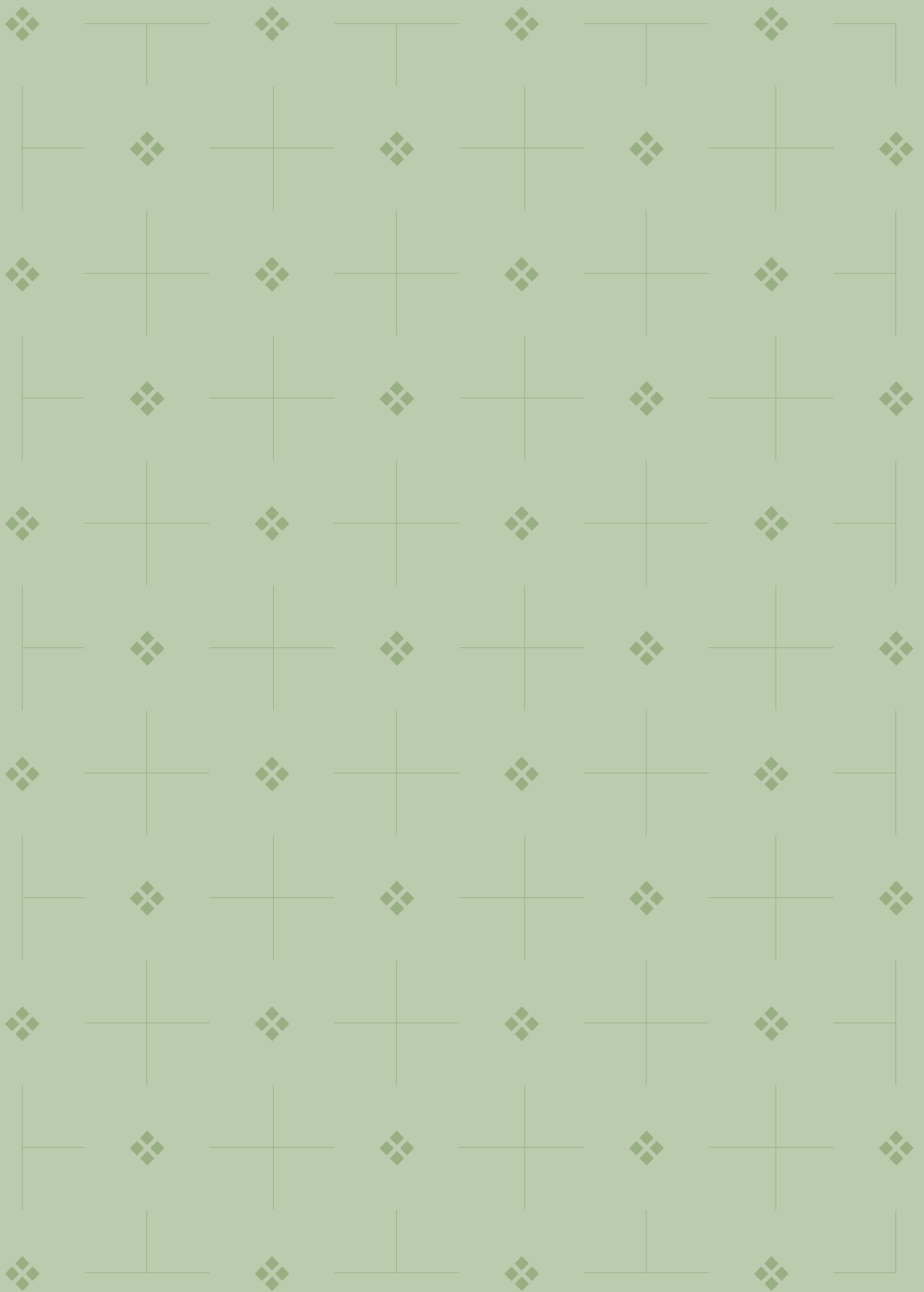




Nonprofit Advocacy

A Michigan Primer



Nonprofit Advocacy



A Michigan Primer



Written by Erin Skene, Director Michigan Public Policy Initiative (MPPI), 2005

TABLE OF CONTENTS

Basic Information on Advocacy	5
What is advocacy?	5
Why should organizations advocate?	5
What types of advocacy activities should all nonprofits do?	6
How does the legislative process work?	7
What types of public policy can be changed?	7
How can a board and staff be persuaded to become advocates?	7
What is an advocacy plan and how is one developed?	10
What are basic advocacy tactics?	12
Lobbying Rules and Regulations	15
Can 501(c)(3) organizations lobby?	15
What are the state lobbying rules for public charities?	15
What are the IRS lobbying rules for charities?	16
Is there a difference between the state and IRS lobbying rules?	19
Election-Year Activities	21
What should public charities be aware of during an election year?	21
What if a group wants to support, oppose candidates or contribute funds?	22
Can charities lobby in support of or in opposition to ballot initiatives?	23
Suggestions for Grantmakers and Grantseekers	25
Can private foundations support advocacy efforts?	25
Can community foundations support advocacy activities?	25
Are there specific questions grantmakers should ask potential grantees regarding advocacy efforts?	26
How should grantees approach funders to support advocacy?	27
Resources for More Information	27
Appendices	29
1. 501(h) Election	30
2. Nine Frequently Asked Questions About the 501(h) Election	31
3. 2005 State Lobbyist Registration	33
4. 2005 State Lobbyist Agent Registration	35
5. 2004 State Lobbying Financial Report Summary	37
6. IRS Letter Regarding Lobbying Public Charities	39

The philanthropic community has a long and rich tradition of advocating on its own behalf, those it serves and the resources it protects. Despite this rich tradition, many nonprofits are hesitant to become involved in the governmental process.



Organizations often cite myths regarding the legality or consequences of advocacy as reasons not to become involved. This handbook, published by the Michigan Nonprofit Association (MNA) and the Council of Michigan Foundations (CMF) through the Michigan Public Policy Initiative (MPPI), is written to dispel these myths and to provide the information needed for nonprofits to engage fully in the public policy arena. Nonprofit involvement in public policy is critical to meeting the missions of the charitable community, ensuring a democratic society and improving the lives of Michigan families. The intended audience for this handbook is 501(c)(3) organizations (public charities).

Nonprofit Advocacy: A Michigan Primer, is a revision of the *Michigan Public Policy Handbook: A Lobbying Guide for 501(c)(3) Nonprofits*, prepared by the Michigan Public Policy Initiative (MPPI) and published by the Michigan Nonprofit Association in 2000. For more information on the services and resources provided by MNA, visit www.mnaonline.org and for more information about CMF, visit www.cmif.org.

THE TERMS ADVOCACY AND
LOBBYING, AND THE
DIFFERENCES BETWEEN THEM,
ARE OFTEN CONFUSED.



BASIC INFORMATION ON ADVOCACY

To arm your organization with the information necessary to be effective advocates, the following questions are addressed in this section:

- What is advocacy?
- Why should organizations advocate?
- What types of advocacy activities should all nonprofits do?
- How does the legislative process work?
- What types of public policy can be changed?
- How can a board and staff be persuaded to become advocates?
- What is an advocacy plan and how is one developed?
- What are basic advocacy tactics?

What is Advocacy?

Advocacy is simply speaking up for what one believes in. By extension, an advocate is someone who believes in a cause and promotes it. The terms advocacy and lobbying, and the differences between them, are often confused. Advocacy does not have a specific legal definition; rather, **advocacy is an umbrella term that includes lobbying.** (The legal definition will be addressed on page 15).

Webster's dictionary defines an advocate as one who pleads the cause of another. Individuals tend to approach advocacy as if it were something foreign and unusual, but it is simply an activity that comes second nature to most people and can become second nature to organizations too. In fact, the key components of advocacy – gathering information, collaborating with others, conveying messages and building relationships – are skills that all nonprofits use in their daily activities.

Examples of advocacy include holding public forums on a specific issue, educating a friend on important topics, writing legislators encouraging their support of a certain bill, writing a letter to the editor criticizing government or a group's actions, monitoring the legislative and regulatory processes, building coalitions and much more.

Why should organizations advocate?

The following list of top ten reasons why organizations should advocate is adapted from the Charity Lobbying in the Public Interest's *Ten Reasons to Lobby for Your Cause* (www.clpi.org).

#10

Policymakers are directly tied to the success of your organization

- Local, state and federal governments support nonprofits through tax incentives for charitable giving, grants and contracts, in-kind support, tax exemptions, special zoning provisions and more.
- Policymakers pass legislation that directly impacts the individuals you serve and the resources you protect.
- State and federal government agencies regulate organizations and implement and interpret laws.

#9

You CAN make a difference

Although individuals often think that their voices will not make a difference, a small group or large coalition cannot get started without the initiative of one person who feels passionate about a topic and encourages others to do the same. Mothers Against Drunk Driving, for example, started around one woman's coffee table and has now grown to be a major agent of change in society.



**#8
People working together can make a difference**

As Margaret Mead said, “Never doubt that a small group of dedicated individuals can make a difference.” For example, the East Bay Community Foundation in San Francisco served as a convener of groups and leader in a legislative fight for gun control. Coalitions, small and large, can find strength in combining their advocacy efforts to meet the needs of their organizations and those they serve.

**#7
People can change laws**

“Charitable efforts cannot substitute for public policies that offer real opportunities and dignities.” – American Catholic Bishops, 1988. One only has to look at current events or history to understand the importance of advocating for a cause. For example, without the civil rights movement and the women’s movement, laws that protect basic human rights would not exist.

**#6
Advocacy is a democratic tradition**

Public influence is at the heart of democracy. The Constitution protects the right to free speech, and policymakers who choose not to listen to the views of their constituents often find themselves without jobs.

**#5
Advocacy helps find real solutions**

Everyone has an opinion, but it is often through sharing opposing viewpoints and debating the tenets of those arguments that consensus and real solutions are found.

**#4
Advocacy is easy**

Advocacy is necessary and easy. The basis of advocacy is building relationships, which individuals and organizations do all the time.

**#3
Policymakers need your expertise**

You are the experts in your community on the issues that impact nonprofits. In light of term limits, which dictate the short time state elected officials may serve in an office, it is imperative that organizations share with legislators, who they are as a group, what they do and why they do it.

**#2
Advocacy helps people**

No one else except you will protect the interests of your group and your mission. Advocacy is a critical part of fulfilling your mission, one that is often overlooked.

**#1
The views of nonprofits are important**

As more policy decisions and dollars are shifted from the federal and state levels to the local level, nonprofits play an even more important role in making public policy decisions. Policymakers value and need the opinions of nonprofits.

What types of advocacy activities should all nonprofits do?

Regardless of whether an organization decides to take part in policy change, there are a few activities that all nonprofits should do **now** to educate policymakers and the public about who they are as an organization, what they do and why they do it. Again, policymakers are directly tied to the success of organizations and it’s important that they view nonprofits as resources in their community.

- **Send newsletters and annual reports** to local, state and federal policymakers. An Excel spreadsheet with the federal and state policymakers contact information and a set

of labels with their addresses can be obtained on the MNA website at www.mnaonline.org. Contact information for local government may be obtained by calling the relevant municipality.

