may result in loss of exemption.[8]

The Form 990 Schedule C and its instructions operationalize the calculation and distinguish direct vs grassroots lobbying expenditures.[9][10]

Board Advantage: This election provides clearer expenditure-based limits and defined consequences, making fiduciary oversight more straightforward.

Section 5: Operational Disciplines the MACH Board Should Monitor:

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[5]Internal Revenue Code §§501(c)(3), 4911, 501(h), 4955; Treasury Regulation §1.501(c)(3)-1.

[6]IRS, "Measuring lobbying: Substantial part test": loss of exemption in any year if excessive; excise tax consequences described (Sep. 10, 2025).

[7]IRS, Publication 557 (Rev. Jan. 2025), discussion of §501(h) election and lobbying limits for eligible 501(c)(3) organizations.

[8]IRS, "Measuring lobbying activity: Expenditure test": four-year excessive lobbying consequence and excise tax on excess (Oct. 19, 2025).

[9]IRS, Instructions for Schedule C (Form 990) (Dec. 18, 2025): definition of lobbying expenditures and direct vs grassroots expenditure totals for electing charities.

[10]IRS, Form 990 Schedule C (2025): lobbying nontaxable amount and limits table used for §501(h) calculation (July 2025).

Regardless of which measurement regime MACH uses, IRS expectations converge on three operational disciplines:[11]

1. Classification Discipline: Communication Hygiene

MACH actively manages a communications review process that flags:

- References to specific legislation (bill numbers, named acts, pending appropriations riders)
- Statements that "reflect a view" (support/oppose)
- Calls-to-action to the public (contact your senator, urge Congress, tell your representative)

These three ingredients are the classic pathway into IRS-defined lobbying—especially grassroots lobbying.

2. Measurement Discipline: Track What Counts

If MACH (ever) elects §501(h), it must be able to identify and total direct lobbying expenditures and grassroots lobbying expenditures. Even without §501(h), tracking time and costs is a best practice because it supports a defensible narrative under the substantial part test.

3. Disclosure Discipline: File What You Did…Do What You Filed

IRS examinations routinely focus on inconsistencies between (i) public messaging, (ii) internal budgets/time allocations, and (iii) Form 990 disclosures. Where advocacy is a meaningful part of operations, Schedule C and Schedule O narratives should clearly distinguish education/research dissemination from lobbying and should describe the controls (active awareness, discipline, and oversight) used to keep lobbying within permissible limits.

Section 6: Special Considerations for Medical & Research Organizations

Though MACH is not explicitly a chartered medical or otherwise a research organization, we do spend much time advocating for research and doing so via issue education. Medical and scientific research organizations frequently engage in policy-facing communications (guidelines, white papers, clinical recommendations, public health briefings). These are often fully consistent with charitable/exempt purposes. IRS authorities recognize scientific and medical research as charitable when conducted in the public interest.[12]

Risk may arise when research communications pivot from education to legislative influence—particularly when tied to a specific bill and a call to action. Research communications that pivot toward endorsing or opposing specific legislation are recharacterized as lobbying.[13]

Advocacy vs. Lobbying Examples:

Typically Acceptable (Non-Lobbying)	Likely Lobbying
Publishing a study on cancer incidence and explaining the scientific findings	"Support H.R. 1234" with reasons to pass it
Educating stakeholders about exposure pathways and presenting multiple policy options	"Contact your Senator today and urge a YES vote on the bill"
Convening clinicians/researchers to build consensus guidance	Direct meetings with legislative staff to advocate a position on a pending bill

MACH Board Consideration: For medical/research organizations, ensure MACH builds a pre-publication policy review for "bill + position + call-to-action" content.

Section 7: Integrated Compliance

When integrated, five compliance activities transform IRS compliance from a reactive obligation into proactive governance and risk-management guidance capable of withstanding regulatory (federal and state) scrutiny:

4. **Lobbying Controls:** Permissible lobbying must remain insubstantial (not zero) and clearly distinguished from education. Expenditure tracking, narrative discipline, and Board oversight prevent erosion of exempt status.
5. **Medical/Research Audit Readiness:** Research qualifies as charitable only when conducted in the public interest—not yet a MACH activity. Publication rights, sponsor independence, and community benefit documentation are central to surviving IRS scrutiny.
6. **Board Fiduciary Certification:** Annual Board (via written statement) certification operationalizes fiduciary responsibility and provides contemporaneous evidence of compliance intent—an increasingly important factor in IRS examinations.
7. **Defendable Legal Posture:** A defendable posture memo ensures counsel (when available) could respond rapidly and coherently to IRS inquiries, anchoring arguments in documented governance, financial controls, and mission alignment.
8. **Standardization Across Affiliates:** Standardization across affiliated (MACH Coalition members) organizations reduces systemic risk and demonstrates sector-wide good faith compliance, aligning with IRS lifecycle expectations. In other words, the IRS likes this.

Section 8: Recommended Board Considerations

To fulfill the fiduciary responsibilities regarding MACH advocacy and lobbying compliance, board members should consider:

- Review lobbying and advocacy strategy annually
- Require management to track lobbying time and costs (if applicable)
- Ensure Form 990 Schedule C and Schedule O accurately reflect activities (when these schedules are appropriate esp. if filing 990N)
- Intervene early if advocacy intensity increases but more importantly, deviates from the strategy
- Understand the difference between the substantial part test and §501(h) election
- Ensure communications review processes are in place to flag lobbying content when lobbying is not a confirmed campaign element in type and in quantity
- For medical/research organizations: verify pre-publication review for legislative references; N/A for MACH at the present time
- Ensure counsel maintains contemporaneous documentation distinguishing advocacy from lobbying when MACH has such representation

Section 9: Key Legal Authorities

MACH Board members should be aware that organizational compliance rests on the following elements:

- Internal Revenue Code §§501(c)(3), 4911, 501(h), 4955[14]
- Treasury Regulation §1.501(c)(3)-1
- IRS Publication 557 (Rev. Jan. 2025)
- IRS Schedule C (Form 990) and Instructions
- Regan v. Taxation With Representation, 461 U.S. 540 (1983)[15]

Summary

Political campaign intervention is prohibited for 501(c)(3) organizations; a known redline which will not be significant within MACH. Lobbying is permitted only to a limited extent; "too much" can threaten exemption. Monitor then measure. By understanding the three-element test, the two types of lobbying, and the two measurement regimes, MACH Board members can exercise effective oversight without requiring deep tax-law expertise. The compliance described in this document transforms IRS compliance from a reactive obligation into a proactive system capable of withstanding regulatory scrutiny—the certainty we want and need.

[15]Regan v. Taxation With Representation, 461 U.S. 540 (1983).