



COUNCIL *on*
FOUNDATIONS

Public Policy *and* Advocacy *for* Grantmakers

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COUNCIL *on*
FOUNDATIONS

The Council on Foundations exists to help philanthropy be a trusted partner in advancing the greater good. Building on our 70-year history, we are charting a course where funders earn and maintain the public's trust by advancing equity, operating with high integrity, collaborating on broad scale challenges and serving as ethical stewards.

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Letter from the President and CEO

Dear Colleagues,

“Advancing the greater good.” This is what philanthropy is about. Across the United States, foundations are working with nonprofit organizations and communities to help achieve positive change and create a more equitable society.

In order to reach our ambitious goals, however, there is another critical partner and influential player we need to keep front and center in our strategies: government. Philanthropic donations, no matter how generous, cannot match the resources of local, state, national and international governments. In 2018, all U.S. foundation giving combined was only about 1 percent of U.S. public sector spending.¹

And it’s not just government *spending* that makes it so critical for foundations to engage with and partner with the public sector. Government *policies* at all levels can make or break the work we do with our partners on issues from racial equity to education to the environment, health care and more. To the extent that public policies are supportive of and aligned with our goals, then we will be that much more likely to succeed. When those policies conflict with what we want to do, then it’s going to be a long uphill climb.

As we explore in this publication, foundations can pursue a wide range of pathways to influencing public policies in ways that support our broader goals. We can support nonprofits to lobby; we can invest in research, communications and convening on policy issues; and we can amplify the voices of those who have traditionally been unheard in the halls of power, to name just a few. We also can team up with colleague funders—and with government—to bring more resources and attention to urgent policy issues.

All too often, foundation boards and staffs are reluctant to use all of the tools in our policy toolbox because of the perception that we may be crossing the line and doing things we aren’t legally able to do. In this publication, we clarify the rules while offering ideas, strategies and examples of how foundations can engage—and *are engaging*—as active and influential participants in the policy process.

This report continues the Council on Foundations’ support for member involvement in public policy, through reports, conferences, webinars and individual technical assistance. At a time of crushing inequities in our society, and with so many urgent policy issues crying out for attention, we thank you for your commitment to the role of policy work in advancing the greater good.




Kathleen Enright
President and CEO
Council on Foundations

Executive Summary

When it comes to making progress on many if not most of the priorities that philanthropy is focused on, public policy is crucial. Government decisions about policies and public investments can drive (or impede) solutions to pressing problems facing people and communities on issues from education and health care to the environment and community and neighborhood development. That's why foundations have a direct stake in advancing and informing policies on the issues that matter to them.

“Philanthropy’s greatest impact is in helping to shape and influence the public policies and systems that have such a big impact on people’s lives.”

— CFLeads, Community Foundations Leading Change

Without supportive public policies, our work gets a lot harder, our nonprofit partners struggle to reach their goals, and the communities we care about are unable to realize their hopes and dreams.

Over the years, foundations have shown an ability to impact policy from all directions and in support of a variety of causes. When the John M. Olin Foundation officially closed its doors in 2005, it was widely credited for its influential role (alongside other conservative funders) in standing up and strengthening a network of think tanks, media organizations and university programs that advanced free-market policies and limited government.

Meanwhile, more progressive funders have often played a leadership role in supporting organizations and movements to advance policies that have expanded government support for vulnerable communities. The National Committee for Responsive Philanthropy recently documented how foundation investments yielded \$26.6 billion in benefits for taxpayers and communities in 13 states. In the report, [*Leveraging Limited Dollars: How Grantmakers Achieve Tangible Results by Funding Policy and Community Engagement*](#), [*NCRP*](#) found that every dollar grantmakers and other donors invested in policy and civic engagement provided a return of \$115 in community benefit.

10 Things Your Foundation Can Do

Foundations can help encourage public-sector solutions at all levels of society. Yet many in philanthropy have legitimate questions about whether and how to get involved in policy. This publication seeks to address those questions by clarifying the rules governing the sector's policy engagement and outlining 10 ways foundations can be involved in advancing policy solutions. These include:

- ▶ Build Support for Policy Engagement Inside the Foundation
- ▶ Spotlight Important Policy Issues and Solutions
- ▶ Bring Together Diverse Partners to Discuss Issues and Drive Action
- ▶ Provide Flexible, Long-Term Support
- ▶ Strengthen Nonprofits' Capacity for Advocacy
- ▶ Work for Judicial System Reforms
- ▶ Educate Decision-makers
- ▶ Develop Partnerships with Government
- ▶ Build Funder Coalitions Around Shared Policy Goals
- ▶ Build Support Across the Philanthropic Sector

If there is one takeaway for philanthropy from this publication, it's that foundations have a profound interest in getting involved in public policy. Yes, there are clear rules and certain prohibitions on foundation activities when it comes to direct lobbying of policymakers (see page 8). But there is an enormous range of foundation actions and investments related to policy that are entirely permissible, that do not meet the definition of lobbying, and that can lead to bigger, broader impact for our organizations and our partners at all levels.

The Rules in a Nutshell

Let's go through some of the basic rules to start. *Private* foundations generally cannot lobby (except as noted below). Foundations of all types also are prohibited from pursuing any partisan electoral activity. (For more on the rules and regulations, see page 8.)

That covers what is *not* permitted. Within these rules and broad boundaries, foundations still have a huge number of things they *can* do to have tremendous impact on policy. Most importantly, private, community and public foundations can fund grantees that lobby, consistent with the rules of the grant type and relevant laws. Foundations also can support unlimited amounts of (non-lobbying) public policy engagement, from research and convenings to public education on issues.

Foundations themselves also are able to engage in some forms of lobbying. Public and community foundations, for example, can engage in some direct lobbying activities on a range of issues. And foundations of all types (private, public and community) can lobby on issues affecting the foundation itself or philanthropy at large, such as laws regarding the tax deductibility of contributions to foundations.

When it comes to *electioneering*, neither public nor private foundations can fund or engage in any activities. They can, however, fund *electoral advocacy*—such as candidate education and voter registration and mobilization—as long as they do so on a nonpartisan basis and follow some [specific rules](#).

State and local rules generally do not restrict how much lobbying an organization or funder can do; rather, the focus of these laws is on requiring individuals, and sometimes employers and funders, to register and report if they do more than a certain amount of lobbying. These state and local rules also cover issues like providing gifts to policymakers, including paying for meals. Note that states and localities sometimes define “lobbying” in ways that are different than the IRS definition. The [National Conference of State Legislatures](#) offers a helpful chart with information for each state.

The bottom line: foundations can fund and engage directly in many activities that contribute to policy change on issues that matter to our organizations. And there are thousands of examples, and many resources, to illuminate this important strategy.

What Foundations Can and Cannot Do

Foundations can engage in a range of policy and advocacy activities, as spelled out below, with private foundations sometimes operating under different rules than public and community foundations.