- **Invite policymakers**, their staff and the media to events and/or invite them for an informal visit to see the organization's work.
- **Periodically visit policymakers** in their district offices or in Lansing/Washington.
- **Recognize policymakers** at every opportunity – at events, in newsletters, etc.

How does the legislative process work?

While acting on the above suggestions for providing information about nonprofits, all groups should understand how a bill becomes law, how the budget process works and the schedules for state and federal officials.

How a bill becomes law:

Michigan – The progress of a bill can be followed on the Web at www.michiganlegislature.org. This website also provides a schedule of legislative sessions and of legislative committee meetings. The Michigan legislature is in session Tuesday through Thursday throughout the year except for summer and holiday breaks.

U.S. – Federal bills can be followed at <http://thomas.loc.gov>. This website also lists committee meetings and session schedules. The schedule for the U.S. House of Representatives and the U.S. Senate varies, but they meet throughout the year with a break in the summer and in observance of holidays. (See chart on page 8.)

The Budget Process:

Michigan –The state budget process can best be monitored on the House and Senate fiscal

agencies' websites at www.michigan.gov/hfa or www.michigan.gov/sfa. The Michigan Fiscal Year is from October 1 through September 30.

U.S. – The federal government follows a similar timeline for its budget process and has the same fiscal year as Michigan. The federal budget process can be tracked at <http://thomas.loc.gov>. (See chart on page 9.)

What types of public policy can be changed?

Being an advocate may include, but is not limited to, monitoring and taking action on the following issues.

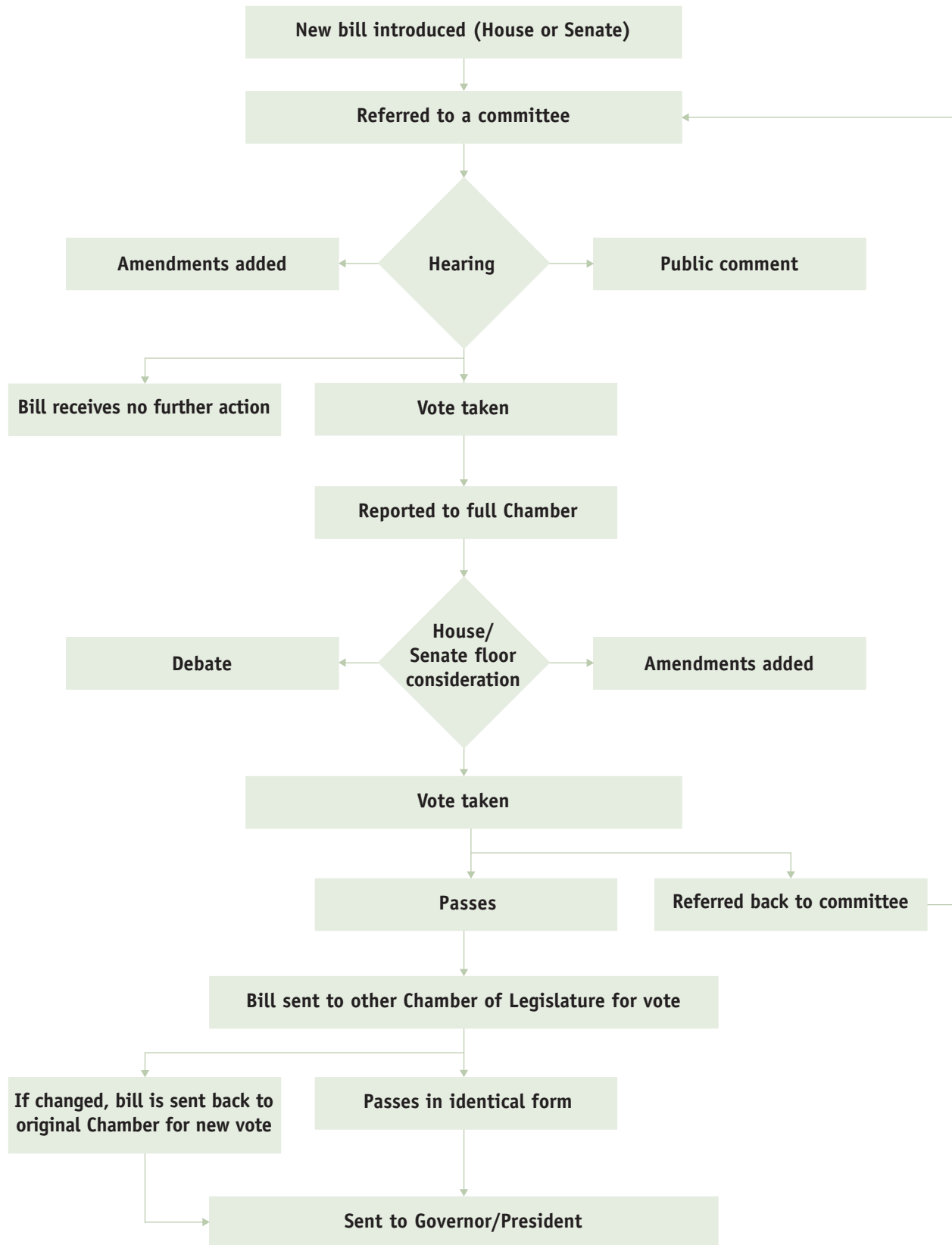
- **Statutory Issues** – A statute is a law enacted by a legislative body. Advocacy in this area may include, but is not limited to, encouraging legislators to introduce legislation, testifying at legislative committee meetings, and general communication in support of or in opposition to legislation.
- **Fiscal Issues** – Action on these issues includes advocating to relevant department heads and legislators for the needs of constituents or organizations as provided for by department funding.
- **Regulatory Issues** – A regulation is an administrative rule. Administrative rules implemented and interpreted by state/federal agency officials. An organization may advocate for or against the manner by which an agency interprets a law.

How can a board and staff be persuaded to become advocates?

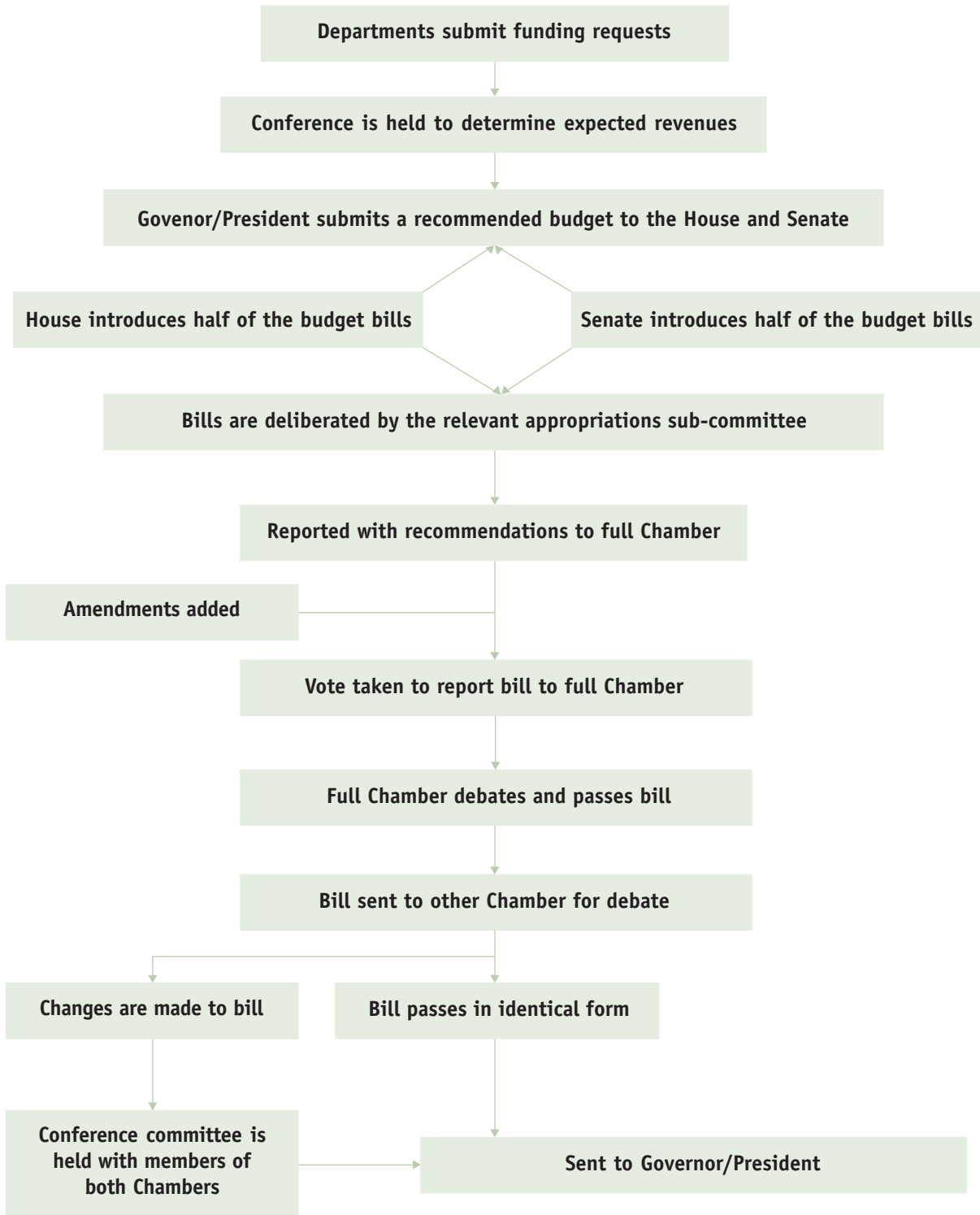
Four easy steps will encourage boards and staff to become involved in the governmental process. Once these four steps have been accomplished, boards and staff should be both willing and prepared to begin advocating.



THE BILL PROCESS



THE BUDGET PROCESS



Step One: Stress advocacy’s link to the organization’s mission. Again, the key components of an advocacy plan – building relationships, gathering information, collaborating and conveying your message – are not new to most organizations and are in support of most missions. As the American Catholic Bishops stated, “Charitable efforts cannot substitute for public policies that offer real opportunities and dignities.”

Step Two: Reassure staff and board that the limitations of the organization are understood. The financial and staff capacity of an organization should be taken into account when determining how active a group will be on public policy issues. It’s important to remind a board and staff that the level of involvement in public policy can vary depending on resources available.

Step Three: Dispel the myths regarding charitable lobbying. It is legal, ethical and encouraged by policymakers for nonprofits to advocate, and specifically to lobby. However, some boards are under the misconception that these activities will jeopardize a nonprofit’s tax exempt status. To counter these myths, provide the board and staff with information such as this handbook. It may also be appropriate to provide trainings on the rules and regulations for lobbying and on effective strategies and tactics for advocacy. Please note that MNA staff is available upon request to provide these trainings.

