



Sample Ways Private and Community Foundations May Engage in Advocacy

By Kelly Shipp Simone

This list highlights some of the ways that private foundations and public charities (including community foundations) may engage in public policy without lobbying.¹ Public charities have further flexibility and may engage in lobbying activities not described below.²

1. Direct communications with legislators or their staff about a general issue of concern. To use this lobbying exception these direct communications may not either refer to specific legislation or legislative proposal, or if specific legislation or proposal is referenced, no view may be expressed on such legislation.
2. Direct communications with legislators or their staff is also permitted on matters that might affect the foundations existence, powers, duties or tax-exempt status. This is often referred to as self-defense lobbying. This exception does not extend to communications with the general public.
3. Grassroots communications to the public about a policy issue if:
 - The communication does not contain any reference to specific legislation or legislative proposal;
 - The communication references specific legislation or legislative proposal but does not express a view on the legislation or proposal; or
 - The communication references specific legislation or legislative proposal and indicates a position on the issue but does not encourage the communication's recipients to contact legislators or provide information (e.g., legislators' names or contact information) or a mechanism to facilitate such contact.
4. Communications with executive officials (i.e., president, governors, mayors) or their staff about a policy issue where the official or staff member will not participate in the formulation of legislation discussed. If the official or staff member will participate in the formulation of legislation, the communication should either not include a reference to specific legislation or legislative proposal or should not express a view on the legislation or proposal.
5. Communications with administrative bodies to influence regulations or other implementation of existing laws.
6. Participating in class action lawsuits or similar public interest litigation in attempts to influence judicial bodies.

¹ Not all of these exceptions may apply to public charities that do not elect to use the 501(h) expenditure test. For more information about the tests that govern lobbying activity by public charities, visit the Council's resources on the legal aspects of advocacy activity at <http://www.cof.org/legal>.

² The article [What You Need to Know: Getting Involved in Public Policy](#) provides a brief overview of the lobbying rules for public charities.

7. Responding to written requests from a legislative body (not a single legislator) for technical assistance on pending legislation.
8. Sharing the results of nonpartisan analysis, study or research on a legislative issue.
9. Discussing issues of broad social, economic and similar policy issues requiring legislative solution so long as the discussion does not address the merits of specific legislation.

While this list serves as a good starting place for understanding permissible advocacy activities, the assistance of experienced legal counsel should always be considered when navigating through the rules for engaging in advocacy activity.

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