

# COMMUNITY FOUNDATIONS: LOBBYING & PUBLIC POLICY ENGAGEMENT

## >> IS YOUR ORGANIZATION A COMMUNITY FOUNDATION?

If so, then you should know about the opportunities for community foundations to lobby, support lobbying activities, and participate in voter education activities to address important public policy issues. Most importantly, you should know that community foundations can serve and provide leadership by being involved in public policy.

## >> WHAT IS PUBLIC POLICY ENGAGEMENT?

Engaging in the public policy process can mean conducting and getting involved in any one or more of a wide range of activities including legislative advocacy, administrative or regulatory advocacy, judicial advocacy, public interest research, public education efforts, community organizing, voter and candidate education, assessing and disseminating public information, and facilitating and building partnerships, coalitions and negotiations among nonprofits and government. Lobbying is one specific form of public policy engagement that is often a key strategy for making and changing laws. The other forms of public policy participation mentioned above may ultimately influence legislation but generally serve other parts of the policymaking process.

## >> WHAT IS LOBBYING?

Lobbying is a specific, legally defined activity that involves stating your position on specific legislation to legislators and/or asking them to support your position. Legislation is a bill that has been introduced or a draft bill that may be introduced in any legislative body such as a city council, state legislature or Congress. Lobbying is classified as direct or grassroots. For example, if you or another community foundation staff person called or met with a legislator or legislator's staff person and stated your organization's position on a bill, then that activity would count as direct lobbying. Grassroots lobbying is when you urge the public to take action by asking elected officials to support or oppose legislation.

“Community foundations can provide leadership by being involved in public policy.”

## >> WHY LOBBY?

As a leadership organization in your area, you have a powerful voice that can be used to influence public policy change and confer benefits on people and causes, which can be greater than those benefits derived from any one grant or program. While lobbying is only one form of public policy activity, it is often a critical step toward changing laws that affect the groups and people you serve.

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### >> DID YOU KNOW?

The Minneapolis Foundation funded a lobbying and advocacy campaign to protect Minnesota nonprofits<sup>1</sup> and the people they serve against deep budget cuts. The East Bay Community Foundation in San Francisco served as convener of groups and as a leader in a legislative fight for gun control. The Pittsburgh Foundation conducted research and brokered a collaborative process among nonprofits and county officials to identify and address gaps in service as a result of welfare reform. Community Foundations for Pennsylvania (CFPA) lobbied for legislation governing the distribution of tobacco settlement funds. The New Hampshire Charitable Foundation lobbied to override the Governor's veto on legislation important to fighting substance abuse.

### >> COMMUNITY FOUNDATIONS CAN LOBBY.

Community foundations are governed under the same federal tax rules for lobbying as other nonprofits, under section 501(c)(3). Unlike private foundations that are generally restricted from lobbying except on "self-defense" issues like legislation affecting their tax-exempt status, community foundations may lobby with the same latitude permitted other 501(c)(3)s. As stated before, lobbying is defined as any attempt to influence specific legislation. By default, community foundations are subject to the vague "no substantial part" rule that says lobbying cannot be a substantial part of a 501(c)(3)'s activities. Unfortunately, the IRS never defined how much constitutes a substantial part, so in 1976 Congress enacted an alternative set of rules called the expenditure test. The expenditure test is often known as the 501(h) election.

**“Unlike private foundations, community foundations may lobby with the same latitude permitted other public nonprofits.”**

### >> WHY MAKE THE LOBBYING ELECTION?

Like other nonprofits, it is beneficial for community foundations to consider "electing" the 501(h) expenditure test rules of the 1976 lobby law. Electing is simply the process by which a 501(c)(3) organization chooses to come under these precise guidelines. Electing to come under the 1976 lobby law is easy. Complete the one-page IRS Form 5768 and send it in. During the year, record the community foundation's lobbying expenditures. Then, the next time the community foundation's annual tax form 990 is being prepared, fill in the amount of lobbying expenditures on Form 990 Schedule A, Part VI. Visit [www.clpi.org](http://www.clpi.org) to get IRS Form 5768.

**Choosing to follow the 501(h) expenditure test rules offer three main benefits: safety, clarity, latitude.**

**SAFETY:** The IRS has stated that making the election does not raise the risk of audit.

**CLARITY:** The 501(h) rules provide clear definitions of direct and grassroots lobbying. They also make it easy to distinguish lobbying from general public policy activities by including eight legislation related activities that are excluded from the definitions. See *Nonprofit Legislative Advocacy & The Law* at [www.clpi.org](http://www.clpi.org).