Step Four: Establish an internal structure for addressing public policy. Developing internal policies and procedures for how an organization approaches policy issues will often help relieve the concern of board members unsure of the group’s involvement. During this process the board can also determine the extent to which it wants to empower the staff to make decisions on policy. The following is a possible model.

- Craft policy priorities – Nonprofits may consider drafting policy statements based on their missions to guide and shape policy work. It’s important to make the priorities broad (not tied to specific legislation) and to make priorities relevant for multiple years.
- If possible and if relevant, staff should monitor policy and bring bills/regulations to the attention of the board. Policy brought to the board should be based on the organization’s policy priorities.
- Establish a public policy committee charged by the board to review public policy, make recommendations and suggest strategies for addressing the issues. It is especially helpful if the majority of the committee is comprised of board members with the addition of advocates who work on the issues of importance to the organization.
- The recommendation of the public policy committee should then be presented to the board for a vote. This level of formality allows the organization to take a position on a controversial issue with significant support from its board.
- The world of public policy can move very quickly. Therefore, it may be necessary for staff to bring a public policy issue to the attention of the executive committee or chair of the board to make a swift decision.
- Once the full board or executive committee has voted on an issue, staff would then be empowered to implement the decision.

What is an advocacy plan and how is one developed?

The Advocacy Institute in DC recommends that organizations develop an overall map that guides the work of the group before taking any action. Specifically, the Institute suggests that the following questions be answered to develop a strategy for an advocacy plan.

“1. What do we want? (Goals)

Begin your advocacy effort with your goals for the long and short term. Know both your content goals (e.g. the public policy change you want) and your process goals (e.g. building community among participants). Define your goals at the start in a way that can launch an effort, draw people to it, and sustain it over time.

2. Who can give it to us? (Audiences)

Identify the people and institutions you need to move, those with actual formal authority to deliver the goods (e.g. legislators) and those with the capacity to influence the formal authority (e.g. the media and key constituencies, both allied and opposed). Know who these audiences are and what access or pressure points are available to move them.

3. What do they need to hear? (Message)

Reaching these different audiences requires a set of messages that will be persuasive. They must be rooted in the same basic truth while also tailored to different audiences depending on what they are ready and able to hear. They should have two basic components: an appeal to what’s right and an appeal to the audience’s self interest.

4. Who do they need to hear it from? (Messengers)

The same message has a very different impact depending on who delivers it. Identify the most credible messengers for each audience. They might be experts whose credibility is largely technical or they might be authentic voices who can speak from personal experience. Equip them with information and skills to increase their comfort level as advocates.

5. How can we get them to hear it? (Delivery)

There are many ways to deliver an advocacy message, from the genteel (e.g. lobbying) to the in-your-face (e.g. direct action). The key is

to evaluate and apply them appropriately to the situation, weaving them together into a winning mix.

6. What have we got? (Resources)

Take careful stock of the advocacy resources you already have to build upon, including past advocacy work, alliances already in place, staff and volunteer capacity, information, and political intelligence. In short, you don’t start from scratch, you start by building on what you’ve got.

7. What do we need to develop? (Gaps)

After taking stock of the advocacy resources you have, identify the advocacy resources you need but don’t have yet. Look at alliances that need to be built, and capacities such as outreach, media, and research that may be crucial to your effort.

8. How do we begin? (First Steps)

Look for an effective way to begin to move the strategy forward. Identify short term goals or projects that would bring the right people together, symbolize the larger work ahead, and create something achievable that lays the groundwork for the next step.

9. How do we tell if it’s working? (Evaluation)

As with any long journey, you need to check the course along the way. Evaluate your strategy and revisit each of the questions above. (Ask questions like: Are we aiming at the right audiences? Are we reaching them?) It’s important to make midcourse corrections and to discard those elements of a strategy that don’t work once they’re actually put into practice.”

*Copyright © 2001 Advocacy Institute, 202/777-7575.
www.advocacy.org*



What are basic advocacy tactics?

Taking part in changing public policy includes the following steps. However, the capacity of the group and breadth of change desired will determine the level of involvement in advocacy activities.



Step 1 — Gather information

- Monitor legislation by visiting www.michiganlegislature.org (Michigan) and <http://thomas.loc.gov> (U.S.)
- Identify the supporters and opponents of the issue (policymakers and special interest groups).
- Investigate the history of the issue by talking with the sponsor of the bill if relevant and/or by asking similarly positioned groups for any background material they may have. The MNA/CMF publication *Michigan in Brief*, policy reference handbook and corresponding website may be helpful in this stage. To view the handbook, visit www.michiganinbrief.org.
- Develop a background piece on the issue indicating the pros and cons.

Step 2 — Collaborate with others

- Share the information gathered with board, volunteers and others.
- Hold informal or formal gatherings of other groups with similar outlooks on the policy issue. This could be as informal as a few people gathering for lunch or as formal as a coalition meeting.
- Identify how the organization can work with others to make policy change. One group does not have to carry the load alone and by sharing the responsibilities the desired goal can often get further.

Step 3 — Build relationships with policymakers

- Send newsletters and annual reports to the media and local, state and federal policymakers.

- Invite policymakers, their staff and the media to events and/or invite them for an informal visit to see the organization's work.
- Periodically visit policymakers in their district offices or in Lansing/Washington.
- Recognize elected officials at every opportunity (at events, in newsletters, etc).

Step 4 — Convey a message

The following are two vehicles that may be used to convey a message to policymakers, the public and the media. Remember that messages and how they are conveyed vary depending on the audience.

However, no matter who is the audience, a good message should contain the following components: "Show me the money" (give \$ numbers) – how is government/public money currently being spent effectively and efficiently, and; "What have you done for me lately" (use numbers) – what unmet need is this fulfilling in the community.

- **To educate the public and the media**, a message must be presented in the least technical manner possible. Messages should not include jargon and need to address the impact in communities. In addition, they should show proximity to the policymaker or citizen's self interest. Possible activities include:
 - **Developing an on-going source for information.** This can be a webpage, newsletter, an email alert system, fax or calling list.
 - **Holding community forums** to educate the public on the topic.
 - **Activating** letter writing or calling campaigns. Prepare a template letter and/or talking points and share them with champions (board members, funders, friends, volunteers, clients, staff, etc).
 - **Hosting community breakfasts** inviting the public, media and elected officials. (Depending on your target, it is best to invite state and federal officials to meetings on Mondays and Fridays).
 - **Holding a rally** and/or press conference.

● **Creating letter-to-the-editor campaigns, writing an opinion editorial and organizing meetings with editorial boards.** For these vehicles, remember to highlight the basic news tenets: who, what, when, where and why. To learn more about working with the media, visit the MNA website at www.mnaonline.org and view the MNA/CMF *Guide to Getting Good Media Coverage*.

■ **This section refers to direct interactions with policymakers on specific issues.** Messages conveyed to policymakers should highlight the people affected and the monetary issues involved, but also clearly state the organization's position on the issue/bill. Keep your interactions brief and to the point.

● **Write.** It's okay to mail letters to local and state officials, but it is expedient to fax letters to federal officials.

● **Call.** If a policymaker cannot be reached by phone, feel free to talk with staff. Remember that it is staff that field the inquiries and write the bills. They can be an important nonprofit ally.

● **Visit.** Make an effort to visit policymakers in their offices.

● **Testify at meetings.** Local level municipalities hold hearings on ordinances and community problems. At the state and federal level, individuals can testify at committee meetings. The committee meeting schedule for the state is posted at www.michiganlegislature.org and the federal committee meeting schedule is posted at <http://thomas.loc.gov>. Testimony should be brief and to the point. It is also helpful to have copies of comments available for committee members and others.

● **Hire a multi-client lobbyist.** Depending on an organization's resources or needs, it may be appropriate to con-

tract with a multi-client lobbyist. These individuals often have strong relationships with elected officials and have the insider's guide into what's happening at the Capitol. In hiring a lobbyist, consider the following:

■ The primary issues that they focus on. *Some groups focus on specific content areas – deregulation, health care, etc. It's important to make sure the firm has the staff expertise to address the organization's issues.*

■ The firm's political ties. *If the firm is associated with one political party over another, consider whether or not contracting with them will alienate the other side of the aisle.*

■ Have a firm agreement. *This contract should indicate the goals of the relationship and what tasks will be completed. Some organizations have lobbyists monitor legislation, some have them make appointments for nonprofit officials to meet with policymakers and some actually have the lobbyist plead their cause. Like any business contract, a sound agreement with a lobbying firm will help to avoid questions regarding its role in the future.*



Tips For Building Healthy Relationships With The Media

- Develop a press contact list and update it periodically
- Invite media news directors/ reporters for coffee to introduce yourself and the program
- Find out when is an appropriate time to contact them
- Find out how they would like to be contacted
- Bring materials on the program
- Find out what type of "news" interests them
- Remember to say thank you!

THERE ARE RULES AND REGULATIONS
REGARDING LOBBYING THAT NEED TO
BE FOLLOWED, BUT THEY NEED NOT
STIFLE AN ORGANIZATION'S VOICE.



REGULATIONS

The following section addresses frequently asked questions regarding the legality of lobbying.

- **Can 501(c)(3) organizations lobby?**
- **What are the state lobbying rules for public charities?**
- **What are the IRS lobbying rules for charities?**
- **Is there a difference between the state and IRS lobbying rules?**

Can 501(c)(3) organizations lobby?

Lobbying by groups that represent the public interest is an essential part of the governmental process. There are rules and regulations regarding lobbying that need to be followed, but they need not stifle an organization's voice. The IRS and State of Michigan require nonprofits to measure and report on lobbying activities. But none of these rules and regulations should discourage or prohibit any organization from becoming active participants in speaking out and impacting policy.

As a quick point of reference, it should be noted that Michigan lobbying rules apply to all corporations in the state, while federal lobbying rules vary according to an organization's tax status.

What are the state lobbying rules for public charities?

Definition: According to the state, lobbying is defined as "any direct contact with a lobbyable public official, whether face to face, by telephone, letter, electronic media or any other means, the purpose of which is to influence the official's legislative or administrative actions."

Under the Michigan Lobbying Act, **only state-level public officials are lobbyable**. Such individuals are considered to be anyone who may exercise personal discretion when making a decision concerning legislative or administrative actions. A complete list of lobbyable officials is available at www.michigan.gov/sos.

Lobbyable Officials

	MI	IRS
U.S. House Representative		x
U.S. Senator		x
Director of State Departments	x	
Staff, if able to commit legislator to a vote*	x	
State Representative	x	x
State Senator	x	x
City Council Member		x

* Staff would generally not be included as lobbyable; however, check the Michigan lobbyable officials list to confirm (www.michigan.gov/sos).

Reporting Requirements: The Michigan Lobbying Registration Act is not meant to be a licensing requirement for people who wish to lobby public officials. However, the act does require a person or organization to register as a lobbyist agent or lobbyist if they receive compensation or make expenditures in excess of the amounts listed below for lobbying.

