

Frequently Asked Questions

Influencing Public Policy: Increasing Involvement by ASCE and Civil Engineers

In July 2005, the ASCE Executive Committee appointed a Task Force on Political Involvement to look at ways to help civil engineers increase their influence in public policy. At present ASCE is allowed to lobby within strict dollar limitations, but we cannot engage in any political activities. The Task Force is developing recommendations that would allow ASCE greater flexibility in its lobbying activities and allow ASCE to be involved in political campaigns by having a political action committee (PAC). The Task Force is reaching out to the membership for input prior to presenting its recommendations to the Board in 2007.

Following are answers to some of the questions that have arisen during this process. This document was prepared by the Task Force on Political Involvement. Any questions regarding ASCE's public policy or political activities should be directed to the Government Relations Department at govwash@asce.org or 202-789-7850.

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What is lobbying?

Generally speaking, lobbying is the practice of educating and influencing government on a particular issue or topic. As defined by the Internal Revenue Service, lobbying activities include anything that an organization directly spends money on in order to influence government officials. This means paid staff, meeting and materials expenses, events, postage and email and other focused communications. This does NOT include time expended by members/volunteers.

What is ASCE's current public policy involvement?

ASCE currently engages in lobbying. We file federal lobbying reports two times a year. In FY 2005 ASCE spent \$450,000 on lobbying activities as defined by the Lobbying Disclosure Act of 1996. Specifically, ASCE staff and members meet regularly with members of congress and their staff to discuss pending legislation that concerns civil engineers. We also work with congress and state legislatures to offer testimony before committees.

In general, 501(c)(3) organizations can, and often should, lobby at all levels of government, subject to certain limitations. Federal tax law has always permitted some lobbying by 501(c)(3) organizations, as long as such lobbying does not constitute a "substantial part" of an organization's total activities.

Under law, ASCE can spend up to \$1 million per year on lobbying. The law also makes it clear which activities are lobbying and which are not. For example, lobbying occurs only when there is an expenditure of money by the 501(c)(3) for the purpose of attempting to influence legislation. Where there is no expenditure by the organization for lobbying (such as lobbying by members or volunteers), there is no lobbying by the organization.

The right of citizens to petition their government is basic to our democratic way of life. Associations, including 501(c)(3)s, are among the most effective vehicles for making use of citizen participation in shaping public policy.

We are already successful in public policy, why do we need to change?

ASCE has achieved many public policy successes in recent years. We have helped to author legislation relating to dams and natural hazards that have been signed into law, and the Report Card for America's Infrastructure is regularly cited by elected officials in the context of infrastructure-related legislation. However, the competition for attention to issues in Washington is as fierce as ever. We need to take advantage of as many tools as we can to maximize our efforts and achieve the best results for our membership.

Why increase political involvement now?

The recent adoption of a model law that would increase the educational requirements for professional engineers is a major step toward implementing Policy 465. Now, the licensing laws in 55 states and territories must be changed. The lobbying effort required to achieve that goal, coupled with ASCE's ongoing efforts to support legislation addressing the nation's infrastructure needs, will exceed the IRS' strict limits on our lobbying activities.

On behalf of its members, ASCE also wishes to advocate on public policy issues including:

- Budgets for federal engineering research and development, which have been flat for 15 years, even as the overall federal budget has increased dramatically.
- The need to fund programs to encourage K-12 Math and Science Education.

ASCE has an obligation to take reasonable steps to protect the professional careers of civil engineers and to advocate for public policy that protects and advances public health, safety and welfare.

What changes would ASCE need to make in order to be more active in public policy?

In order to increase public policy involvement, several things would happen. First, ASCE would establish a new, parallel organization under the 501(c)6 section of the IRS regulations. This change is necessary to comply with IRS rules and would be virtually unnoticed by the membership – all current services and benefits would continue uninterrupted and members will enjoy new benefits as a result.