	Private	Public and Community
Nonpartisan analysis or research on issues	Yes	Yes
Nonpartisan public education on issues	Yes	Yes
Discussion of a broad social issue	Yes	Yes
Hosting and/or supporting community meetings	Yes	Yes
Technical advice or assistance in response to written request from a legislative body	Yes	Yes
Sharing stories of policy impacts on people and communities	Yes	Yes
“Self-defense” regarding policy issues directly affecting the foundation or the philanthropic industry	Yes	Yes
Support for or involvement in litigation	Yes	Yes
Comments on regulations	Yes	Yes
Education of policymakers who are not “legislators” (such as members of school boards, zoning boards or special-purpose bodies). See appendix for more.	Yes	Yes
Funding nonprofit organizations that lobby	Yes	Yes
Earmarking grant funds for lobbying	No	Yes
Conducting lobbying activities directly	No, except in self-defense	Limited
Carrying out or funding nonpartisan electoral advocacy activities	Yes, subject to special rules	Yes, subject to special rules
Electioneering	No	No
Voter registration	Yes, subject to special rules	Yes, subject to special rules

Note: In this publication, we use IRS guidelines, rather than state or local rules, to discuss what is or is not lobbying. You can find more detailed information about the distinctions in the appendix. Note that this information should not be viewed as legal advice for your foundation. You should consult with your foundation’s legal counsel about specific activities or questions.

10 Ways for Foundations to Contribute to Effective Public Policies

Time and again, philanthropy has demonstrated an ability to work with partners to improve outcomes for people and communities. But achieving impact at scale — impact that touches the lives and livelihoods of substantial numbers of people over a long period of time — requires the active engagement, support and partnership of the public sector.

The remainder of this publication illustrates 10 ways your foundation can engage in public policy work, along with examples from peers. Each section offers ideas to get started, as well as options for more in-depth work.

Terminology

“Advocacy”: an umbrella term for activities that inform or advance public policies.

“Lobbying”: a specific type of advocacy, with the purpose of influencing legislation; according to the *IRS*, “[a]n organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.”

“Electioneering”: “*advocating* in support of, against, or in the interest of, a specific candidate, party, or proposition during an election.”

“Electoral advocacy”: activities to educate candidates for public office or voters, or to support voters in participating in elections, that are nonpartisan and do not meet the definition of electioneering.

“Earmarking”: directing (orally or in writing) funds to be used for lobbying activities. The alternative is to allow grantees to use funds for lobbying at their discretion, in compliance with the laws. Simply being aware that a grantee plans to use funds for lobbying is not considered earmarking.

Private foundation: an organization exempt from taxation under section 501(c)(3) that does not qualify as a public charity. Private foundations typically carry out their charitable purpose by giving grants to other charities. Includes corporate, family, health conversion, and independent foundations.

Public foundation: a grantmaking public charity that gains its funds from a variety of sources. Includes community foundations.

1. Build Support for Policy Engagement Inside Your Foundation

Making public policy reform part of your foundation's portfolio involves a variety of functions and departments; it also requires an organization-wide commitment to the power of policy to help advance the foundation's mission and priorities. That's why it's so important to build understanding and support for policy work among the board and staff. Through education and outreach at all levels of the foundation, you can help leaders and staff understand the distinctive nature of policy work, why it's important, and how to ensure that your contributions are as effective as possible.

As part of your education and outreach, it's important to build understanding among the board and staff of how to discuss and report on advocacy work so the foundation is in compliance with applicable federal and state regulations. All foundations can follow the example of the national accreditation [standards](#) for community foundations, which include a criterion covering "how the community foundation's staff and board discuss advocacy or lobbying activities or grantmaking that includes advocacy or lobbying efforts."¹

Staff Education

Core program staff will play a leading role in a foundation's policy work, but they need support and education to fill this role effectively. Not only should they have a solid grasp of the rules and requirements related to foundation engagement, but they also will need to understand how the policy process works and how to shape the foundation's grantmaking to support policy (e.g., through investments in research, constituent engagement, convening and other activities). Another important focus for program staff: keeping in close touch with grantees involved in the policy process so the foundation is on top of the latest developments and opportunities.

Ongoing professional development and staff engagement will ensure staff are capable and knowledgeable across all of these areas. At the Annie E. Casey Foundation, a Policy Strategy Group of staff who are heavily involved in policy makes regular presentations to monthly all-staff meetings, senior leadership and board meetings to keep everyone informed.

"[A]dvocacy is an essential board responsibility... Our missions are too important to sit on the sidelines. If there are policy changes that would advance—or threaten—our ability to do our work, we can't afford to sit idle as the decision-making happens around us."

— BoardSource, [Ten Basic Responsibilities of Nonprofit Boards](#)

Of course, it's not just program staff who need to understand policy. Staff from other departments will also need to know how policy engagement affects their role, and how they can support the foundation's policy goals. For example:

- ▶ Communications staff can use the foundation's messaging channels to help educate key audiences on core issues, while also celebrating policy victories via the foundation's communications channels (website, social media, etc.).
- ▶ Staff who are responsible for strategic planning and [evaluation](#) functions can develop goals and measures that reflect the foundation's commitment to policy change as a core strategy.
- ▶ Legal counsel need to be up-to-date on IRS and state and local rules.

Engaging in Policy Work with a Racial Equity Lens

In recent years, many foundations have made racial equity a priority in their grantmaking and other activities. By applying a racial equity lens to policy work, we begin to see the way to broader changes in how government and society can dismantle systems that have for too long disadvantaged people of color.

The key to equity-focused policy change is community engagement. When we reach out, engage and listen to communities of color, our foundations are better prepared to understand the issues and challenges they face, as well as the policy solutions that are needed to achieve truly inclusive progress. And to the extent that we work to lift up the voices and expertise of communities with lived experience of the issues we're working on, then our investments and our advocacy will be more effective and more aligned with community needs and desires.

Many foundations and other entities are creating tools and resources that can help in the journey to equity-focused policy change. Examples include the Annie E. Casey Foundation's [Race Equity and Action Inclusion Guide](#); and PolicyLink's [Getting to Equity Advocacy Results](#), a toolkit for measuring progress in advocacy efforts to achieve equity.

- ▶ Grantmaking staff (even if their responsibilities are not directly tied to policy) can help connect grantees to key resources and information, while also collecting data and stories to support the foundation's policy goals.

Board Education

Board members and trustees need to understand why policy engagement is essential to accomplishing the mission of the foundation. They also need to be well-prepared before they see requests for policy action. Engaging the board throughout the policy cycle will help them understand the inevitable ups and downs. Foundations can build board support for policy work in a variety of ways, including:

- ▶ Discussing the whys and hows of policy work in board meetings.
- ▶ Educating board members about the rules around advocacy and lobbying so you can help reduce any fears and anxieties they may have and build more support.

- ▶ Inviting outside speakers from policy and advocacy organizations to present to the board.
- ▶ Creating a public policy committee of the board.
- ▶ Sharing information and reports from other funders on policy topics.
- ▶ Inviting board members to attend philanthropic meetings discussing public policy advocacy so they can see what other funders are doing.
- ▶ Participating in formal training on policy topics by outside organizations, such as the Council and BoardSource.