Under this act, an individual or organization must register as a lobbyist if they spend more than \$2,000 to lobby a number of public officials or in excess of \$500 to lobby a single



public official in a 12 month period. Also, in Michigan, an individual or organization must register as a lobbyist agent if they are paid more than \$500 in a 12 month period for lobbying on behalf of employers or clients. For example, the Michigan Nonprofit Association is registered as a lobbyist and the MNA President is registered as a lobbyist agent. To register as a lobbyist one must file Form LR-1 (see appendix 3). To register as a lobbyist agent one must file Form LR-2 (see appendix 4).

A lobbyist and lobbyist agent need only register once; however, state financial report summaries must be filed twice a year (see appendix 5). The financial report must be postmarked two days prior to its due date to avoid a late filing fee of \$20, accumulated for each day it is late. The maximum penalty for filing late is \$600 per year. Financial reports are due at the Michigan Department of State Bureau of Elections on August 31 and January 31 of each year.

Once registered, even if an individual or organization has not lobbied in the past year, they must file the financial report for that period. To terminate a registration as a lobbyist or lobbyist agent, it is necessary to check the box marked 5d on the report summary. Anyone who is employed, compensated or reimbursed for lobbying in excess of \$20 during a 12 month period must be reported by the employer on the financial report. This does not register the individual as a lobbyist or lobbyist agent.

An Itemized Expenditure form must be filed along with a financial summary twice a year. This form must indicate financial transactions of \$1,000 or more with public officials, their family members or businesses. Travel and lodging expenditures for public officials over \$650 must be reported. In addition, individual food and beverage expenditures for public officials over \$50 per official during any month, must also be reported.

Community Foundations Can Lobby!

- You can directly lobby an elected official on policy
- You can hold a rally to show your opposition to specific legislation
- You can develop research on a specific policy issue
- You can testify at Congressional committee hearings

What are the IRS lobbying rules for charities?

Lobbying limits: Congress has stated that influencing legislation is an appropriate activity for 501(c)(3) organizations. As a result, charities may engage in limited amounts of lobbying. The IRS sets limitations on the amount of organizational resources a nonprofit may utilize for lobbying. Public charities have two options for measuring their lobbying activities.

Under the first option, the Insubstantial Part Test, a public charity's (including a community foundation's) lobbying activities cannot constitute a substantial part of the organization's total activities and expenditures. This test is vague because the law does not define lobbying nor does it clearly define a substantial amount, nor how that substantial amount will be calculated.

For many public charities, the second option, the Expenditure Test, is a clearer and easier way of measuring lobbying. The Expenditure Test defines lobbying and measures an organization's lobbying activity based only on the amount of money spent for lobbying. For example, a group with an operating budget of \$500,000 may spend up to 20 percent or \$100,000 on

lobbying activities, and an organization with an operating budget of \$1 million may spend up to 20 percent of the first \$500,000 plus 15 percent of the next \$500,000, for a total of \$175,000 on lobbying activities.

Also under the Expenditure Test, public charities are allowed to devote 25 percent of their total lobbying expenditures to grassroots lobbying. For example, a nonprofit with a budget of \$500,000 is allowed to spend up to \$100,000 on total lobbying activities, of which \$25,000 can be spent on grassroots lobbying (see chart on page 18). A public charity wishing to be measured by the Expenditure Test must file IRS Form 5768 (see appendix 1). Otherwise, the public charity will automatically be measured by the Insubstantial Test. Once Form 5768 is filed, an organization will report lobbying expenditures on Schedule A of its annual IRS Form 990, Part VI-A. Non-electing public charities report their lobbying activity on Part VI-B of the IRS Form 990. Appendix 2 addresses why an organization would choose the Expenditure Test, also referred to as the 501(h) election.

Definition: The IRS defines lobbying as an attempt to influence legislation through direct contact with public officials at the local, state and federal levels (direct lobbying) or indirectly by appealing to officials through the general public (grassroots lobbying). Please note these definitions apply only to those organizations that elect to measure their lobbying activities by the Expenditure Test. The IRS has not clearly defined what activities constitute lobbying under the Insubstantial Part Test.

Direct lobbying is communication referring to a specific piece of legislation and expressing a position on it. This communication is made via phone, fax, email, mail, in person, or by any creative means to any governmental employee who may aid in the production of such legislation.

The following is an example of direct lobbying.

Nonprofit A is in favor of legislation X that allows school librarians to ban books without permission from the school board. The executive director of nonprofit A writes an email on behalf of the organization to all Michigan legislators urging them to vote yes on legislation X.

Grassroots lobbying is a communication with the general public that reflects a view about specific legislation encouraging the public to contact their legislators. In doing this, there is a call to action where the public is urged to contact their legislators; provide the legislators' contact information; provide a mechanism for contacting the legislators; or list the legislators who are voting on the legislation, or those who are undecided or opposed to the organization's position on the legislature. A special rule applies for communications with members. A communication to an organization's members that includes a call to action, is considered direct lobbying rather than grassroots lobbying. However, if members are asked to ask others to take action, then the communication reverts back to grassroots lobbying.

The following is an example of grassroots lobbying.

Nonprofit B's board disagrees with legislation X that allows librarians to ban books without permission from the school board. The president of nonprofit B pays for an advertisement in a town newspaper asking city residents to call their legislators and oppose legislation X. Contact information for legislators is provided in the advertisement.



Lobbying Ceilings under the Federal 1976 Lobby Law

Exempt-Purpose Expenditures	Total Lobbying Expenditures	Amount of Total Allowable for Grassroots Lobbying
Up to \$500,000	20% of exempt-purpose expenditures	25%
\$500,000-\$1 million	\$100,000 + 15% of excess over \$500,000	\$25,000 + 3.75% of excess over \$500,000
\$1 million-\$1.5 million	\$175,000 + 10% of excess over \$1 million	\$43,750 + 2.5% of excess over \$1 million
\$1.5 million-\$17 million	\$225,000 + 5% of excess over \$1.5 million	\$56,250 + 1.25% of excess over \$1.5 million
Over \$17 million	\$1 million	\$250,000

What are the IRS rules and regulations for private foundations' lobbying?

Private foundations, including family foundations, are not permitted to lobby. Lobbying for this purpose is defined as direct communications with a legislator or staff with the intention of influencing legislation (direct lobbying) and communication with the public that includes a call to action, such as urging the public to contact a legislator or their staff and/or providing a legislator's contact information (grassroots lobbying). However, the following are several public policy activities that private foundations can take part in that are not considered lobbying:

- **Self-defense** — is not considered lobbying if the foundation is communicating with public officials regarding legislation that would impact the foundation's existence, power or duties.
- **Nonpartisan analysis, study and research** — must present an objective view of the public policy issue being discussed.
- **Written technical assistance requests from a legislative body** — can be responded to by private foundations.
- **General communications with members or staff of a legislative body** — are not considered lobbying as long as they do not refer to specific legislation or take a position.
- **Actions that affect regulatory issues** — are not considered lobbying because they are not attempting to influence a legislative body.
- **General communications with the public** — are not considered lobbying as long as they do not refer to specific legislation, take a position or include a call to action.

Source: *Foundations and Lobbying: Safe Ways to Affect Public Policy*, Council on Foundations.



Is there a difference between the state and IRS lobbying rules?

According to the State of Michigan, lobbying is any direct contact with state public officials for the purpose of influencing the official’s legislative or administrative actions. This means that when financial reports are filed with the state, they need only include lobbying activities as defined by the state.

According to the IRS, public officials on the local, state and federal levels are lobbyable. For

the IRS, you must include direct and grassroots lobbying efforts to calculate how much money your organization has spent on lobbying. The chart below gives examples of activities considered lobbying for the purpose of reporting to the state and to the IRS. One activity may be considered lobbying to the state but not to the IRS.

Keep in mind that although these activities constitute lobbying, they are allowed and encouraged by both the state and federal government.



Are You Lobbying?

Activity	Michigan	IRS
Calling a state representative, encouraging him/her to vote for or against legislation	YES	YES, this is direct lobbying
General education to public officials on issues, not legislation	YES*	NO
Emailing the Secretary of State, encouraging him/her to take a specific stance on a proposed administrative action	YES	NO
Buying ad space in a local newspaper, voicing opposition to legislation and asking the public to contact their legislators in opposition to the bill	NO	YES, this is grassroots lobbying
Writing a letter to the editor, urging the public to contact legislators in favor of proposed legislation	NO	YES, this is grassroots lobbying
A nonprofit’s response to written requests from a legislative body for technical advice on pending legislation	YES	NO
Speaking to legislators (but not the general public) on matters that may affect the organization’s own existence, power, tax-exempt status, and similar matters	YES	NO
Making available the results of “nonpartisan analysis, study or research” on a legislative issue that presents a sufficiently full and fair exposition of the pertinent facts to enable the audience to form an independent opinion	YES	NO
A nonprofit’s discussion of broad, social, economic and similar policy issues whose resolution would require legislation, if specific legislation on the matter is not pending	YES	NO
A nonprofit’s communications to its members on legislation that does not encourage them to contact public officials.	NO	NO

**If intent is to influence the lobbyable official actions.*

Source: INDEPENDENT SECTOR and the Michigan Nonprofit Association.

ALTHOUGH CHARITIES CAN'T SUPPORT OR
OPPOSE CANDIDATES FOR PUBLIC OFFICE,
THERE IS A WEALTH OF ACTIVITIES THAT
ORGANIZATIONS CAN TAKE PART IN TO
PROMOTE DEMOCRACY.



ELECTION-YEAR ACTIVITIES

Although charities can't support or oppose candidates for public office, there is a wealth of activities that organizations can take part in to promote democracy. For example, many 501(c)(3) groups conduct voter registration campaigns and coordinate get-out-the-vote (GOTV) efforts. The following section provides details on the rules regarding advocacy during an election-year and suggests possible election-related activities.

■ What should public charities be aware of during an election year?

- What if a group wants to support, oppose candidates or contribute funds?
- Can charities lobby in support of or in opposition to ballot initiatives?

What should public charities be aware of during an election year?

501(c)(3) organizations can engage in non-partisan activities, such as encouraging people to vote or educating the public about candidates and issues.

Nonpartisanship is a key element of 501(c)(3) status. If a nonprofit or foundation engages in partisan activity, the organization may risk losing its tax exempt status.

501(c)(3) Organizations Can:

- Conduct candidate forums/meet the candidate nights with all of the candidates.
- Participate in candidate forums/meet the candidate nights. Prepare a few questions you want the candidates to answer and send people to ask those questions. This is known as "birddogging."
- Send surveys/questionnaires to each candidate with a list of important questions. Be careful how questions are phrased and include complete responses if answers are published. In order to avoid creating an unfair bias against candidates or parties, this activity should be limited to organizations that cover a broad range of issues.
- Encourage voter registration, including putting a link to a voter registration site on your website, and encouraging registered voters to vote.
- Send information on issue(s) to all candidates so they are informed about what the organization does.

- Support or oppose ballot initiatives. Such effort is considered lobbying.
- Give staff time off to vote.
- Encourage staff to work at the polling places.

When participating in any of the above activities, make sure to include all candidates for a position, regardless of their political affiliation.