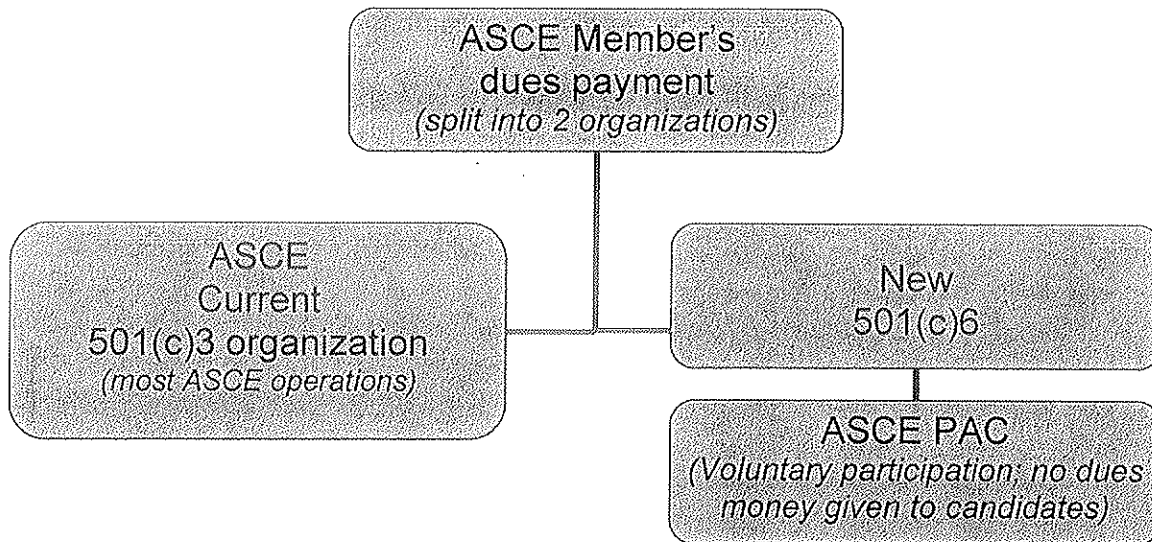
Under these changes, ASCE would no longer be subject to the stringent limits on lobbying and political involvement placed on 501(c) 3 organizations by the IRS. This means ASCE would be free to promote the best interests of the civil engineering profession by supporting initiatives like the Report Card for America's Infrastructure, and the goals of the Academic Prerequisites for Professional Practice policy (Policy

Statement 465). We would also be allowed to engage in political activities including forming a political action committee. If there are no changes to the current structure, we would be unable to exceed the current \$1 million limit for spending on lobbying activities and would have to limit our public policy involvement on behalf of the profession.

An ASCE PAC would enable ASCE members to pool their financial resources and ensure that civil engineers have a strong, united voice on Capitol Hill.

How would these changes affect ASCE members?

This new organization would operate together with the current 501(c) 3 organization. (See chart below) A few of the staff who currently work for the (c) 3 would continue to serve the membership as employees of the new (c) 6. One change is that members would likely pay their dues to both organizations. For members who pay their own dues and deduct them as a charitable contribution, the portion of the dues paid to the 501(c) 6 would not be considered a charitable contribution; you would instead deduct them as an unreimbursed business expense. A small portion of the dues paid to the 501(c) 6 would not be deductible due to ASCE's lobbying expenses – this amount would be clearly marked on your dues statement.



Is ASCE legally allowed to lobby?

501(c)(3) organizations can lobby at all levels of government, subject to certain limitations. Federal tax law permits some lobbying by 501(c)(3) organizations, as long as such lobbying does not constitute a "substantial part" of an organization's total activities. Under law, ASCE can spend up to \$1 million per year on lobbying.

Would ASCE become a lobbying organization/special interest?

By law, ASCE is already defined as an organization that lobbies. At the federal level we file lobbying reports two times a year. In FY 2005 ASCE spent \$450,000 on lobbying activities as defined by the Lobbying Disclosure Act of 1996.

Why do we need a new 501(c)6 organization?

Because of IRS limits on the lobbying activities of 501(c)3 organizations like ASCE, we would need to establish a new organization with a different tax status to operate alongside the current ASCE. This new organization would handle the lobbying efforts while the 501(c)3 organization would continue to serve the membership as it has for over 150 years.