2. Spotlight Important Policy Issues and Solutions

One of the most important roles philanthropy can play in advancing public policies is to shine a spotlight on urgent issues and possible solutions. Foundations have a unique ability to look broadly at issues because we are usually working with multiple partners with varying perspectives and different windows on how those issues are affecting people and communities. Foundations also have the luxury of being able to take a longer-term view on issues, in contrast to nonprofit and government entities that are often pressured to deliver immediate results. As a result, foundations can play an important part in convening stakeholders, lifting up varying perspectives, and highlighting issues and solutions that demand attention. Here are some ways foundations can fill this role:

- ▶ **Support, commission and disseminate rigorous, objective research.** Foundation-supported research can illuminate why an issue is important, possible solutions, and the costs of action vs. inaction. Philanthropy also can support polling to determine the level of public support for addressing an issue.

Example: The Pew Charitable Trusts’ [analysis of the costs of incarceration and the benefits of alternative policies](#) informed efforts by diverse policymakers in dozens of states to advance solutions that saved money and protected public safety. Reforms in [Louisiana](#), for example, are expected to reduce its prison population by 10 percent over 10 years, with most of the \$262 million in projected savings invested in prevention programs.

- ▶ **Fund communications work.** Strong communications are an essential part of any policy reform initiative. This includes training community members to tell powerful stories about how an issue affects them; determining the best framing for an issue; identifying the data that policymakers need

as they decide how to act; and getting key messages out to different audiences who can help drive action and awareness.

- ▶ **Leverage all of your communications channels.** Foundations rely on a range of communications channels—including social media, the foundation website, earned media like op-eds and story placements, newsletters, speeches, and presentations by leaders and staff—to keep key audiences informed. We use these channels to provide updates and lift up important but neglected stories and voices from grantees and communities, with the aim of educating decision-makers and other audiences about an issue.
- ▶ **Support media outlets that cover relevant topics.** Many foundations provide grant support to ensure that the media are covering urgent issues. Alternatively, some foundations fund programs that educate reporters on the different aspects of an issue and how to cover it in-depth.

Example: The [W.K. Kellogg Foundation](#) provides grants for independent journalism related to its program focus on “putting children first.”

No matter which of these actions you take, make sure your foundation’s efforts to highlight key issues and solutions are aligned with key advocacy partners.

3. Bring Together Diverse Partners to Discuss Issues and Drive Action

Funders are especially well-suited to convene diverse partners to discuss, develop and advocate for creative policy solutions. For example, foundations can:

- ▶ **Convene experts.** Foundations can support and organize convenings focused on urgent issues. Participants can include community representatives with lived experience of the issue, government officials, nonprofit

East Bay Community Foundation:

Building Long-term Advocacy Capacity in Communities

With a focus on Oakland, California, and the surrounding area, the East Bay Community Foundation's (EBCF) [Inclusive Economy Fund](#) supports policy work as part of a commitment to "build grassroots community leadership and power." In 2020, EBCF helped lead a grassroots campaign that won passage of a ballot measure including a sales tax increase in Alameda County. The increase will provide \$350 million annually to support early childhood education and health care.

According to EBCF's President and CEO James Head, "We have funded ballot initiatives that lost in the past by a slim margin. We learned from those experiences, both in ways that helped us prepare for future wins but also that helped us build greater community power. We are invested in supporting long-term advocacy capacity within community organizations that will help them continue to support the policies that will fight inequity in our county."

EBCF's Vice President for Community Investments and Partnerships Amy Fitzgerald added, "Every public foundation should be using every tool in our toolbox to address inequity, including both doing and funding direct lobbying. We do our work in companionship with and led by people who are often excluded from tables of power and whose lived experiences dictate the policies we support."

"We have funded ballot initiatives that lost in the past by a slim margin. We learned from those experiences, both in ways that helped us prepare for future wins but also that helped us build greater community power."



James Head
President & CEO, EBCF

"Every public foundation should be using every tool in our toolbox to address inequity, including both doing and funding direct lobbying."



Amy Fitzgerald
Vice President for Community Investments and Partnerships, EBC

leaders and staff, and others. The goal of these convenings should be to nurture connections, highlight problems and solutions, and build consensus on next steps.

- ▶ **Set a neutral table.** Foundations can support tables where people come together on an ongoing basis to work for solutions to an issue. Again, the key is to ensure a diversity of voices and perspectives, including people with lived experience. The table can be tasked with formulating a plan of action or recommendations for policy solutions. With the right facilitation, participants should be able to build trust for ongoing collaborative work.

Funders just starting to engage in public policy can work with partners like a university to fund and organize these convenings; those with more in-depth expertise can play substantive roles in organizing, convening, participating and sharing results. To facilitate the involvement of disenfranchised groups with lived experience of issues, foundations should consider covering costs associated with participation, such as child care, transportation to and from meetings, and compensation for time and expertise.

There are countless examples of foundation-supported convenings on various policy issues. The Walton Foundation, for example, brought together 32 municipalities to develop the [Razorback Regional Greenway](#), a 37-mile system of pedestrian and biking trails connecting six cities in Arkansas. The foundation worked with groups, such as the Northwest Arkansas Regional Planning Commission, to accelerate a public master plan to complete the Greenway, and its resources [leveraged](#) additional local, state, and federal funds.

Similarly, the Joyce Foundation supported collaborations that helped secure agreements from two Canadian provinces, eight U.S. state governments and the U.S. federal government to create the Great Lakes Compact to manage the regional water supply. The foundation reflected on the power of this convening work in a 2015 [report](#): “Joyce often brings together diverse interests—public, private, and nonprofit—to discuss how best to protect and restore the Great Lakes region. Convening those who advocate and those who implement can help ensure that proposed solutions work as intended.”

4. Provide Flexible, Long-Term Support

Effective policy campaigns rely on many interlocking parts, including strategy development, community engagement, policymaker education, research, and communications. Organizations need substantial resources to support all of these activities and to bring good and relevant data, voices and experiences to the policy process. What's more, the unpredictability of policy work, as well as the fact that it often takes years to get results, means that grantees need flexible and sustained support.

“It can take 10 years of policy work to create what looks like an overnight success.”

— Leslie Boissiere, Vice President of External Affairs, the Annie E. Casey Foundation

As the Annie E. Casey Foundation's Vice President of External Affairs Leslie Boissiere, noted, “It can take 10 years of policy work to create what looks like an overnight success.”

For these reasons, the best way to provide financial support for ongoing policy work is through multi-year, general operating grants. Jesse O'Connell, strategy director for federal policy at the Lumina Foundation, observed, “Many funders are used to funding programs with specific timelines and detailed deliverables. In funding policy change, we need to identify trusted grantees and let them go.”

Lumina Foundation:

A State and Federal Policy Agenda to Improve Post-secondary Education

The Lumina Foundation has a comprehensive policy strategy to “redesign learning after high school,” with the goal of at least [60% of U.S. adults](#) having a quality post-secondary credential by 2025.