501(c)(3) Organizations Cannot:

- Show favoritism for one candidate or political party.
- Target voter registration drives, get-out-the-vote campaigns, or other efforts at members of a particular political party.
- Provide support (financial or in-kind) to a political candidate.
- Coordinate efforts with a candidate or political party.

Source: National Council of Nonprofit Associations (NCNA)



Remember that persons acting as individuals — and not as representatives of their organizations — can legally work on campaigns, endorse candidates and even run for political office. They cannot do political work while on the clock and cannot use any of the organization’s resources.

501(c)(3) organizations are prohibited from intervening in any political campaigning on behalf of or in opposition to any candidate for public office. This means that organizations cannot support or oppose candidates for public office and cannot make contributions to political parties or individuals.

What if a group wants to support, oppose candidates or contribute funds?

Although 501(c)(3) organizations are prohibited from political campaigning, 501(c)(4) organizations are not. A 501(c)(3) can create a 501(c)(4) which is allowed unlimited lobbying activities and may engage in partisan politics as a secondary activity. For example, a 501(c)(4) can endorse political candidates, but such endorsement cannot be the main purpose of the organization. 501(c)(4)s may be taxed on their political activity, and need to follow federal and state election law.

501(c)(4)s are still tax exempt from most federal taxes, but donations made to the nonprofit are not tax deductible. If a 501(c)(4) then wishes to make contributions to political campaigns, it may form a Political Action Committee (PAC). For example, the National Organization for Women (NOW) has a 501(c)(3) organization, a 501(c)(4) and PAC. A 501(c)(3), however, cannot form a PAC.

If a 501(c)(3) is interested in forming a 501(c)(4) and a PAC, it is best for that organization to consult an attorney. To start a 501(c)(4), an organization must incorporate with the State of Michigan by filing Form BCS/CD-502 “Articles of incorporation for use by domestic nonprofit corporations.” This form can be obtained from the Michigan Department of Labor and Economic Growth at www.michigan.gov/cis.

The group must also file the IRS Form 1024 and report annually on the IRS Form 990. A few items to keep in mind when deciding whether to establish a 501(c)(4) include:

- How will administration of the two organizations be kept separate? The 501(c)(3) and 501(c)(4) must have a separate board, bylaws and structure.
- How will the 501(c)(4) be funded? Raising funds for a 501(c)(4) can be more difficult than fundraising for a charity.
- Who will staff the 501(c)(4)? As long as the group is paying for the time of the 501(c)(3) employee, employees between the two groups may be shared.

For more information on this topic, visit the Alliance for Justice Web site at www.afj.org.

If a 501(c)(4) wishes to form a PAC, it must file with state and federal officials. Starting and operating a PAC can be very confusing, it’s important to seek legal advice on this issue. For more information on registering in Michigan, visit the Secretary of State’s website at www.michigan.gov/sos. The Federal Elections Commission (FEC) regulates PACs on the federal level, the FEC website is www.fec.gov.

Can charities lobby in support of or in opposition to ballot initiatives?

Referendums and Ballot Initiatives are an excellent opportunity for charities to lobby.

Under state and federal law, charities are allowed to lobby for or against referendums and ballot initiatives. Because you are lobbying the general public, not a public lobbyable official, this activity is not considered lobbying in Michigan. For federal tax purposes, the public is considered the legislature in regard to lobbying on a ballot proposal. Therefore, regarding referendums and ballot measures, communications to the public are considered direct lobbying and must be recorded as such on your IRS form 990.

As soon as an organization receives or makes expenditures totaling \$500 to support or oppose a ballot question, the organization must

form a Ballot Question Committee with the state. To register as a Ballot Question Committee, an organization must file with a county if the issue will be voted on in only one county. If it will be voted on in multiple counties but not statewide, the organization must file with the county having the greatest number of registered voters relevant to the ballot question. If the ballot question will be voted on statewide, the organization must register with the Secretary of State Bureau of Elections. The number of campaign statements required to file varies depending on the geographic nature of the initiative. For more information, visit the Bureau of Election's website at www.michigan.gov/sos. A state manual on this topic can be viewed on the Secretary of State's website under documents and titled, "Michigan Campaign Finance Ballot Question Committee Manual."



THE PARTNERSHIP BETWEEN THE
FOUNDATION COMMUNITY AND THE
NONPROFIT COMMUNITY IS
PARTICULARLY NECESSARY FOR FUNDING
PUBLIC POLICY ACTIVITIES.



SUGGESTIONS FOR GRANTMAKERS AND GRANTSEEKERS

The partnership between the foundation community and the nonprofit community is particularly necessary for funding public policy activities. This section addresses the most frequently asked questions by grantmakers and grantseekers in regards to funding public policy activities.

- Can private foundations support advocacy efforts?
- Can community foundations support advocacy activities?
- Are there specific questions grantmakers should ask potential grantees regarding advocacy efforts?
- How should grantees approach funders to support advocacy?

Can private foundations support advocacy efforts?

Absolutely! Private foundations can fund advocacy activities, but they cannot specifically earmark funds in grants for lobbying. It should be noted that this is an IRS regulation and that the following actual IRS definition of lobbying is very narrow. **Lobbying is an attempt to influence legislation through direct contact with public officials at the local, state and federal levels (direct lobbying) or indirectly by appealing to officials through the general public (grassroots lobbying).** There are a number of advocacy activities that do not include lobbying, such as educational campaigns on issues, research, coalition building, relationship-building events with elected officials and nonprofits, public policy conferences, seminars, forums, general support for

organizations that do lobby, and much more. **Private foundations can make general support grants to organizations that lobby. In addition, they can make grants to specific projects that include lobbying; however, the specific project grant cannot exceed the amount that the organization will spend on non-lobbying activities.**

If a private foundation has decided to fund a program, the grant agreement letter presented to nonprofits should include a reference to the fact that the grant is not earmarked for lobbying. However, the letter does not need to state that the funds cannot be used for lobbying. Including language in the grant agreement that restricts nonprofits from using the funding for lobbying places an undue burden on the group and inhibits their advocacy efforts.

Can community foundations support advocacy activities?

Absolutely! Again, unlike private foundations, community foundations can support advocacy efforts and make grants earmarked for lobbying. Grants earmarked specifically for lobbying, however, must be counted as a lobbying expenditure by the foundation when it reports to the IRS. Community foundations support advocacy and lobbying across the country as can be seen in the following examples.

- The Minneapolis Foundation funded a lobbying and advocacy campaign to protect Minnesota nonprofits and the people they serve against deep budget cuts.
- The East Bay Community Foundation in San Francisco served as convener of groups and 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.

Source: *Charity Lobbying in the Public Interest* www.clpi.org

Are there specific questions grantmakers should ask potential grantees regarding advocacy efforts?

Just as funders ask financial and programmatic questions of potential grantees, grantmakers may wish to pose the following questions to organizations seeking funding for advocacy campaigns:

- Does the public policy activity fit with their mission?
- Does the organization have legislative priorities?
- Does the organization have an internal structure for addressing public policy issues in a proactive and reactive manner?

Advocacy Activities That Foundations Can and Cannot Fund

Please note: private foundations can make grants to specific projects that include lobbying; however, the foundation grant cannot exceed the amount that the organization will spend on non-lobbying activities and it cannot be earmarked for lobbying.

Activity	Private Foundation	Community Foundation
Lobbying if part of a program and funding is not specifically earmarked for this purpose	X	X
Earmarked Funding for Grassroots and Direct Lobbying Efforts		X
Earmarked Funding for Ballot Measures		X
Research on Public Policy Issues	X	X
Publications that specifically state a position on a public policy issue as long as it includes a full and fair discussion of the issue, is widely disseminated, and doesn’t include a direct call to action	X	X
Earmarked Funding for Contracting with a Lobbyist		X
Public policy staff for the nonprofit, with part of their job including lobbying	X	X
Educational seminars with elected officials	X	X
Forming a coalition to address a social problem	X	X

- Does the group have an advocacy plan?
- Does the group understand the IRS and state lobbying rules and regulations for charities?
- Is the organization becoming informed on the issues relevant to their mission?
- Is there a need for funding to increase their understanding of the policy topic and to promote networking with other groups working on the same issue?
- Is the nonprofit creating, or do they have existing, relationships with the relevant policymakers (local, state and federal)?
- Does the organization need funding for training on being an effective advocate, working with the media and/or the rules and regulations for lobbying?

How should grantees approach funders to support advocacy?

Research the funder

The first step in researching a possible funder is to investigate whether or not the funder has a history of supporting public policy activities. Both private and community foundations can fund advocacy efforts, although private foundations can't earmark funding for lobbying. Community foundations are not bound by these same rules and they, in fact, can earmark funds to support lobbying. ** Note – Funders may choose not to support public policy activities because they feel it does not fit with their mission, not because they question whether or not it's legal.*

Prepare materials

Materials to prepare and bring to a meeting with a potential funder include:

- information about the organization and the program seeking funding,
- the IRS letter indicating it's legal for charities to lobby (see Appendix 6, and publications, such as this handbook, that describes how foundations can fund advocacy).

Bring friends

If a particular funder has not supported advocacy in the past, the grantseeker could invite a board member or partner of an organization that is well respected by the foundation leader to discuss the funding opportunity with the foundation.



RESOURCES FOR MORE INFORMATION

Being a Player by Gail M. Harmon, Jessica A. Ladd and Eleanor A. Evans. This guide, published by the Alliance for Justice, is a report on the IRS lobbying regulations for advocacy charities.

Playing by the Rules by Caplin & Drysdale. This handbook, published by Independent Sector, provides critical information on voter participation and education work for 501(c)(3) organizations.

So You Want to Make A Difference by Nancy Amidei. This primer on basic advocacy tactics is published by OMB Watch.

The Lobbying and Advocacy Handbook for Nonprofit Organizations by Marcia Avner. Published by Amherst H. Wilder Foundation, this handbook helps organizations decide whether to lobby and how to put plans in place to make it work.

The Nonprofit Lobbying Guide by Bob Smucker. This guide, published by Independent Sector, demonstrates the many ways nonprofits can lobby under the IRS regulations.

The Rules of the Game: An Election Year Legal Guide for Nonprofit Organizations by Gregory L. Colvin and Lowell Finley. This guide, published by the Alliance for Justice, provides information to enable public charities to participate in the political process.

**Michigan resources:**

The Michigan Nonprofit Association
1048 Pierpont, Suite 3, Lansing, MI 48911
(517) 492-2400
www.mnaonline.org

The Michigan Nonprofit Association is the collective voice of Michigan's nonprofit organizations. MNA serves as a statewide network for the sector, a resource center on effective management practices, and as an advocate for the nonprofit community.

Council of Michigan Foundations
One South Harbor Ave, Ste. 3, Grand Haven, MI
49417
(616) 842-7080
www.cmif.org

The Council of Michigan Foundations (CMF) is a membership association of more than 400 grantmakers working together to increase, enhance and improve philanthropy in Michigan.