By creating a parallel 501(c)6 entity and making the organizational changes necessary to have a PAC, ASCE would no longer be limited in the amount of lobbying in which we could engage. While an ASCE PAC would only support candidates for federal office, the organizational changes would allow increased advocacy at both the federal and state levels. This will be especially important as ASCE turns the CAP3/Body of Knowledge into changes in 50 state licensing laws.

Can ASCE legally have a PAC?

ASCE is a 501(c)3 nonprofit organization and 501(c)3 organizations cannot have PACs under IRS rules. However, ASCE can create a separate but affiliated organization that uses a different tax status – preferably a 501(c)6. This new, parallel organization can have any of the nonprofit classifications, including those that allow PACs, while ASCE maintains its 501(c)3 tax status.

With a PAC, would ASCE lose its status as a “neutral” party in legislative debates?

ASCE has never been “neutral” when it comes to public policy. We have 160+ Board-approved policy statements, each of which declares a position therefore removing our neutrality. We have been “for a gas tax increase,” and “against price competition for engineering services.” However, we are seen as an honest broker in the process and this would not change if we had a PAC.

Won’t government engineers be barred from participating in ASCE’s political activities?

Individuals, including government employees, have a basic right to contribute money to candidates. The Supreme Court has repeatedly overturned laws that deny this right.

ASCE members who are public employees could contribute to a PAC, although their participation in other activities related to a PAC may be restricted. For example, federal employees who fall under the jurisdiction of the Hatch Act would not be allowed to directly solicit others for contributions to the ASCE PAC. However, the law would not prohibit many of them from participating in administrative planning efforts related to fundraising for the PAC. State laws vary, but our research has found that no state can bar an employee from contributing to a PAC, and many states allow participation in the governance of a PAC. ASCE staff has researched this issue by reviewing the laws of all 50 states and would ensure that members are fully informed of these restrictions.

Two of our sister organizations in the design community with members who are government engineers have pursued additional political involvement and currently operate political action committees – the American Institute of Architects and the National Society of Professional Engineers.

Why should ASCE get involved in the “dirty business” of political campaigns?

A PAC is the legal and ethical means for ASCE to participate in political campaigns. Despite all the bad press, not all politics is dirty and political campaigns are not inherently dishonest. Our society is a democratic republic meaning the people must elect representatives to determine the laws of our country. If decent and law-abiding citizens turn away from elections because of real or perceived concerns, then the process will be dominated by those who have less respect for the law, and things will only get worse. News of improprieties in elections should be a “call to arms” for individuals and organizations who want to influence the system in a legal and ethical way.

What is a PAC?

A Political Action Committee (PAC) is a voluntary association of Americans who pool resources to support candidates for public office. PACs allow individuals to magnify their personal influence in Washington by joining with other like-minded individuals in support of candidates who support their common goals. In the case of associations, PACs allow association members to support elected officials and candidates for office who have goals and views that support those of the association.

An ASCE PAC would allow domestic ASCE members (only U.S. citizens could contribute) to contribute personal funds into a common fund. This fund would then be used to contribute to the election campaigns of federal legislators who have supported ASCE’s positions in the past. Both the contributions from our members and the contributions to candidates would be public records reported regularly to the Federal Election Commission (FEC).

What are the benefits of ASCE having a PAC?

The most basic benefit of a PAC is that it would allow ASCE to assist in electing candidates that support our positions. It is in civil engineers’ interest to elect qualified representatives that support our core issues. Candidates simply can’t win elections without money.

The second, less obvious benefit of having a PAC is access. Politicians have limited amounts of time, and the demands on their time are overwhelming. When deciding which group to prioritize, legislators will give preference to groups and individuals who have helped them in the past. At the moment, ASCE is limited in what we can do to help a Member of Congress. A PAC would allow us to provide a tangible financial contribution to legislators

Some ASCE members may be uncomfortable with the above reasoning. This is based on the belief that elected officials should listen to all perspectives, weigh them carefully, and then reach an informed decision. While most legislators share that belief, the very real demands on their time can limit opportunities to seek information from all sources. Those who contribute simply go to the top of the list. While this may not be the ideal, it is how the real world works. If we wish to have a voice, ASCE should design its legislative strategies based on a clear assessment of how the political system works, not on how we might want it to work.