“Philanthropy is in a unique position; we aren't beholden to voters or shareholders. We have a responsibility to use our leadership perspective to create large-scale, systemic change, and federal and state public policy is an essential lever to do so,” said Lumina Foundation CEO Jamie Merisotis.

A major focus for Lumina has been highlighting the value of states adopting their own specific goals for higher education attainment; so far, 45 states have set attainment goals that meet Lumina's criteria. For example, California's new Student Centered Funding Formula for community colleges, adopted in 2019, will generate over \$600 million more per year for California colleges to better serve 2 million enrolled students.

A key federal policy priority for Lumina, and for other education-focused foundations as well, has been increasing access to financial aid, especially for students from lower-income families. Lumina's actions have included funding public opinion polling and conducting research on options to streamline the federal financial aid application process.

“Many funders are used to funding programs with specific timelines and detailed deliverables. In funding policy change, we need to identify trusted grantees and let them go.”

— Jesse O’Connell, Strategy Director for Federal Policy, the Lumina Foundation



This kind of flexible, long-term support helps grantees respond to changing circumstances and new opportunities to advance an issue, such as the window for substantive criminal justice reform that opened in the wake of the tragic 2020 police killings of George Floyd, Breonna Taylor and other Black Americans. Such support also provides organizations with the ability to build long-term, trusting relationships with unlikely allies, lawmakers and others with shared policy goals. It also allows grantees to pursue the multi-year strategies that are often necessary to effect long-term change. The MacArthur Foundation’s

The MacArthur Foundation:

Tackling Every Facet of the Juvenile Justice System

From 1996 to 2015, the MacArthur Foundation carried out a campaign to reform the juvenile justice system, supporting efforts to bring about changes in policy and practice in over 40 states and at the federal level. Working through the multistate Models for Change initiative, the foundation funded research, public education, communications, and technical assistance for leaders seeking to make the system “more fair, effective, rational and developmentally appropriate.” Another element was funding model demonstration projects and innovations. A key theme was using the growing body of research on adolescent brain and behavioral development to inform recommendations for how juveniles should be treated in their encounters with law enforcement and the courts.

“We worked from the bottom up and the top down, with all the different players, to educate people on the need to reform that system,” said Laurie Garduque, director of juvenile justice with the foundation. “Our partners included defenders and prosecutors, law enforcement, judges, law schools, probation offices, and citizen groups.”

According to the foundation’s [data](#), its national campaign efforts resulted in the implementation of 208 reforms that promoted a fairer and safer juvenile justice system. As just one example, 14 states adopted policies aimed at reducing incarceration through increased use of diversion and community-based programs.⁶

“We worked from the bottom up and the top down, with all the different players, to educate people on the need to reform that system. Our partners included defenders and prosecutors, law enforcement, judges, law schools, probation offices, and citizen groups.”



Laurie Garduque
Director of Juvenile Justice, The
MacArthur Foundation

Director of Juvenile Justice Laurie Garduque, points out that it invested in research and education on juvenile justice issues for 20 years, and some of the work the foundation supported was just coming to fruition five years after the project ended.

Another benefit of general operating support when it comes to policy work is that grantees can use these funds for lobbying if they choose. As noted above, foundations cannot earmark funds for lobbying but they can give grants to organizations that lobby and allow them to use funds for lobbying if they choose. Public and community foundations, for their part, may fund a limited amount of lobbying, and may earmark limited funds for lobbying—with earmarked grants counting towards their lobbying limit. (See page 19 for more.)

When providing general operating (or project) support for policy work, foundations should make sure not to add unnecessary restrictions that limit grantees' flexibility. For example, grant agreements for general operating support or special project grants should specify that funds have not been *earmarked* for lobbying, but there's no legal reason to *prohibit* use of those funds for lobbying. (The appendix includes a sample grant agreement with appropriate language that does not impose unnecessary restrictions.)

5. Strengthen Nonprofits' Capacity for Advocacy

Another important way to contribute to effective advocacy is to build capacity and infrastructure among a foundation's grantee partners to support policy change. Activities that often need extra support include:

- ▶ **Leadership and professional development.** Running an effective policy advocacy initiative requires a specialized skill set that is different from running programs or doing

research. Advocates need to understand the policy process and how they can most effectively influence government decisions. They also need to keep up with a constant stream of new technologies, insights, and ideas. Supporting professional development on these skills is especially important when it comes to supporting communities with lived experience to have a voice in public policy.

The Pittsburgh Foundation:

Educating and Engaging the Board and Staff

As the Pittsburgh Foundation was weighing deeper engagement in policy, staff leadership felt an urgent need to involve the board. They used board meeting conversations to discuss the ins and outs of policy work.

Philip Koch, vice president for policy and community impact, said the foundation sees its policy role on a four-stage continuum from observer to supporter to partner to leader. In assessing these levels, staff and board discussed important questions like when the foundation might fund grantees to work for policy change; when it might engage in policy work itself; when the foundation would be "loud and public" in support for policy change; and when it would support others to take the lead.

Ultimately, the Chairman of the Board appointed a dedicated committee that is deeply engaged in policy on a continuing basis. The board also made an enduring commitment to supporting policy as a cornerstone of the foundation's work. In one example, conversations with the board led it to approve a grant to a housing advocacy group, which contributed to increasing the local realty transfer tax revenue going into affordable housing by \$15 million per year.

Koch said the commitment to engaging the board has helped the foundation act quickly on emerging policy issues. "Without that level of education in advance, the board feels rushed and reactive instead of prepared and proactive," Koch said.

"Without that level of education in advance, the board feels rushed and reactive instead of prepared and proactive."



Philip Koch
Vice President for Policy and
Community Impact, The
Pittsburgh Foundation

► **Infrastructure.** Successful advocacy work relies on a range of critical organizational functions and systems that are often underfunded and overlooked. This includes: legal counsel to ensure compliance with local, state and federal laws; email software, graphic design, social media capacity, and other aspects of an advanced communication strategy; costs associated with in-person policymaker meetings (including child care); and financial/accounting systems necessary to track and report on lobbying activities. Limits on overhead costs make these items especially hard for nonprofits to finance. Foundations

committed to policy work should pay close attention to infrastructure and work with nonprofits to make sure they have what they need to succeed.

► **Coalitions and Networks.** For organizations working to advance policy goals, alliances matter. The more that groups are working together and urging action from different perspectives, the better. But it takes time for people and organizations to build trust, align their goals and strategies, and plan. That's why it's so important for philanthropy to dedicate resources to building and strengthening coalitions and networks.

The Joyce Foundation:

A Bridge Between Communities and Decision-makers

Located in Chicago, the Joyce Foundation has a longstanding commitment to supporting public policies that advance its goals. The president of the foundation, Ellen Alberding, said a key part of this work is bringing community leaders and policymakers together to dispel preconceptions and highlight shared objectives.

Alberding shared the story of launching the Partnership for Safe and Peaceful Communities to address gun violence in Chicago. At the outset of this work, the foundation organized meetings of community leaders and top officials in the mayor's office, including the chief of staff.

