

## National Center for Creative Aging

### CREATIVE AGING ADVOCACY: Lobbying for Public Policy Changes

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#### ○ **ADVOCACY 101: LOBBYING DEMYSTIFIED**

**Advocacy:** Direct efforts to persuade policymakers to take legislative action; general efforts aimed at advancing a point of view.

**Lobbying:** Activities aimed at influencing members of a lawmaking body on legislation.

Government advocacy in the nonprofit arts simply means expressing a viewpoint to policymakers to try to positively influence the arts in America. Elected public officials owe their jobs to voting citizens, and the law promotes lobbying by nonprofits. Lawmakers *want* to hear from voters, and they expect “regular people” to lobby, not political or technical experts. Whether policymakers are for or against an important issue, citizens have the ability to speak their mind and show where they stand. Arts organizations generally enjoy good standing in their communities, and as a constituent who speaks on behalf of an arts organization, officials will be more inclined to either meet with you or personally respond to your letters.

Arts organizations can and should lobby, as lobbying is just another term for *freedom of speech*. If arts organizations do not lobby legislators, we are inviting our opponents to be the only voices heard. Vital areas of legislation (including National Endowment for the Arts and arts education funding, immigration requirements for foreign guest artists, postal subsidies, and tax issues) have a tremendous impact on the arts, and it is up to arts supporters and organizations to advocate for the field at large.

The NATIONAL CENTER FOR CREATIVE AGING lobbies directly. To keep **NCCA** aware of your organization’s efforts, please send copies of any Congressional correspondence and make reports of phone contacts or meetings. NCCA sends Action Alerts and Advocacy Reports by email to keep the field up to date on federal issues. Please visit our website at [www.creativeaging.org](http://www.creativeaging.org) to sign up for these valuable resources.

## ○ **GET INVOLVED: INDIVIDUALS AND ORGANIZATIONS**

**Trustees, professional arts organization staff, volunteers, artists and patrons** are voters, community stakeholders and arts supporters. Not only are they very familiar with the arts organizations in their community, they may have connections to the government or the media that could be politically valuable.

**Community coalitions** may also be formed to promote the artistic values your organization shares with partner organizations. Identifying local institutional partners will likely span disciplines, budget sizes and audiences, but common policy concerns are what will ultimately create a unified front. Keep in mind that bringing up areas of disagreement (especially in a meeting with a legislator) is not a good idea. Find consensus on matters of importance and advocate together on these common issues.

## ○ **BUILDING A CASE**

**Government Affairs Designees:** To begin, introduce government affairs activities on board agendas for discussion. Within your organization, identify your most “connected” persons to contact Representatives, Senators, and local lawmakers to build a relationship or for a pending vote. Engaging as many people as possible in the advocacy effort is essential, but a government affairs designee should be selected to coordinate organizational lobbying. This designee may be a trustee, volunteer, artist or staff member.

**Top Issues & Arguments:** Which policy issues are most important to your arts organization? While you do not need to be an “expert”, answering these questions can help prepare your case before it is presented:

- What is your concern about this policy?
- What is your organization’s history with this issue?
- What outcome do you prefer? What outcome is acceptable?
- What is your legislator’s record on this issue?
- What likely reasons will he/she use to oppose, avoid, or support your position?
- What do you need your legislator to do?
- Find facts or statistics to show how the arts organization is helped/harmed by this legislative issue.
- If a government program is involved, what alternatives exist?

**Materials:** Plan ahead by compiling a concise packet of relevant organizational materials to distribute to legislative officials. Provide brief background information (particularly your mission statement), including the season brochure, promotional poster and calendar. Include outreach and educational programs, economic impact studies, fact sheets on relevant issues, newsletters, etc. Make sure your business card is attached to the packet.

## ○ **RESEARCH AND CONTACT POLICYMAKERS**

**Research Relevant Policymakers:** Finding government officials who represent your organization locally is a good starting point for any lobbyist or advocacy group. Your

targeted Congressional members should encompass the same areas as your organization's audience and financial support – also the areas covered by your advertising, season subscription marketing, and education/community outreach programs. Learn about the selected legislators' personal interest or investment in the arts – have they been donors or subscribers to your arts organization or other local organizations? Have they attended a performance recently? Are they known to your trustees or personally known to any of your advocates?

**Online Resources:**

- Committee assignments
- Voting records
- Contact information (fax, phone, e-mail)
- District office locations/hours and names of district directors
- Names of Washington staff aides who handle arts issues
- Biographical information

**Starting a New Relationship:** Officeholders have a lot of responsibility and tackle a wide variety of legislative issues. Given this, it is safe to presume that many have never considered going to a local performance or meeting with arts organization officials. Even having known about the organization for some time, policymakers may need some encouragement before they recognize their relationship to your organization.