Would a PAC improve our advocacy efforts?

A PAC would complement our current advocacy efforts. First, ASCE would be able to acknowledge and support candidates for federal elective office that supported our core issues. For example, ASCE could publish a "voters guide" that would let the engineering community know which elected officials were most supportive of our issues.

Additionally, a PAC would greatly enhance ASCE's access to lawmakers – this access would afford us more opportunities to directly communicate information on ASCE's priority issues to candidates. Without access, it is very difficult to accomplish anything in Washington. Hundreds of business and professional associations (including AIA and NSPE) have already analyzed the pros and cons of having a PAC and concluded that it is a vital part of their legislative strategies.

What happens if ASCE doesn't establish a 501(c)6 organization?

We will continue to represent the Society and the profession in Washington through our current lobbying and grassroots efforts. There are some areas where we could improve. However, we would remain subject to the \$1 million limit on lobbying and participation in the political process because of our 501(c)(3) status: money spent on lobbying activities at state and local levels are limited and we and our Sections, Branches and Regions are prohibited from participating in political activities (endorsing candidates, financially supporting candidates, etc.) Lobbying practices may be further limited as a result of reform efforts in the U.S. Congress, possibly making political activities more significant, since they are generally protected from limits by the Constitution.

What happens if ASCE doesn't establish a PAC?

ASCE members would miss out on additional opportunities to share their views on public policy with elected officials and candidates. While we would continue our current efforts to do this, we recognize that the addition of a PAC to our available tools would increase our opportunities to meet with and develop personal relationships between ASCE members and staff and elected officials and candidates. Additionally, ASCE would still be prohibited for supporting engineers who run for elected office.

Is it unethical for ASCE to have a PAC and for engineers to participate in PACs?

Participation in the political process is a fundamental element of our democratic system of government. All U.S. citizens have a duty to vote, and ASCE encourages all eligible ASCE members to vote according to their own conscience.

The Guidelines to Practice under Canon 1 of the ASCE Code of Ethics state that “Engineers should seek opportunities to be of constructive service in civic affairs and work for the advancement of the safety, health and well-being of their communities...” A PAC is the legal, ethical and regulated way to participate in political campaigns and influence elections beyond simply voting.

Contributions made to candidates by the ASCE PAC would be on the basis of past voting behavior and public statements consistent with ASCE’s views on priority issues. Contributions would not be tied to promises of support (past or future) for specific legislative bills, issues or engineering projects. Such actions are unethical and illegal and would not be a part of an ASCE PAC.

It is important to remember that participation in a PAC is a fundamental right of free speech guaranteed by the constitution. While the extent of participation in PACs by some government employees is limited, the basic right to contribute money to candidates is not restricted. The Supreme Court has repeatedly overturned laws that deny this right.

If it establishes a PAC, will ASCE lose a significant amount of respect and credibility as an independent, un-biased, fact-based organization?

ASCE is now and will remain a lobbying organization in the eyes of the law, regardless of whether we have a PAC. Further, ASCE has never been “neutral” when it comes to public policy. We have 160+ Board-approved policy statements, each of which declares a position therefore removing our neutrality. ASCE has been “for a gas tax increase,” and “against price competition.” However, we are seen as an honest broker in the process and this would not change if we had a PAC. Our organization and our members will continue to share their technical expertise with public policy makers at all levels. ASCE’s PAC would not affect these types of activities, and an individual member’s participation in a PAC will not interfere with his or her involvement in these activities. Active, interested and educated citizens are involved in the process in many ways. Participation in a PAC is another type of involvement in the process.

Who else has a PAC?

There were approximately 4,000 registered PACs in 2000. This does not include PACs associated with a particular candidate, political party or campaign. It also does not include independent advocacy groups, or “527” organizations, which are not technically PACs. Better than half of the registered PACs represent businesses or business interests, with about one-quarter representing unions.