"They had not met each other previously but over a series of conversations were able to come to a better understanding of each other's views," Alberding said. She added that expectations were low at first on both sides as people wondered if these would be pro forma meetings with no real outcomes. "But sitting down together helped them get to know and understand each other, and that changed the nature of the relationship."

Alberding said the mayor ultimately changed his position on certain policies as a result of the first two meetings. "This was a breakthrough," she stated.

"But sitting down together helped them get to know and understand each other, and that changed the nature of the relationship."

— Ellen Alberding
President, The Joyce Foundation

Example: As part of its longtime focus on climate change, the [William & Flora Hewlett Foundation](#) invests in the Climate and Clean Energy Equity Fund. The fund's goal is to "build a powerful movement to stop climate change," chiefly by investing in nonprofits to organize and mobilize communities that are facing the effects of climate change but that traditionally have not had a voice on the issue. Carrie Doyle, a senior fellow at the foundation, noted, "Community-based groups, often representing people of color or low-income communities, bring important experiences into the conversation, and they need support to engage their members and strengthen policy expertise."

In addition to investments geared to policy change, foundations can support grantees to strengthen their capacity for nonpartisan election-related work on issues, including candidate education, [voter registration](#) and voter engagement (with special rules governing voter registration). For example, the [Joyce Foundation's](#) policy portfolio includes voting rights, election administration, and legislative redistricting. The foundation was a major supporter of efforts to train election administrators and advocates on voting laws in advance of the 2020 elections.

6. Work for Judicial System Reforms

When foundations think about affecting public policies, we usually think about the legislative and executive branches of government. But decisions by the judicial branch also have a profound impact on people and communities that foundations care about.

Foundations seeking to engage with the judicial system have many options. One key strategy adopted by many funders is supporting local, state or federal litigation, which is not considered lobbying for IRS purposes. This work can include filing or supporting grantees to file *amicus* briefs

The Funders Census Initiative

In 2017, the Funders' Committee for Civic Participation relaunched the Funders Census Initiative (FCI), which would grow to include more than 500 national, state, and community-based funders, philanthropy-serving organizations, and donor advisors.

Working in partnership with the Democracy Funders Census Subgroup and United Philanthropy Forum, the collective focus of the funders was achieving a fair and accurate 2020 census. Working together, they shared information about successful census outreach approaches, as well as urgent policy issues affecting the census. As the census process became more complicated and politically fraught, the funders took direct actions to convey members' positions, including an open letter to the U.S. Department of Commerce protesting a proposed [citizenship question](#), which advocates asserted would depress immigrant participation in the census. The letter attracted hundreds of funder signatures. The FCI and 29 other philanthropic organizations also signed an [amicus brief](#) opposing the Trump administration's efforts to add the citizenship question.

"The collaborative facilitated much broader engagement from philanthropic organizations than would have been possible if organizations had worked on their own," said Jocelyn Bissonnette, director of the FCI. "We created a community where people could ask questions, talk through their strategy, get feedback, and share the latest information." Bissonnette added that the funders also made sure their work was informed by local communities that have historically been undercounted by the Census Bureau, including communities of color.

"Because every state is affected by the census, we were able to engage funders with diverse missions and priorities in support of a common goal," she said.

"The collaborative facilitated much broader engagement from philanthropic organizations than would have been possible if organizations had worked on their own. Because every state is affected by the census, we were able to engage funders with diverse missions and priorities in support of a common goal."



Jocelyn Bissonnette
Director, FCI

A Grantmaking Toolkit for Public Policy Advocacy

Foundations have a range of grantmaking options when it comes to supporting policy work, including:

- ▶ **General operating support** (preferably multiyear) is the most powerful way to support this work because it gives grantees the flexibility to pursue long-term solutions in an ever-changing environment.
- ▶ **Special project grants** combine flexibility with the ability to specify deliverables. (Often, foundations use special project grants to avoid the problem of earmarking grant monies for policy advocacy.)
- ▶ **Restricted grants** can be used for the many non-lobbying activities that organizations are engaged in as part of their policy efforts (from research and communications to convening).
- ▶ **Social impact investments** include [*special bonds*](#) that allow foundations and private investors to support social services and earn a return from government if those services deliver a specified result. These vehicles can be used to test new programs and help build evidence to inform policy change.
- ▶ **Contracts** with for-profit entities can help support important policy-related activities from polling to advertising and other communications (subject to the same rules that apply to the foundation). Contracts do not count against pay-out, but they broaden the network of organizations that the foundation can engage.

in important cases. It also can include supporting efforts to gather information and evidence, file and pursue lawsuits, and engage in other aspects of litigation. Bear in mind that litigation is often a long-term strategy, with results often taking many years. A prime example of this strategy is the drive for marriage equality supported by the [*Evelyn and Walter Haas, Jr. Fund*](#) and the [*Gill Foundation*](#). Both were among the earliest philanthropic supporters of a wide-ranging campaign that ultimately led to the U.S. Supreme Court decision in 2015 that allowed same-sex couples to marry.

Foundations also can advance reforms to the court system itself — for example, by supporting pilot programs to create alternatives to the traditional court system (such as family or drug courts), or by providing information on the

benefits of changing sentencing guidelines or criminal records policies. The Chan Zuckerberg Initiative’s [*Clean Slate Initiative*](#) is designed to promote equity by “transform[ing] a justice system that continues to create unnecessary barriers to employment, education, and housing.” The initiative works to advance policies that clear the criminal records of those who stay crime-free, while supporting them to find jobs and access services. The organization provides educational materials, sample media pieces, and a state legislative tracker. In 2021, Connecticut became the fourth state to enact a clean slate law.²

7. Educate Decision-makers

Foundations have a wealth of expertise and experience on policy issues. By sharing what we know about problems and solutions, we can provide critical insights to policymakers and other audiences. As described above, there are many ways for foundations to educate policymakers that are not lobbying—for example, through nonpartisan analysis and education, meetings and convenings with policymakers, and/or discussion of broad social issues. As former Speaker of the U.S. House of Representatives Paul Ryan (R-WI) recommended in a presentation to the Council in 2021, “Philanthropy should be actively communicating with legislators at the local, state, and federal level.” He added, “Get to know your legislators. Help them understand issues that matter to their constituents and why your foundation and philanthropic efforts dovetail with their legislative priorities.”³

A good way to start interacting with policymakers in these ways is simply to introduce them to the foundation, its program staff, grantees, and the broader network of advocates and community leaders as resources to inform important issues. A next stage is for foundations to invite policymakers to participate in site visits or attend informational meetings to meet grantees and learn about the foundation’s programs and priorities.

“Because we’ve been around for 90 years, we assumed lawmakers knew us. Not so. We needed to introduce them to our areas of expertise and our reach.”

— Chris Senecal, Senior Public Policy and Media Relations Director, Hartford Foundation for Public Giving in Connecticut

Senecal said the foundation staff now sit on 10 different policy advisory committees organized by

How is Policy Work Different?