Office of the Secretary of State
Bureau of Elections
4th Floor, Mutual Building, 208 North Capitol
Avenue, Lansing, MI 48918
(517) 373-2540
www.michigan.gov/sos

National resources:

Exempt Organizations Division
Internal Revenue Service
1111 Constitution Ave., NW, Suite 6411, Washing-
ton, DC 20224
(202) 622-8100

The Alliance for Justice
Eleven Dupont Circle NW, Second Floor, Wash-
ington, DC 20036
(202) 822-6070
www.allianceforjustice.org
*The Alliance for Justice is a national association of environmen-
tal, civil rights, mental health, women's issues, arts and
consumer advocacy organizations. The Alliance works to
advance the cause of justice for all Americans, strengthen the
public interest community's ability to influence public policy and
foster the next generation of advocates.*

Charity Lobbying in the Public Interest
2040 S Street, NW, Suite 301, Washington, DC
20009
(202) 387-5048
www.clpi.org

*CLPI is a national organization working to dispel the myths that
lobbying by charities is unimportant, inappropriate or illegal by
providing information on the important role of lobbying in
achieving an organization's mission.*

Council on Foundations
1828 L Street, NW, Washington, DC 20036
(202) 466-6512
www.cof.org

*The Council on Foundations is a membership organization of
more than 2,000 grantmaking foundations and giving
programs worldwide. COF provides leadership expertise, legal
services and networking opportunities—among other services—
to members and to the general public.*

INDEPENDENT SECTOR

1200 Eighteenth Street, NW, Suite 200, Washing-
ton, DC 20036
(202) 467-6100

*INDEPENDENT SECTOR is committed to strengthening,
empowering, and partnering with nonprofit and philanthropic
organizations in their work on behalf of the public good. Its
membership of nonprofit organizations, foundations, and corporate
philanthropy programs collectively represents tens of thousands of
charitable groups serving every cause in every region of the country,
as well as millions of donors and volunteers.*

National Council of Nonprofit Associations
1030 15th Street, NW, Suite 870, Washington, DC
20005
(202) 962-0322

*The National Council of Nonprofit Associations (NCNA) is a
501(c)(3) membership-based organization of state and
regional associations that represent thousands of nonprofits
throughout the country. Members work at the state and local
level to provide training and technical assistance to improve the
operations and effectiveness of organizations while promoting
the value and accountability of the nonprofit sector.*

OMB Watch
1742 Connecticut Avenue, N.W., Washington,
D.C. 20009
(202) 234-8494
*OMB Watch is a nonprofit research and advocacy organization
dedicated to promoting government accountability and citizen
participation in public policy decisions. This mission centers on
four main areas: the federal budget; regulatory policy; public
access to government information; and policy participation by
nonprofit organizations.*

Appendices



1. 501(h) Election
2. Nine Frequently Asked Questions
About the 501(h) Election
3. 2005 State Lobbyist Registration
4. 2005 State Lobbyist Agent Registration
5. 2004 State Lobbying Financial Report
Summary
6. IRS Letter Regarding Lobbying by
Public Charities

Form 5768 (Rev. December 1996) Department of the Treasury Internal Revenue Service	Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation (Under Section 501(h) of the Internal Revenue Code)	For IRS Use Only ►
Name of organization		Employer identification number
Number and street (or P.O. box no., if mail is not delivered to street address)		Room/suite
City, town or post office, and state		ZIP + 4



30

1 Election—As an eligible organization, we hereby elect to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year endingand all subsequent tax years until revoked. (Month, day, and year)

Note: This election must be signed and postmarked within the first taxable year to which it applies.

2 Revocation—As an eligible organization, we hereby revoke our election to have the provisions of section 501(h) of the Code, relating to expenditures to influence legislation, apply to our tax year ending (Month, day, and year)

Note: This revocation must be signed and postmarked before the first day of the tax year to which it applies.

Under penalties of perjury, I declare that I am authorized to make this (check applicable box) election revocation on behalf of the above named organization.

..... (Signature of officer or trustee) (Type or print name and title) (Date)

General Instructions

Section references are to the Internal Revenue Code.

Section 501(c)(3) states that an organization exempt under that section will lose its tax-exempt status and its qualification to receive deductible charitable contributions if a substantial part of its activities are carried on to influence legislation. Section 501(h), however, permits certain eligible 501(c)(3) organizations to elect to make limited expenditures to influence legislation. An organization making the election will, however, be subject to an excise tax under section 4911 if it spends more than the amounts permitted by that section. Also, the organization may lose its exempt status if its lobbying expenditures exceed the permitted amounts by more than 50% over a 4-year period. For any tax year in which an election under section 501(h) is in effect, an electing organization must report the actual and permitted amounts of its lobbying expenditures and grass roots expenditures (as defined in section 4911(c)) on its annual return required under section 6033. See Schedule A (Form 990). Each electing member of an affiliated group must report these amounts for both itself and the affiliated group as a whole.

To make or revoke the election, enter the ending date of the tax year to which the election or revocation applies in item 1 or 2, as applicable, and sign and date the form in the spaces provided.

Eligible Organizations.— A section 501(c)(3) organization is permitted to make the election if it is not a disqualified organization (see below) and is described in:

1. Section 170(b)(1)(A)(ii) (relating to educational institutions),
2. Section 170(b)(1)(A)(iii) (relating to hospitals and medical research organizations),
3. Section 170(b)(1)(A)(iv) (relating to organizations supporting government schools),
4. Section 170(b)(1)(A)(vi) (relating to organizations publicly supported by charitable contributions),
5. Section 509(a)(2) (relating to organizations publicly supported by admissions, sales, etc.), or
6. Section 509(a)(3) (relating to organizations supporting certain types of public charities other than those section 509(a)(3) organizations that support section 501(c)(4), (5), or (6) organizations).

Disqualified Organizations.— The following types of organizations are not permitted to make the election:

- a. Section 170(b)(1)(A)(i) organizations (relating to churches),

b. An integrated auxiliary of a church or of a convention or association of churches, or

c. A member of an affiliated group of organizations if one or more members of such group is described in a or b of this paragraph.

Affiliated Organizations.— Organizations are members of an affiliated group of organizations only if (1) the governing instrument of one such organization requires it to be bound by the decisions of the other organization on legislative issues, or (2) the governing board of one such organization includes persons (i) who are specifically designated representatives of another such organization or are members of the governing board, officers, or paid executive staff members of such other organization, and (ii) who, by aggregating their votes, have sufficient voting power to cause or prevent action on legislative issues by the first such organization.

For more details, see section 4911 and section 501(h).

Note: A private foundation (including a private operating foundation) is not an eligible organization.

Where To File.— Mail Form 5768 to the Internal Revenue Service Center, Ogden, UT 84201-0027.

Nine Frequently Asked Questions About the 501(h) Election

Alliance for Justice www.afj.org

I. What is 501(h)?

501(h) is a section of the Internal Revenue Code that outlines one of two tests for measuring an eligible 501(c)(3) organization's lobbying expenditures. Sometimes called the "expenditure test" or the "20% rule," 501(h) was enacted in 1976 to clarify the much-criticized "insubstantial part" test that the IRS has used since 1934. 501(h) establishes specific dollar limits that are calculated as a percentage of a charity's total exempt purpose expenditures (tax-exempt budget). Under 501(h), a charity may use up to 20% of the first \$500,000 of its exempt purpose expenditures to lobby. For organizations with larger budgets, this dollar amount increases, on a sliding scale, to a maximum of \$1 million.

2. Why should a 501(c)(3) elect 501(h) status?

- a) Because 501(h) provides more generous lobbying limits than the "insubstantial part test."
- b) Because the 501(h) test is clear and easy to calculate.
- c) Because there are clear definitions of various kinds of lobbying communications.
- d) Because volunteer and other efforts that do not cost the organization money will not count toward the exhaustion of the lobbying limits.
- e) Because an electing charity cannot lose its exemption for a single year's excessive expenditures, while a non-electing charity can.
- f) Because there is no personal penalty for individual managers of an electing charity which exceeds its lobbying expenditure limits.

3. How does a 501(c)(3) charity elect 501(h) status?

Completing the single page form, IRS Form 5768 "Election/Revocation of Election by an Eligible 501(c)(3) Organization to Make Expenditures to Influence Legislation," does the job. It requires only the organization's name, address, and the first tax year to which the election will apply.

4. Will foundations suffer consequences if their grantees exceed lobbying limits?

No. Foundations will not be penalized for grantees that make the election and exceed their lobbying limits.

5. Under 501(h), what is lobbying?

Briefly, lobbying consists of communications that are intended to influence specific legislation. For electing charities, there are two kinds of lobbying communications – direct and grass roots. They are distinguished mostly by whether the organization is acting on its own behalf or asking II members of the public to speak out.

6. How much can a charity spend on lobbying under 501(h)?

As noted in the answer to Question I, up to 20% of the first \$500,000 of its exempt purpose budget can be spent on direct and grass roots lobbying combined. Grass roots lobbying expenditures are capped at one quarter of the organization's overall combined lobbying limit, regardless of how much it actually spends on direct lobbying. Thus, an organization with a \$100,000 exempt purpose budget can spend up to \$20,000 on direct and grass roots lobbying combined, but no more than \$5,000 on grass roots lobbying.



7. Will election of 501(h) status increase the likelihood of an IRS audit?

Absolutely not. IRS Exempt Organizations Division Director Marcus Owens says: “Some concern has been expressed that making the election under section 501(h) will increase the possibility that a charitable organization will be examined by the Internal Revenue Service. I can state emphatically that is not the case.”

8. Will our paperwork increase if we elect 501(h) status?

No. In fact, it may diminish. All public charities, regardless of status, with receipts greater than \$25,000 file Form 990. If your organization lobbies, you also already complete Schedule A of Form 990. This will not change with 501(h) election, but you will no longer need to track and report volunteer lobbying activities and, with the clear definitions of lobbying activities provided by 501(h), you will be more confident about the expenditures which must be reported.

9. What about losing a tax exemption for excessive lobbying expenditures under 501(h)?

Only electing organizations that exceed their limits over a 4-year period run the risk of losing their tax exemption. The IRS considers an electing charity’s lobbying expenditures as a moving average over a four-year period, while a non-electing group could lose its exemption for a single year’s excessive expenditures.

2005 LOBBYIST REGISTRATION FORM - INSTRUCTIONS

A LOBBYIST REGISTRATION FORM must be filed by all persons (any individual, business or group of any type) that meets the definition of a lobbyist as indicated below:

LOBBYIST - An individual, business or group of any type that makes expenditures to lobby public officials in excess of \$500.00 to lobby a single public official, or in excess of \$2,000.00 to lobby any number of public officials, during any 12 month period. Registration is required within 15 calendar days. Expenditures or compensation contingent upon the outcome of a legislative or administrative action is prohibited.

LOBBYIST REGISTRATION FORM - Due within 15 calendar days after a person becomes a Lobbyist.