**LATITUDE:** The 501(h) rules provide fairly generous lobby expenditure limits, 20% of a 501(c)(3) organization's first \$500,000 of their exempt purpose expenditures may be spent on lobbying. Up to \$1 million may be spent on lobbying in a year. If a community foundation does not elect, then it is subject to the vague "no substantial part" rule that does not clearly define lobbying or state how much money a community foundation may spend on lobbying.

<sup>1</sup> Nonprofit, as used here, refers to 501(c)(3) charitable organizations, not including private foundations.



## >> **COMMUNITY FOUNDATIONS CAN SUPPORT LOBBYING VIA GRANTMAKING.**

Community foundations may make general support grants to nonprofits that lobby. They also may make grants to nonprofits earmarked for lobbying. If a community foundation makes a grant for lobbying, the grant counts against the foundation's lobby expenditure limits if it has already elected under the 501(h) rules. If the community foundation has not elected, and therefore is under the no-substantial part rule, a grant to a nonprofit earmarked for lobbying still counts as a lobbying expenditure by the community foundation.

*Why would a community foundation make a grant for lobbying by another organization? Community foundations that want to influence legislation may not have the internal capacity to lead a legislative campaign themselves so they may want to provide funding for one or more 501(c)(3) organizations, or a coalition, to take the leadership of a lobbying effort.*

## >> **COMMUNITY FOUNDATIONS CAN ADVISE DONORS ABOUT THE BENEFITS OF NONPROFIT ADVOCACY.**

Community foundation staff may educate donors about organizations that engage in public policy and lobbying on causes they care about. Educating donors about opportunities to support organizations engaged in public policy can also be a way of expanding the pipeline of usually scarce dollars for advocacy and lobbying activities. Philanthropy for public policy can be an exciting way for a donor to feel a part of social change efforts.<sup>2</sup>

## >> **WHAT ABOUT VOTER AND CANDIDATE EDUCATION DURING AN ELECTION YEAR?**

Community foundations are under the same strict prohibition on partisan political activity that apply to all 501(c)(3)s. However, like other nonprofits, community foundations may, within certain limits, conduct voter registration, organize candidate forums and debates, gather information from candidates through questionnaires, and educate voters about issues through the media. While strict rules must be followed, voter education activities can be among the most important strategies for shaping public policy and building relationships with policymakers. See CLPI's *Nonprofits & Election-Related Activities* at [www.clpi.org](http://www.clpi.org) to learn more.

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<sup>2</sup> It should be noted that a donor may not receive a tax-deduction for a contribution to a 501(c)(3) that is specifically earmarked for lobbying as defined under section 501(c)(3) of the Internal Revenue Code. Community foundation staff may advise donors that funding broader public policy work does not necessarily mean that a nonprofit will engage in lobbying, but lobbying could be one of many types of policy activity conducted by the organizations ultimately receiving their contributions.

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### >> COMMUNITY FOUNDATIONS CAN SUPPORT NONPROFIT PUBLIC POLICY ENGAGEMENT THROUGH THEIR ROLE AS COMMUNITY LEADERS.

As influential leaders in the community, community foundations can support nonprofit engagement in the public policy process by convening grantees and/or elected officials to discuss important community issues. Community foundations can also conduct research (or fund such nonpartisan research) and report findings on critical issues' relation to public policy. In addition, community foundations can use their leadership to support and encourage nonprofits' engagement in public policy work by providing advocacy training for grantees.

## MORE INFORMATION on Community Foundations and Public Policy Engagement

As explained here, community foundations have a significant opportunity to advance charitable missions through engaging in and supporting nonprofit advocacy and lobbying. See the following additional resources for more information.

- *Top 10 Ways Foundations Can Influence Public Policy*, Council on Foundations, [www.cof.org](http://www.cof.org)
- Council on Foundations' Community Foundations Program, [www.cof.org](http://www.cof.org)
- *Power in Policy: A Funder's Guide to Advocacy and Civic Participation*, Edited by David Arons [www.clpi.org](http://www.clpi.org), [www.fieldstonealliance.org](http://www.fieldstonealliance.org)
- *The Nonprofit Lobbying Guide*, by Bob Smucker, CLPI Founder  
A practical how-to guide to lobbying that helps organizations get started lobbying, understand the law and learn about the importance of public interest lobbying from several nonprofit leaders. [www.clpi.org](http://www.clpi.org)
- IRS form 990 and 990 Schedule A for reporting lobbying expenditures may be found on the Web site of the National Center for Charitable Statistics at [www.nccs.urban.org](http://www.nccs.urban.org).
- Various other CLPI resources available at [www.clpi.org](http://www.clpi.org)