Funding public policy work can be different than providing support for direct services or other nonprofit activities. For example:

- ▶ **Policy is ever-changing.** The policy context can change quickly, in the time it takes for voters to elect a new leader or governing party, or in the face of an emerging problem or crisis facing a community or society.
- ▶ **Policy is long-term work.** It can take time to see results from public policy work. A foundation and its partners will need to build public understanding of problems, expand support for solutions, organize coalitions, and work proposals through legislative or rule-change processes.
- ▶ **Policy requires different metrics.** The markers of progress for policy work are different than other program measures. They include: changes in polling data; media coverage; numbers of bills introduced; meetings with policymakers; endorsements from policymakers and others; votes for and against; and, of course, enactment of reforms.
- ▶ **Policy has its own cycles and deadlines.** The timelines connected to policy processes vary with the schedules and vicissitudes of the U.S. Congress, state legislatures and local bodies. Most state legislatures meet between February and May, with some legislatures, such as Texas, meeting only every other year.

state lawmakers. “Small community foundations can have a big impact because they know so much about their communities,” he said. “Now policymakers call us when they are working on an issue.” As an example, he shared a story of how the Speaker of the House contacted the foundation when the state legislature needed fast, on-the-ground input on how to spend federal COVID relief funds. “We pulled together the other Connecticut foundations and our grantees to develop ideas,” Senecal said.

Kyle Caldwell, CEO of the Council of Michigan Foundations, noted that funders should try to

create evergreen capacity for engaging with policymakers on urgent issues, given turnover among both foundation staff and lawmakers. He pointed to two entities in his state as examples. The first is the Michigan Nonprofit Caucus, a bipartisan, bicameral group of legislators focused on legislative and regulatory issues. Second, Caldwell noted that the Michigan Nonprofit Council for Charitable Trusts advises the attorney general on issues relating to the charitable sector. “Policymakers will come and go. We need to create a permanent table to inform, engage, and advocate on important public issues.”⁴

Arizona Community Foundation:

Investing in In-depth Reporting and Research

The Arizona Community Foundation (ACF) has a broad policy agenda covering a variety of topics and actions. One strategy the grantmaker relies on across a variety of issues, ranging from child welfare to water to housing, is to partner with the state’s newspaper of record, *The Arizona Republic*, and a respected, nonpartisan research institute, the Morrison Institute for Public Policy at the University of Arizona. The foundation supports the institute to conduct research on an issue, with the newspaper providing in-depth reporting on how the issue affects people and communities in the state. Both are completely independent of the foundation.

As one example, ACF supported research revealing that most child welfare cases were due to [neglect](#), not abuse. These findings prompted the state to adopt a different approach to keeping kids with their families, with greater funding for family support services such as food assistance and child care. Similarly, foundation-supported research and reporting on poor educational outcomes for foster youth led the Arizona governor to create a new Department of Child Safety to house and focus on these children; the state also created a new Foster Youth Education Success Fund.

Lisa Urias, ACF’s chief program and community engagement officer, said the foundation’s nonpartisan approach to supporting research and reporting on issues “gives policymakers and the public a good basis of information on which to build policy solutions. We’re able to bring together very diverse groups to tackle issues that affect the whole state.”

“We’re able to bring together very diverse groups to tackle issues that affect the whole state.”

– Lisa Urias, Chief Program and Community Engagement Officer, ACF

In addition to educating policymakers independently, foundations can support grantees to do so on their own, as noted elsewhere in this publication. As long as we don't earmark funds for this work or advise grantees about whom they should meet with and what to say, supporting this work is well within the bounds of the law.

“Policymakers will come and go. We need to create a permanent table to inform, engage, and advocate on important public issues.”

— Kyle Caldwell, CEO, Council of Michigan Foundation

In other activities aimed at educating lawmakers, foundation staff can sign onto open letters, testify in response to written requests from a legislative body, publish media opinions, and use their social media channels to convey information on issues (without taking a position for or against specific legislation).

Regardless of how your foundation is working with lawmakers, it's important to keep in close contact with grantees to ensure your outreach and messaging are consistent with what leaders on the ground are doing and saying.

501(c)(4) Organizations in Focus

Today, many 501(c)(3) policy organizations as well as private donors are creating 501(c)(4) entities to extend their reach and influence on policy. 501(c)(4) organizations are nonprofits that can lobby as well as participate in limited partisan electoral activity. Foundations (especially public foundations) and personal donations can fund these organizations in some ways, but the [rules](#) can be complex.

For example, the family that created the Heising-Simons Foundation recently created the Heising-Simons Action Fund, a 501(c)(4) organization, to fund advocacy activities that could not be supported by the foundation. Similarly, two anonymous donors helped a 501(c)(3) nonprofit, the Children's Funding Project, create the Children's Funding Accelerator as a 501(c)(4). In 2020 the latter organization supported six successful ballot initiatives that will generate over \$2 billion for early childhood programs and services over the next decade.⁹

8. Develop Partnerships with Government

Foundations can go a long way to informing and shaping public policy by forging explicit partnerships with local, state, and federal governments on specific issues. The goal of these activities is to support policymakers to advance solutions by providing targeted resources and expertise. These partnerships can take many forms. For example, funders can:

- ▶ Provide funding for specific activities that advance policy but are hard for governments to pay for, such as pilot tests of new approaches, or program evaluations.

Example: The Hartford Foundation for Public Giving worked with the mayor's office to finance a [welcome center](#) for people reentering the community after being

incarcerated; the state is now considering expanding this model to other cities.

- ▶ Create formal partnerships between government and the philanthropic sector to keep a spotlight on key issues. This can include foundation support for special commissions or offices of government.

Example: California Governor Gavin Newsom created a [Social Innovation Office](#) that partners with almost 200 philanthropic partners. Among its notable contributions has been [Homekey](#), which united public and private partners in an effort to address homelessness in the midst of the COVID-19 crisis. Among other achievements, the Homekey partners rapidly converted

Michigan's Governor's Office of Foundation Liaison

In 2003, Michigan created the nation's first nonpartisan [Governor's Office of Foundation Liaison](#) (OFL) to create innovative funding partnerships between the state and philanthropies. According to a write-up from the Michigan Council of Foundations, "The OFL has brokered more than \$150 million in foundation investments in initiatives to increase Michigan's economic competitiveness through reforms in K-16 education, economic and workforce development, health, early childhood and land use."⁷ As an example, the office brought public, private and nonprofit partners together to create an innovative program for citizens to access state benefits.⁸

According to Karen Aldridge-Eason, who heads the office, "We build the knowledge base by presenting what is irrefutable, and by helping bring to the table the voices of the legislators' own constituents so they know how policies are affecting people in their own districts. Even in situations where we may disagree with the governor on some things, we seek common ground."



Karen Aldridge-Eason
Head, Michigan Governor's Office

"We build the knowledge base by presenting what is irrefutable, and by helping bring to the table the voices of the legislators' own constituents so they know how policies are affecting people in their own districts."

thousands of motels and other units to permanent housing, while providing wraparound services for residents.