*After every election*, introduce your organization to the newly elected official by:

- Communicating your interest in working together in the future, typically with a short written letter
- Submitting the aforementioned packet of organizational materials, as well as updating this packet once a year
- Placing the legislator on your press list, and getting on his/her press list
- Requesting a meeting at the legislator's office to discuss your organization, its current situation, future plans, and issues of concern. (A member of Congress should meet with representatives of the local arts organizations about once a year).

○ **LETTERS & MEETINGS**

E-mails, faxes and personal meetings are the most effective methods for communicating with members of Congress and state legislators. However, there is a thin line between being persistent and being pestilent. Legislators appreciate professionalism, particularly purposeful and brief writing. To make the most of your time, please be organized, polite and to the point.

Focus on one issue at a time, and preface your case with an organizational (and personal) introduction. Make your position clear and legible, and if you are referring to a specific piece of legislation, identify it appropriately (House bill: H.R. \_\_\_\_ or Senate bill: S. \_\_\_\_). Cite specific concerns by stressing personal examples, and identify the actions you are

requesting your legislator take. Be courteous by ending a letter or call with “Thank you” and offer to provide any further support that will help your position.

**Written Correspondences:** Personalized communication stands out from a mass mailing, and it is more likely to be seen. Petitions are not part of the qualitative mail count, and e-mail petitions are particularly questionable and even offensive. *Avoid signing petitions.* Additionally, mail to Washington, DC has been experiencing serious security delays, so we highly recommend calls or electronic correspondences.

The qualitative mail count is listed below in ranking order from most effective to least effective:

1. A handwritten one- or two-page letter, on personal or business stationery, faxed
2. A typed one-page letter, on personal or business stationery, faxed
3. A longer letter, though more detailed, is less likely to be read
4. A one-page e-mail, written by a person rather than a machine
5. A mailed letter
6. A handwritten postcard
7. A pre-printed letter, signed by the sender(s), increased in value with volume
8. A pre-printed postcard – same as a pre-printed letter

Written letters faxes or e-mails should be addressed:

The Honorable [Full Name]  
United States Senate  
Washington, DC 20510

Dear Senator [Last Name],

And

The Honorable [Full Name],  
United States House of Representatives  
Washington, DC 20515

Dear Representative [Last Name],

If writing to the Chair of a Committee, letters should be addressed to Mr. Chairman or Madam Chairwoman.

**Phone Calls:** Anonymous phone calls will be ignored. Be sure to clearly identify yourself as a constituent and approach the conversation like you would a written correspondence. Be brief and to the point within the first 30 seconds of the conversation, and request a written response to your call at the end of the discussion.

**Elected Officials and Performance Etiquette:** Rather than holding tickets at the box office or mailing them, personally greet elected officials before the performance. A trustee and major donor reception may be held before the performance, and it may be appropriate to invite the official. When suitable, acknowledge the legislator's presence in the audience and take him/her backstage to meet the artists. Taking photos is also appropriate, and these may be sent with short news items to your local newspaper after the performance.

Government affairs designees should be directly introduced to the official, and measures should be taken to feature the official as a special guest. Designees should not forget to make legislators aware of any public funding used in support of the organization, particularly in connection with the current performance. Be sure to seat the legislator with other prominent patrons, and possibly feature their photo and a brief bio in your program.

For detailed information on the legalities of inviting elected officials to your performances or receptions, please see the document, "Inviting Members of Congress to Performances and Events: A Guide to Gift Rules" on the Performing Arts Alliance website.

**Preparing for the Appointment:** Research your elected officials and become aware of their public interests and current policy positions. Using the abovementioned resources, review their voting records and the committees on which they serve. Biographies may be found online at <http://congress.org/>

Legislators are typically in Washington Tuesday through Thursday and are frequently home in the district Friday through Monday and when Congress is in recess. To reach your legislator's Washington office, the Capital Switchboard's phone number is (202) 224-3121. Ask to speak with the person who handles the legislator's schedule, and explain to the scheduler that you are a constituent. Be flexible, and briefly describe the topics you seek to discuss. Mention the names of anyone else who will be joining you and their affiliations, particularly if someone in your group knows the legislator either personally or professionally. Other contact information (fax, e-mail) is available online.

In your packet of organizational materials, include economic impact studies on the arts and describe how NEA funds and charitable deductions have contributed to your successes in the community. Be organized and concise, and expect the meeting to be roughly 15-20 minutes. In a meeting beforehand, if you are part of a group or coalition, determine your central message and in what order participants will speak.