Some of the most well respected professions and interests in the country have PACs, including dentists, architects, nurses, teachers, and the Humane Society. Many of the companies employing ASCE members have PACs, including Boeing, Bechtel, Parsons Brinckerhoff, GE, and Lockheed Martin. A list of PACs is attached. (See chart at end of this document)

If other engineering groups have PACs, why does ASCE need to duplicate efforts?

While it is true that the American Council of Engineering Companies (ACEC) and the National Society of Professional Engineers (NSPE) operate their own PACs, it is not necessarily true that an ASCE PAC would be duplicating efforts. First, not every ASCE member is a member of ACEC and/or NSPE. ACEC is a trade organization whose members are engineering companies, not individual engineers like ASCE. While many of our interests and views are similar, our legislative priorities are not always perfectly aligned.

NSPE's current public policy priorities do not put a large emphasis on their PAC, as reflected by their current receipts (see attached chart). At this point in time, they are not using their PAC tool to its fullest potential.

How would I pay my dues?

If the ASCE Board votes to create a new 501(c)6 organization, members would likely pay their dues to both organizations. This would mean that members who currently pay their own dues and deduct them from their taxes as a charitable expense would no longer be able to do this for the portion of their dues paid to the 501(c)6. Instead, they could deduct them as a unreimbursed business expense. A small amount of the dues paid to the 501(c)6 would not be deductible due to ASCE's lobbying expenses – this amount would be clearly marked on your dues statement.

How would an ASCE PAC be run?

The PAC can operate any way the ASCE Board chooses and would exist through the voluntary participation of individual ASCE members. ASCE's new 501(c)6 would pay all the administrative costs associated with the day-to-day operations of the PAC, ensuring that every dollar collected from individual ASCE members would go to candidates who support ASCE's views. The PAC would be separate from both the 501(c)6 and 501(c)3 organizations, and participation in it would be voluntary.

Concerns about how money is collected and processed, how candidates are chosen and how often ASCE members are contacted can easily be dealt with by the Board since the Board will maintain authority over the PAC. Simply put, the PAC should be run in a bipartisan manner with ASCE supporting those candidates that support ASCE issues. However, the question of WHO gets the money is an important question. The Task Force has crafted the following criteria that would be the basis for discussion if a PAC were approved:

The PAC would weigh a variety of criteria in determining which candidates for federal office should receive PAC disbursements. It is important to note that in general contributions would be made on the basis of past performance, not on the hope of future actions. Only individuals seeking election or re-election to the U.S. Senate or U.S. House of Representatives would be eligible for support. The PAC generally would not support primary election candidates. To the best of its ability, ASCE PAC will strive to support candidates on a bipartisan basis.

The following are proposed criteria that could apply to all candidates under consideration for support from the PAC:

- Favorable position on issues affecting the civil engineering profession
- Past assistance to ASCE on issues affecting the civil engineering profession
- Prior personal and/or professional experience as an engineer
- Assignment to Committees relevant to civil engineering issues
- Seats in senior positions on these key Committees
- Election or appointment to leadership position
- Recommendations from PAC contributors
- Position in an open-seat race (where no incumbent is running for re-election)

What if I don't want my dues dollars given to candidates for political office?

By creating a parallel 501(c)6 entity and making the organizational changes necessary to have a PAC, ASCE would no longer be limited in the amount of lobbying in which we could engage. While an ASCE PAC would only support candidates for federal office, the organizational changes would allow increased advocacy at both the federal and state levels. This will be especially important as ASCE turns the CAP3/Body of Knowledge into changes in 50 state licensing laws.

Funds distributed to candidates would be raised solely from voluntary personal contributions by individual ASCE members. It is against Federal law to contribute any Society funds, including dues, directly to candidates for federal office.