- ▶ Provide or support staffing in government offices around specific priorities, such as implementing programs to address a policy issue or helping state agencies apply for federal funding. For example, the nonprofit [Foster America](#) places fellows in child welfare systems to pursue systemic change; its funders include Casey Family Programs, the Annie E. Casey Foundation, and the Doris Duke Charitable Trusts. In another example, the Experimental Sites Initiative (ESI) was a federal program to support innovations in post-secondary education. ESI aligned so well with the Lumina Foundation's higher education strategy that it funded staff in the U.S. Department of Education during the Obama and Trump Administrations to implement and administer the program.
- ▶ Partner with the government to pursue impact investing. In recent years, some foundations have been joining with government entities and other investors in initiatives that use private funds to provide services with the expectation of eventual public support if outcomes are achieved. This approach is often referred to as "impact investing" or "pay for success." An example of this model in action is the advent of Social Impact Bonds, which create opportunities for investors to support social service programs and have their funds repaid (often with interest) based on program outcomes. A recent report showed that 194 bonds have been contracted in over 33 countries, with 48 of the 50 completed bonds showing positive outcomes and investor repayments.⁵
- ▶ Act as a government grantee by running programs or administering public funds. This option is only available to community or public foundations.

9. Build Funder Coalitions Around Shared Policy Goals

As noted throughout this publication, foundations can accomplish a great deal by working individually (and in alignment with grantees) to influence policy. Another option that can often deliver even better results is working with other funders and additional partners to pursue shared policy goals. By building coalitions, foundations can tap into an array of skills and relationships, attract additional philanthropic resources to a cause, align those resources to ensure maximum impact, and divvy up roles and responsibilities so one foundation isn't carrying the weight for a policy initiative on its own.

Foundations that are beginning to work on a particular and clearly defined policy issue might coordinate with one or two partners interested in the same issue to ensure their strategies and

investments are aligned. Other foundations, and particularly those working on complex and wide-ranging policy efforts, might explore broader coalitions to attract a critical mass of resources, connections, and programmatic expertise.

Coordinated funding has many pluses. Complex initiatives greatly benefit from pooled or at least coordinated funding that covers all of the activities needed to advance policy change. Some participating foundations might prefer to provide general operating support in order to give grantees the essential flexibility to lobby if they choose. Others might want to prioritize specific activities from research to community engagement. The benefit of the collective approach is that participating funders can coordinate funding and direct it to where

Annie E. Casey Foundation:

Policy Work is Core to Broader Commitment to Children

For decades, the Annie E. Casey Foundation (AECF) has supported building the long-term capacity of its grantees to be powerful advocates for children and families. AECF's Vice President of External Affairs Leslie Boissiere noted, "Our grantees need to have relationships and policy recommendations ready to go." She said this work paid off in the wake of the COVID-19 pandemic and the racial justice uprisings of 2020 as grantees were able to advance reforms on issues including food security, rental assistance, and unemployment insurance enhancements.

AECF's Director of Policy Reform and Advocacy Michael Cassidy offered the example of how the foundation supported years of work in Virginia to educate the public on the importance of expanded health care coverage. This long game started with AECF's KIDS COUNT project, which provided data on the lack of health care coverage among large numbers of children and families. The foundation also supported the Commonwealth Institute, a Richmond nonprofit, to assess the costs and benefits of expanded coverage. Meanwhile, other partners, including Voices for Virginia's Children and the Healthcare for All Virginians Coalition, conveyed Virginians' stories about the need for coverage.

Ultimately, these and other activities helped put expanded coverage over the finish line in Virginia. The state decided to expand Medicaid coverage in 2018, just in time to provide coverage to more than 500,000 additional residents during the COVID-19 pandemic.

it can have the biggest impact toward the collaborative's broader policy goals.

The collaborative approach also can serve to reduce the burden on grantees by streamlining funding applications and limiting the need for nonprofits to try and tailor their messaging and strategies to those espoused or favored by a range of different funders; hopefully, the collaborative has adopted a unified set of messages and strategies. Yet another benefit is that a collaborative brings more foundation voices and perspectives to the table when it comes to educating policymakers via letters, opinion articles, meetings, and other non-lobbying appeals.

Over the years, funders have forged countless coalitions on various policy issues. For example, 15 foundations supported the [Families and Workers Fund](#), which pooled funds to support cash relief, as well as public policies to protect front-line workers affected by the COVID-19 pandemic, including expanded unemployment insurance and paid leave. Another example is [Philanthropy Advocates](#) in Texas, which includes more than 50 diverse funders. Together, the funders hold regular meetings with policymakers to emphasize their joint vision for improving the state's education system. Their work and investments helped advance a [historic increase](#) of \$6.5 billion in state funds for public education.

Assigning Staff Roles to Policy

Many foundations are lifting up the importance of policy work by hiring or assigning senior staff to roles with titles that publicly reflect their commitment. The following are some of the titles that various foundations have created to reflect this role:

- ▶ Director, Policy Reform and Advocacy (Annie E. Casey Foundation)
- ▶ President, Global Policy & Advocacy (Bill & Melinda Gates Foundation)
- ▶ Director, Advocacy (Conrad N. Hilton Foundation)
- ▶ Director, Government Relations and Public Policy (Council of Michigan Foundations)
- ▶ Director of Policy and Government Affairs (Denver Foundation)
- ▶ Senior Public Policy and Media Relations Officer (Hartford Foundation for Public Giving)
- ▶ Strategy Director for Federal Policy and Strategy Director for State Policy (Lumina Foundation)
- ▶ Vice President for Policy and Community Impact (Pittsburgh Foundation)
- ▶ Director, Public Policy (Robert Wood Johnson Foundation)

10. Build Support Across the Philanthropic Sector

One of the most effective ways to grow philanthropy's involvement in public policy is for foundations that are walking this path to share their knowledge and experiences with peers.

Here are some ideas:

- ▶ Work with philanthropy-serving organizations (PSOs) and affinity groups to lift up policy change as a priority for the field. Foundations can reach out to their affinity groups and PSOs to encourage them to provide information and educational content on advocacy for their members via webinars, conferences, newsletters and other means, and to highlight and support members' policy work. *Example: The United Philanthropy Forum's [PolicyWorks](#) builds the capacity of regional and national funder associations to engage in public policy.*
- ▶ Publicize your foundation's policy work and accomplishments. Foundations can share the story of their policy work and what they are learning via communication channels including their website, social media, annual reports, etc. Among the goals of this outreach: helping peer funders see the value of investing in policy change; offering lessons about what works; and inviting other funders to join in collaborative efforts to influence policy on shared priorities. *Example: The Hartford Foundation for Public Giving was the first community foundation to register as a lobbyist, in 2014. As the foundation explains on its [website](#): "As the community foundation for the 29 towns in the Greater Hartford region, we are uniquely positioned to provide leadership and serve as a bridge between our many partners and our state agency and legislative policymakers."*

Congressional Philanthropy Caucus

An important venue for collaboration between the federal government and philanthropy is the Congressional Philanthropy Caucus. The Council on Foundations helped create this bipartisan, bicameral group of members of the U.S. Senate and House of Representatives. In addition to serving as a liaison between Congress and the philanthropic sector, the caucus is a forum for discussing important issues and a channel for funders to share information with federal lawmakers about the role they play in their communities.