An individual, business or group of any type becomes a Lobbyist immediately upon entering into any type of agreement to make expenditures for lobbying in excess of the thresholds defining a lobbyist during any 12 month period. State agencies and subdivisions of state government (such as cities, counties or school districts) become Lobbyists immediately upon contracting with a Lobbyist Agent. LOBBYISTS AGENTS (persons compensated to lobby on behalf of clients or employers) must register separately on a LOBBYIST AGENT REGISTRATION FORM within 3 calendar days after they are compensated or reimbursed more than \$500.00 during any 12-month period for lobbying. All LOBBYISTS and LOBBYIST AGENTS must file FINANCIAL REPORT SUMMARY FORMS on January 31 and August 31 each year.

LOBBYIST REGISTRATIONS, as well as any other required registration or report, must be received by 4:00 p.m. on the due date to be considered timely. Registrations or reports sent by certified or registered mail and postmarked two or more days before the deadline will be considered timely regardless of when they are received. Late filing fees will be assessed for each calendar day a registration or report is late is late.

Every section of the form must be completed. If any section does not apply, enter N/A for not applicable. Incomplete forms may be rejected and subject to late filing fees.

- Item 1. Enter the name of the registrant on whose behalf this registration is being submitted.** Enter one name only as each Lobbyist and Lobbyist Agent must submit a separate registration.
- Item 2. Enter the registrant's identification number if this is an amendment to an existing registration, leave blank if this is an original registration.** (Note: Each registrant is issued a unique identification number through the Bureau of Elections upon registration that may not be transferred to another person.)
- Item 3. Enter the type of registration.** The first registration form submitted to this office is the original, later forms submitted to change information must be marked as amendments.
- Item 4. Enter registrant's mailing address and telephone number in 4a.** All mail directed to the registrant by the Department of State's Bureau of Elections will be sent to the address listed in this item. Enter the registrant's business address in 4b.
- Item 5. Enter the date the registrant (named in Item 1) met the definition of a Lobbyist.** Lobbyist Registration Forms are due within 15 calendar days after this date. Late fees are assessed if a registration is submitted late.
- Item 6. Enter the Lobbyist Fiscal Year.**
- Item 7. Enter the name of any person employed, compensated or reimbursed more than \$20.00 during any 12 month period for lobbying by the registrant named in Item 1.** A person's name is only to be entered when being added to, or deleted from, this employee listing. (Note: The entry of a person's name under this item does not register or terminate the person as a Lobbyist or Lobbyist Agent.)
- Item 8. Sign the report, original signatures are required.** The registration must be signed by a person authorized to sign for the registrant. Mail will be directed to the attention of the person who signs.

Mail to: Michigan Dept. of State, Bureau of Elections **Phone:** (517) 373-2540 **Web:** www.michigan.gov/sos

For U.S. Mail:
Post Office Box 20126
Lansing, Michigan 48901-0726

For overnight delivery services, or to visit our office:
Treasury Building – 1st Floor, 430 West Allegan Street
Lansing, Michigan 48918



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

2005

LOBBYIST AGENT REGISTRATION

PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. REGISTRANT'S NAME (ONLY ONE PERSON MAY REGISTER WITH THIS FORM) 		2. REGISTRANT'S ID NUMBER <div style="font-size: 2em; text-align: center; margin: 5px 0;">A</div>	
		3. TYPE OF FILING <input type="checkbox"/> ORIGINAL REGISTRATION <input type="checkbox"/> AMENDMENT TO EXISTING REGISTRATION ITEMS BEING AMENDED _____	
4a. MAILING ADDRESS (ALL MAILINGS WILL BE SENT TO THIS ADDRESS) TELEPHONE NUMBER () _____			
4b. RESIDENTIAL ADDRESS (IF REGISTRANT IS AN INDIVIDUAL) 		4c. BUSINESS ADDRESS (IF DIFFERENT THAN ITEM 4a) 	
5. DATE BECAME LOBBYIST AGENT <div style="text-align: center; margin: 5px 0;"> <input type="checkbox"/> CHECK BOX IF REGISTRANT HAS NOT MET THE DEFINITION OF A DEFINITION OF A LOBBYIST AGENT AT THIS TIME </div> _____ MONTH DAY YEAR REGISTRATION IS REQUIRED WITHIN 3 CALENDAR DAYS AFTER MEETING THE DEFINITION OF A LOBBYIST AGENT. LATE FILING FEES ARE ASSESSED IF A REGISTRATION IS RECEIVED MORE THAN 3 CALENDAR DAYS AFTER THE DATE INDICATED ABOVE.			
6. EMPLOYEES		ADD THE NAME AND ADDRESS OF EACH INDIVIDUAL, FIRM OR OTHER PERSON DIRECTLY EMPLOYED, COMPENSATED OR REIMBURSED FOR LOBBYING BY THE PERSON NAMED UNDER ITEM 1. DELETE A NAME WHEN THE PERSON IS NO LONGER EMPLOYED, COMPENSATED OR REIMBURSED FOR LOBBYING. <u>THE ENTRY OF A PERSON'S NAME UNDER THIS ITEM DOES NOT REGISTER OR TERMINATE THE PERSON AS A LOBBYIST OR A LOBBYIST AGENT. ALL PERSONS REQUIRED TO REGISTER MUST DO SO ON A SEPARATE REGISTRATION FORM.</u>	
<input type="checkbox"/> ADD <input type="checkbox"/> DELETE ID# _____		<input type="checkbox"/> ADD <input type="checkbox"/> DELETE ID# _____	
<input type="checkbox"/> ADD <input type="checkbox"/> DELETE ID# _____		<input type="checkbox"/> ADD <input type="checkbox"/> DELETE ID# _____	
7. VERIFICATION: I CERTIFY THAT ALL REASONABLE DILIGENCE WAS USED IN THE PREPARATION OF THE ABOVE FORM, AND THE CONTENTS ARE TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE. _____ (ALL MAIL WILL BE DIRECTED TO THE SIGNATORY'S ATTENTION.) TYPE OR PRINT NAME OF AUTHORIZED SIGNATORY SIGNATURE (REGISTRANTS WHO ARE INDIVIDUALS MUST SIGN THEIR OWN FORMS.) MONTH DAY YEAR			

LR-2 (12/29/04) IT IS UNLAWFUL TO USE THIS INFORMATION FOR ANY COMMERCIAL PURPOSE AUTHORITY GRANTED UNDER ACT 472 OF THE PUBLIC ACTS OF 1978

2005 LOBBYIST AGENT REGISTRATION FORM – INSTRUCTIONS

A LOBBYIST AGENT REGISTRATION FORM must be filed by all persons (an individual, business or group of any type) that meets the definition of a LOBBYIST AGENT as indicated below:

LOBBYIST AGENT - An individual, business or group of any type that is compensated or reimbursed more than **\$500.00** during any 12-month period for lobbying public officials. Registration is required within 3 calendar days. Expenditures or compensation contingent upon the outcome of a legislative or administrative action is prohibited.

LOBBYIST AGENT REGISTRATION FORM - Due within 3 calendar days after a person becomes a Lobbyist Agent.

An individual, business or group of any type becomes a Lobbyist Agent immediately upon entering into any type of agreement to receive compensation or reimbursement for lobbying in excess of the threshold defining a Lobbyist Agent during any 12 month period. LOBBYISTS (persons with legislative or administrative interests that make expenditures to lobby public officials) must register separately on a LOBBYIST REGISTRATION FORM within 15 calendar days after making expenditures in excess of \$500.00 to lobby a single public official or in excess of \$2,000.00 to lobby any number of public officials. All LOBBYIST AGENTS and LOBBYISTS must file FINANCIAL REPORT SUMMARY FORMS on January 31 and August 31 each year.

LOBBYIST AGENT REGISTRATIONS, as well as any other required registration or report, must be received by 4:00 p.m. on the due date to be considered timely. Registrations or reports sent by certified or registered mail and postmarked two or more days before the deadline will be considered timely regardless of when they are received. Late filing fees will be assessed for each calendar day a registration or report is late is late.

Every section of the form must be completed. If any section does not apply, enter N/A or not applicable. Incomplete forms may be rejected and subject to late filing fees.

- Item 1. Enter the name of the registrant on whose behalf this registration is being submitted.** Enter one name only as each Lobbyist and Lobbyist Agent must submit a separate registration.
- Item 2. Enter the registrant's identification number if this is an amendment to an existing registration, leave blank if this is an original registration.** (Note: Each registrant is issued a unique identification number through the Bureau of Elections upon registration that may not be transferred to another person.)
- Item 3. Enter the type of registration.** The first registration form submitted to this office is the original, later forms submitted to change information must be marked as amendments.
- Item 4. Enter registrant's mailing address and telephone number in 4a.** All mail directed to the registrant through the Department of State's Bureau of Elections will be sent to the address listed in this item. If the registrant is an individual, enter the individual address in 4b. Enter the business address in 4c.
- Item 5. Enter the date the registrant (named in Item 1) met the definition of a Lobbyist Agent. Late fees are assessed if a form is submitted more than 3 calendar days after the date indicated in Item 5.**
- Item 6. Enter the name of any person employed, compensated or reimbursed more than \$20.00 during any 12 month period for lobbying by the registrant named in Item 1.** A person's name is only to be entered when being added to, or deleted from, this employee listing. (Note: The entry of a person's name under this item does not register or terminate the person as a Lobbyist or Lobbyist Agent.)
- Item 7. Sign the report, original signatures are required.** If a registrant is not an individual, the report must be signed by a person authorized to sign for the registrant. Mail will be directed to the attention of the person who signs under Item 7.