Examples of Political Action Committees Political Contributions

PAC	2003-04 Contributions	2005-06 Receipts*
Amer. Inst. of CPAs	\$861,490	\$1.25 million
American Council of Engineering Companies	\$327,266	\$716,822
American Dental Assoc	\$1.97 million	\$1.9 million
American Institute of Architects	\$168,015	\$221,466
Assn of Trial Lawyers of America	\$6.5 million	\$6.2 million
Amer. Road & Transportation Builders Assn.	\$305,662	\$280,705
Amer. Speech-Language Hearing Assn.	\$258,991	\$409,983
Associated General Contractors	\$860,934	\$1.01 million
Bechtel	\$219,000	\$398,772
Boeing	\$1.3 million	\$1.24 million
CDM	\$24,119	\$226,016
CH2MHill	\$362,826	\$413,525
DMJM Harris	\$277,797	\$250,261
Environmental Action	\$487,343	\$258,635
Gannett Fleming	\$77,750	\$99,120
HNTB	\$42,848	\$104,765
HDR	\$212,587	\$445,841
Int'l Union of Operating Engineers	\$1.1 million	\$3.25 million
Jacobs Engineering	\$521,297	\$634,124
Lockheed Martin	\$1.5 million	\$1.96 million
Major League Baseball	\$372,350	\$330,175
Nat. Fed. of Independent Businesses	\$2.4 million	\$2.68 million
Nat. Society of Professional Engineers	\$68,172	\$26,122
Natl Assn of Water Companies	\$37,630	\$30,384
Natl Rural Water Assn	\$67,341	\$128,058
Natl Stone, Sand and Gravel Assn PAC	\$474,551	\$597,888
Northrop Grumman	\$1.7 million	\$1.47 million
Parsons Brinckerhoff	\$275,925	\$255,413
Parsons	\$348,034	\$480,840
Rec. Fishing Alliance	\$111,720	\$87,477
Salt River Valley Water Users Assn	\$126,553	\$174,116
Sierra Club	\$882,521	\$1.13 million

Contributions=total amount given to candidates during an election cycle

Receipts=total amount collected in a cycle

*Source: Federal Election Commission Reports (November 27, 2006) found at <http://www.fec.gov>.

The chart below is directly from the FEC website and details the various contribution limits – of note an individual (ASCE member) could give an ASCE PAC \$5,000 per year.

Contribution Limits for 2005-06

Donors	Recipients				Special Limits
	Candidate Committee	PAC ⁹	State, District and Local Party Committee ²	National Party Committee ³	
Individual	\$2,100 ⁹ per election ⁸	\$5,000 per year	\$10,000 per year combined limit	\$26,700 ⁹ per year	Biennial limit of \$101,400 ⁹ (\$40,000 to all candidates and \$61,400 ⁹ to all PACs and parties)
State, District and Local Party Committee	\$5,000 per election combined limit	\$5,000 per year combined limit	Unlimited transfers to other party committees		
National Party Committee	\$5,000 per election	\$5,000 per year	Unlimited transfers to other party committees		\$37,300 ⁹ to Senate candidate per campaign ⁶
PAC Multicandidate ⁷	\$5,000 per election	\$5,000 per year	\$5,000 per year combined limit	\$15,000 per year	
PAC Not Multicandidate	\$2,100 ⁹ per election ⁸	\$5,000 per year	\$10,000 per year combined limit	\$26,700 ⁹ per year	

⁹ These limits are indexed for inflation in odd-numbered years.

¹ These limits apply both to separate segregated funds (SSFs) and political action committees (PACs). Affiliated committees share the same set of limits on contributions made and received.

² A state party committee shares its limits with local and district party committees in that state unless a local or district committee's independence can be demonstrated. These limits apply to multicandidate committees only.

³ A party's national committee, Senate campaign committee and House campaign committee are each considered national party committees, and each have separate limits, except with respect to Senate candidates — see Special Limits column.

⁸ Each of the following is considered a separate election with a separate limit: primary election, caucus or convention with the authority to nominate, general election, runoff election and special election.

⁵ No more than \$40,000 of this amount may be contributed to state and local parties and PACs.

⁶ This limit is shared by the national committee and the Senate campaign committee.

⁷ A multicandidate committee is a political committee that has been registered for at least six months, has received contributions from more than 50 contributors and — with the exception of a state party committee — has made contributions to at least five federal candidates.

⁸ A federal candidate's authorized committee(s) may contribute no more than \$2,000 per election to another federal candidate's authorized committee(s). 2 U.S.C. 5432(e)(3)(B).