Conclusion

As foundations continue to work with nonprofits and communities to address urgent issues and meet the opportunities that lie ahead, active and ongoing engagement in public policy is critical. To achieve the big goals we share with our partners, we need to support them to lift up their power and voice in policy conversations and debates. We need to make sure policymakers have the data and information they need to make good decisions. And we need to help bring people together to discuss problems and weigh solutions.

The Council on Foundations is committed to supporting philanthropy in this important work. In addition to this publication, we offer a range of other resources for foundations on engaging in advocacy and public policy.

For more information, please see the Public Policy & Advocacy page (cof.org/public-policy) on the Council's website. And please feel free to reach out to the Council's Government Affairs team for information and answers. They can be reached at govt@cof.org.

The Council thanks you for your interest in engaging in policy and advocacy to advance the mission and goals of your foundation.

Appendices

Appendix 1: What is Lobbying? How Much Lobbying Can Our Foundation or Our 501(c)(3) Grantees Do?

What is Lobbying?

Foundations can carry out many communications with the public or legislators to provide education on issue areas without crossing the line into lobbying activity. The key is to understand the federal tax code's definitions and rules when it comes to two types of lobbying: **direct lobbying** and **grassroots lobbying**.

Direct lobbying: Direct lobbying is communication (e.g., letter, e-mail, phone call, personal visit) with a legislator or legislative employee that reflects a view about specific legislation. Specific legislation includes bills that are introduced as well as legislative proposals. Direct lobbying also includes communication with other government officials if:

1. Those government officials participate in formulation of legislation
2. The principal purpose of the communication is to influence legislation
3. The organization expresses a view about the legislation

Example: It is not lobbying if a foundation staff member calls a U.S. senator and talks about high school graduation rates in the state and the foundation's new evaluation of promising programs that could boost student achievement. However, if the caller encourages the senator to oppose a budget bill that cuts funding for education, the phone call would be considered lobbying.

Because the public — not the legislature — is the decision-making body on ballot measures

and referenda, direct lobbying also includes communications with the general public that reflect a view about ballot measures or referenda.

Example: An organization writes an opinion piece for the local newspaper stating that it would be beneficial to the community to pass a referendum increasing county taxes to boost funding for education. Because the issue will be decided by the public, such an op-ed would be direct lobbying.

Grassroots lobbying: Generally, grassroots lobbying is communication that encourages members of the public to contact their legislators about a piece of legislation. When such a communication includes one of the features (or "calls to action") listed below, it is considered direct lobbying:

1. Telling the recipient to contact a legislator or legislative employee or telling the recipient to contact another government official who participates in the formulation of legislation for the principal purpose of influencing legislation.
2. Stating the address, telephone number, and/or e-mail address of a legislator or legislative employee.
3. Providing a mechanism such as a petition or tear-off postcard for the recipient to communicate with a legislator or legislative employee or to communicate with another government official who participates in the formulation of legislation for the principal purpose of influencing legislation.

4. Identifying one or more legislators who:

- ▶ Will vote on the legislation
- ▶ Oppose the communication's view on the legislation
- ▶ Are undecided on the legislation
- ▶ Represent the recipient of the communication in the legislature
- ▶ Are members of the committee or subcommittee that will consider the legislation

Once again, communication with the general public reflecting a view about specific legislation is *not* lobbying if it does not contain at least one of the above calls to action.

Example: An organization places an advertisement in a local newspaper indicating that it would be beneficial for the state legislature to raise state taxes to support education. If no call to action is included, the advertisement generally will not be a lobbying communication.

Of special importance to foundations is that the exemption that allows foundations to lobby in "self-defense" does not apply to grassroots lobbying, only direct lobbying.

Note that in addition to these guidelines, the IRS would take into account all of the "facts and circumstances" to determine if a particular activity is lobbying or not.

Appendix 2: Selected Publications or Resources

Alliance for Justice Action Campaign, [*Fundraising Toolkit for 501\(c\)\(4\) Organizations*](#)

Alliance for Justice, [*Philanthropy Advocacy Playbook*](#) (2015)

Annie E. Casey Foundation, [*Race Equity and Action Inclusion Guide*](#)

Beer, Tanya and Julia Coffman, [*Four Tools for Assessing Grantee Contribution to Advocacy Efforts*](#) (2015)

BoardSource, website [*Stand For Your Mission*](#)

Center for Effective Philanthropy, [*Foundations and Policy Engagement Insights In Their Own Words*](#)

Center for Leadership in the Public Interest, Council on Foundations and Rockefeller Brothers Fund, [*Foundations for Civic Impact: Advocacy and Civic Engagement Toolkit for Private Foundations*](#) (2010)

CFLeads [*Going All In: Influencing Public Policy & Systems*](#)

McClung, Lori and Scarlett Boudier, [*Influence on All Cylinders: The Complete Guide to Sharing Your Story, Shaping Opinions, Winning Allies, & Furthering Your Mission*](#) (2019)

National Conference of State Legislatures, 50-state charts, [*How States Define Lobbying and Lobbyist*](#), and [*Lobbyist Activity Report Requirements*](#).

National Council of Nonprofits, [*Advocacy Toolkit*](#)

[*Nonprofit Vote*](#) - website with guidelines on electoral activity by nonprofits

PolicyLink, [*Getting to Equity Advocacy Results*](#)

Sabo, Jason and Lisa Kerber, with Andy Carroll, [*Advocacy Field Guide for Lean Funders: How Small and Place-Based Foundations and Donors Can Make Big Change with Little Money*](#) (2021)

United Philanthropy Forum, website "[*Public Policy*](#)"

Watson, Sara, [*Creating Change Through Policy Advocacy: 10 Ways Foundations Can Engage*](#), published by Bainum Family Foundation (2020)

Watson, Sara and Kimberly Perry, [*Building the Advocacy Infrastructure to Win Equity Victories for Children and Families*](#), published by Capita (2021)

[*Working with Government Officials: Rules for Private Foundations*](#)

Endnotes

- 1 Government data (\$6 trillion): <https://usafacts.org/data/topics/government-finances/spending/>
Foundation data (\$76 billion) <https://nptrust.org/philanthropic-resources/charitable-giving-statistics/>
- 2 <https://cleanslateinitiative.org/media/connecticut-just-became-the-fourth-state-to-enact-clean-slate-legislation-2/>
- 3 Presentation, Council on Foundations Annual Conference, June 15, 2021.
- 4 Statement at COF Annual Conference, June 14, 2021.
- 5 <https://brookings.edu/multi-chapter-report/measuring-the-success-of-impact-bonds/>
- 6 https://macfound.org/media/files/national_campaign__final_executive_summary.pdf
- 7 <https://michiganfoundations.org/sites/default/files/OFL%20Key%20Roles%20Fact%20Sheet%20Updated%2020-10-13.pdf>
- 8 <https://michiganfoundations.org/sites/default/files/OFL%20Case%20Study%20-%20ISD.pdf>
- 9 Personal communication, Elizabeth Gaines, Children’s Funding Project, June 3, 2021.

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