Michigan Department of State, Bureau of Elections Phone: (517) 373-2540 Web: www.michigan.gov/sos

For U.S. Mail:
Post Office Box 20126
Lansing, Michigan 48901-0726

For overnight delivery services, or to visit our office:
Treasury Building – 1st Floor, 430 West Allegan Street
Lansing, Michigan 48918



MICHIGAN DEPARTMENT OF STATE
BUREAU OF ELECTIONS

LOBBY REGISTRATION

FINANCIAL REPORT SUMMARY

2004

PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM

1. REGISTRANT'S NAME <input type="checkbox"/> CHECK BOX IF THIS REGISTRANT'S NAME HAS CHANGED		2. REGISTRANT'S ID NUMBER 3. TELEPHONE NUMBER () <input type="checkbox"/> CHECK BOX IF THIS NUMBER HAS CHANGED	
4a. MAILING ADDRESS (ALL MAILINGS WILL BE SENT TO THE ADDRESS LISTED HERE) <input type="checkbox"/> CHECK BOX IF THIS ADDRESS HAS CHANGED			
4b. IF INDIVIDUAL, RESIDENTIAL ADDRESS		4c. BUSINESS ADDRESS	
5. TYPE OF REPORT 5a. <input type="checkbox"/> SUMMER JAN. - JULY _____ (DUE AUG.31) 5b. <input type="checkbox"/> WINTER AUG. - DEC. _____ (DUE JAN. 31)		5d. <input type="checkbox"/> TERMINATION OF REGISTRATION DATE TERMINATED _____ MONTH _____ DAY _____ YEAR ENTERING A DATE IN THIS SECTION WILL TERMINATE THE REGISTRATION OF THE PERSON NAMED IN ITEM 1.	
5c. <input type="checkbox"/> AMENDMENT TO ITEM(S) _____ 5e. ITEMIZED EXPENDITURES FORM IS ATTACHED <input type="checkbox"/> YES <input type="checkbox"/> NO			
6. DESCRIPTION OF LOBBYING ACTIVITY DURING THIS PERIOD		<input type="checkbox"/> YES - THIS REGISTRANT ENGAGED IN LOBBYING ACTIVITY DURING THIS PERIOD (PROVIDE A BRIEF DESCRIPTION): <input type="checkbox"/> NO - THIS REGISTRANT DID NOT ENGAGE IN LOBBYING ACTIVITY DURING THIS PERIOD	
7. EXPENDITURES BY CATEGORY		THIS REPORTING PERIOD	
7a. FOOD AND BEVERAGE FOR PUBLIC OFFICIALS.....		7a. \$ _____	
7b. MASS MAILINGS AND ADVERTISING.....		7b. \$ _____	
7c. ALL OTHER LOBBYING EXPENDITURES (INCLUDES PAYMENTS TO OTHER PERSONS FOR LOBBYING)		7c. \$ _____	
7d. TOTAL LOBBYING EXPENDITURES (TOTAL OF 7a, 7b & 7c.).....		7d. \$ _____	
8. EMPLOYEES		ADD OR DELETE EMPLOYEE(S) NAME AND ADDRESS (INDIVIDUALS, FIRMS OR OTHER PERSONS DIRECTLY EMPLOYED, COMPENSATED OR REIMBURSED FOR LOBBYING). THIS ITEM WILL NOT SERVE TO REGISTER, OR TERMINATE THE REGISTRATION, OF ANY PERSON.	
<input type="checkbox"/> ADD		<input type="checkbox"/> ADD	
<input type="checkbox"/> DELETE ID# _____		<input type="checkbox"/> DELETE ID# _____	
<input type="checkbox"/> ADD		<input type="checkbox"/> ADD	
<input type="checkbox"/> DELETE ID# _____		<input type="checkbox"/> DELETE ID# _____	
9. VERIFICATION: I CERTIFY THAT ALL REASONABLE DILIGENCE WAS USED IN THE PREPARATION OF THE ABOVE FORM, AND THE CONTENTS ARE TRUE AND ACCURATE, TO THE BEST OF MY KNOWLEDGE.			
_____ (ALL MAIL WILL BE DIRECTED TO THE SIGNATORY'S ATTENTION.) TYPE OR PRINT NAME OF AUTHORIZED SIGNATORY			
_____ SIGNATURE (REGISTRANTS WHO ARE INDIVIDUALS MUST SIGN THEIR OWN FORMS.) MONTH DAY YEAR			

LR-3 (2/2/04) IT IS UNLAWFUL TO USE THIS INFORMATION FOR ANY COMMERCIAL PURPOSE AUTHORITY GRANTED UNDER ACT 472 OF THE PUBLIC ACTS OF 1978



2004 FINANCIAL REPORT SUMMARY – INSTRUCTIONS

A Financial Report Summary must be filed by all registrants – both Lobbyists and Lobbyist Agents. The filing must be made even if there are no expenditures to report. Financial reports are due on the following dates:

Due Dates
August 31
January 31

Coverage Dates
January 1 - July 31
August 1 - December 31

Reports must be received by 4:00 p.m. on the due date to be considered timely. **Reports sent by certified or registered mail and postmarked two or more days before the deadline will be considered timely regardless of when they are received.** Late filing fees will be assessed for each calendar day a report is late.

Every section of the form must be completed. If any section does not apply, enter N/A for not applicable. Incomplete forms may be rejected and subject to late filing fees.

Item 1. Enter the name of the registrant on whose behalf this report is being submitted. Enter one name only as each Lobbyist and Lobbyist Agent must submit a separate report. Check the box if the registrant's name has changed since the last report was filed. This item cannot be used to register a person under the Lobby Act.

Item 2. Enter the registrant's identification number. (Note: Each registrant is issued a unique identification number.)

Item 3. Enter registrant's telephone number.

Item 4. Enter registrant's mailing address in 4a. Check the box if the registrant's mailing address has changed since the last report was filed. (All mail directed to the registrant through the Department of State, Bureau of Elections will be sent to the address listed in this item.) If the registrant is an individual, enter the individual address in 4b. Enter the registrant's business address in 4c.

Item 5. Indicate the type of report being filed (5a for Summer or 5b for Winter) and the year of the report. If the report is being filed to amend a previous report, complete 5c and list the affected items. **If the registrant named in Item 1 no longer meets the definition of a Lobbyist or Lobbyist Agent and wishes to terminate the registration, complete 5d and enter the effective date of the termination.** Complete 5e to indicate if the registrant made any expenditures, which are itemized on an attached Itemized Expenditures form.

Item 6. Briefly describe the registrant's lobbying activities during the period covered by this report and place a check mark in the appropriate box. Example: Lobbied (for or against) passage of legislation concerning (briefly summarize legislation). **If the registrant did not engage in any lobbying activities during the period covered by this report, place a check mark in the box indicating there was no lobbying activity.**

Item 7. Enter totals for all direct expenditures made by the registrant during the period covered by this report (This Reporting Period) and since January of the year covered by the report (Year to Date).
Item 7a - Food and Beverage Provided to Public Officials (Reported regardless of purpose.)
Item 7b - Mass Mailing and Advertising (1000 pieces or more of similar mail sent within a 7-day period.)
Item 7c - All Other Lobbying Expenditures (Salary for Lobbyist Agents and other lobbying expenditures.)
Expenditures or compensation contingent upon the outcome of a legislative or administrative action is prohibited.

Item 8. Enter the name and business address of each person (to be added or deleted) employed, compensated or reimbursed by the registrant, named in Item 1, more than \$20.00 during any 12 month period for lobbying. The entry of a person's name, under Item 8, does not register or terminate the person under the Lobby Act.

Item 9. Sign the report. The report must be signed by the Lobbyist or Lobbyist Agent; if the registrant is not an individual, the report must be signed by a person authorized by the registrant. An original signature must be provided. Mail will be directed to the attention of the person who signs under Item 9.

Mail to: Michigan Dept. of State, Bureau of Elections Phone: (517) 373-2540 Web: www.michigan.gov/sos

For U.S. Mail:
Post Office Box 20126
Lansing, Michigan 48901-0726

For overnight delivery services, or to visit our office:
Treasury Building – 1st Floor, 430 West Allegan Street
Lansing, Michigan 48918





DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

JUN 26 2000

Charity Lobbying in the Public Interest, a Project of
Independent Sector
2040 S Street, NW
Washington, DC 20009

Dear Sir or Madam:

This is in response to a letter, dated April 18, 2000, submitted on your behalf by your attorneys, in which you request information on questions related to lobbying by publicly supported charitable organizations recognized as exempt from federal income tax because they are described in section 501(c)(3) of the Internal Revenue Code. Your questions and our responses are set forth below.

1. Is lobbying by section 501(c)(3) organizations permissible under federal tax laws?

Yes (except for private foundations under most circumstances).

2. How much lobbying may a "public charity" (a section 501(c)(3) organization other than a private foundation or an organization testing for public safety) conduct?

There are two sets of rules, and with the exception of churches, public charities can choose which set to follow. One rule is that no substantial part of the organization's activities can be lobbying. The alternative rule, that an organization must affirmatively elect, provides for sliding scales (up to \$1,000,000 on total lobbying and up to \$250,000 on grass roots lobbying) that can be spent on lobbying. (The scales are based on a percentage of the organization's exempt purpose expenditures.)

3. What are the advantages and disadvantages of the two options?

Organizations covered by the "no substantial part" rule are not subject to any specific dollar-base limitation. However, few definitions exist under this standard as to what activities constitute lobbying, and difficult-to-value factors, such as volunteer time, are involved.

Organizations seeking clear and more definite rules covering this area may wish to avail themselves of the election. By electing the optional sliding scale, an organization can take advantage of specific, narrow definitions of lobbying and clear dollar-based safe harbors that generally permit significantly more lobbying than the "no substantial part" rule. However, as noted above, there are ceilings (unadjusted for inflation) on the amount of funds that can be spent on lobbying. Thus, these dollar limits should be considered when making the election.



4. How does a public charity elect? May an election be revoked?

The organization files a simple, one-page Form 5768 with the Internal Revenue Service. The election only needs to be made once. It can be revoked by filing a second Form 5768, noting the revocation.

5. Does making the election expose the organization to an increased risk of an audit?

No. The Internal Revenue Manual specifically informs our examination personnel that making the election will not be a basis for initiating an examination.

6. Does the Internal Revenue Code allow public charities that receive federal grant funds and contracts to lobby with their private funds?

Yes. However, while it is not a matter of federal tax law, it should be noted that charities should be careful not to use federal grant funds for lobbying except where authorized to do so.

7. May private foundations make grants to public charities that lobby?

Yes, so long as the grants are not earmarked for lobbying and are either (1) general purpose grants, or (2) specific project grants that meet the requirements of section 53.4945-2(a)(6) of the Foundation Excise Tax Regulations.

8. May section 501(c)(3) organizations educate voters during a political campaign?

Yes. However, organizations should be careful that their voter education efforts do not constitute support or opposition to any candidate.

9. May public charities continue to lobby incumbent legislators even though the legislators are running for reelection?

Yes. Charities should be careful, however, to avoid any reference to the reelection campaign in their lobbying efforts.

If you have any further questions, please feel free to contact me at (202) 283-9472, or John F. Reilly, Identification Number 50-05984, of my office at (202) 283-8971.

Sincerely,



Thomas J. Miller
Manager, Exempt Organizations Technical

cc: Mr. Thomas A. Troyer
Caplin & Drysdale, Chartered
1 Thomas Cir., N.W.,
Washington, D.C. 20006

cc: Mr. Marcus S. Owens
Caplin & Drysdale, Chartered
2005 Thomas Cir., N.W.
Washington, D.C. 20005



ACKNOWLEDGEMENTS

This handbook would not have been possible without the support of the following individuals and organizations:

Peter Allegrina, Michigan Secretary of State Bureau of Elections
Liz Baumgarten Heagy, Charity Lobbying in the Public Interest
Rob Collier, Council of Michigan Foundations
Anne Cyran, Michigan Nonprofit Association
Jean Doss, Capitol Services, Inc.
Jeff Fillion, Graphic Design
Brian Flahaven, Council on Foundations
Angela Graham, Battle Creek Community Foundation
Abby Levine, Alliance for Justice
Olga Lozano, Alliance for Justice
Robert McCann, Michigan Nonprofit Association
Vicki Rosenberg, Council of Michigan Foundations
Sam Singh, Michigan Nonprofit Association
Bob Smucker, Charity Lobbying in the Public Interest
Lary Wells, Michigan League for Human Services

This handbook is also made possible by the generous support of the C.S. Mott Foundation and the W.K. Kellogg Foundation.