Finally, do not be surprised or upset if you meet with your legislator's staff person. Staffers typically handle all the detail work on issues, and they are responsible for gauging constituents' views on issues. In short, they are very knowledgeable and important to your legislator. Call the day before your appointment to confirm.

**Making the Presentation:** Be patient and on time, and begin by thanking your legislator for taking the time to visit with you. If appropriate, thank him/her for his/her previous

support. Explain who you are, who you represent, why you asked to meet and what concerns you have. Stay focused, and do not assume your legislator has any prior knowledge of the subject. Convey that if you “win,” so does your legislator and the community.

On occasion, the most effective thing you can ask your legislator to do is to weigh in with another more appropriately placed legislator. Be prepared to discuss your legislator’s ability to influence a policy, but also be aware of the other elected officials he/she may be capable of lobbying.

If you do not know the answer to a question, say so, and promise to follow up with the answer as quickly as possible. Allow time for the legislator’s responses and questions, and ask your legislator exactly where he/she stands on an issue or an aspect of a bill. If you do not get the commitment you are hoping for, you may be able to convince your legislator to commit to missing a vote or abstaining, rather than voting against the NEA or other funding.

Public forums (such as a debate) are another opportunity to meet with your legislator. In a public meeting you may ask questions concerning the role of the arts in public policy. If you volunteer to ask or answer a question, identify your affiliation as you introduce yourself. *Remember, you can not endorse a candidate or party on behalf of an arts organization.*

**After the Meeting:** Send a polite letter of thanks that includes the main points of your meeting, commitments made and any additional information requested. When dealing with state legislators, send a report to any state arts advocacy group with which you are working. Send a brief meeting report to the National Center for Creative Aging’s office.

## ○ GRASSROOTS ADVOCACY

**The Media:** As defined by the IRS, using paid advertising and the news media to encourage legislative action is grassroots lobbying. This may include persuading editorial boards (newspapers, radio and television) to encourage a supportive arts policy or to print a specific article in support of an issue. Guest columns or op-eds may be written by your board president, manager, or other appropriate spokesperson, and television or radio talk show appearances are also appropriate. Press conferences, photo opportunities at events and paid advertising are all examples of grassroots advocacy in the media.

*Remember, electioneering is strictly prohibited. Arts organizations CANNOT endorse a candidate or political party.*

**The Audience:** Audience policy support includes calling or writing to legislators in support of the National Endowment for the Arts, earmarking a local tax for arts support and other issues. Arts organizations may place signs in the lobby, distribute an advocacy newsletter, urge support for legislation through your program book, send letters to

subscribers, or speak from the stage. These activities are considered grassroots lobbying, and as long as you are under the expenditure limit, they are permitted.

## ○ FOLLOWING UP

**...If Your Legislator is Solidly Opposed:** Modifying opposition behavior is as much a part of advocacy as it is about obtaining favorable votes. First, be certain of your legislator's opposition by *asking*. Remind him/her of the mutually beneficial position you have presented, and add that the entire community will be monitoring the outcome. After your meeting, send a polite letter voicing disappointment, but express your interest in working together in the future on other issues.

**...If Your Legislator Leans Negative or is Undecided:** Legislators are often distracted by other issues or ignorant of your concern. Resubmit your basic arguments again, and if a new argument or fact has been discovered, use it. Consistent pressure is an important lobbying tactic.

**...If Your Legislator is Supportive:** Thank your legislator and encourage others to be explicit in doing the same, both privately and publicly. Persuade them to do more by speaking to colleagues and other party members. Strive to continuously cultivate this relationship, as supportive legislators can be a great ally for years to come.

## ○ LEGALITIES & REGULATIONS

Federal law considers a nonprofit to be lobbying when it expends funds to urge, or to ask others to urge, a legislative official (officeholders, staff) to take a position on legislation. For nonprofits, two basic requirements exist: 1) report on the annual tax return the total amount of funds expended for lobbying; and 2) do not exceed the limit on the percentage of your budget that can be devoted to lobbying. To determine this percentage, your organization should make the 501(h) election.

The legal limits on nonprofit lobbying only take effect when *funds are expended* by the organization for lobbying. If employees spend staff time, or if organizations funds are used to produce materials, sponsor events, provide travel, or cover expenses in order to carry out lobbying activities, the organization is considered to be lobbying, and these expenditures are reportable as such on the organization's tax return. *Doing so does not affect the organization's tax status or subject it to taxes or fees.*

Nonprofit expenditure limits for direct lobbying are determined by the budget size of the organization. Under 501(h) expenditure test public charities may spend:

### **Direct Lobbying:**

20% of the first \$500,000 of its exempt purpose expenditures;

15% of the next \$500,000 and so on, up to one million dollars a year.

**Grassroots Lobbying:**

5% of the first \$500,000 of its exempt purpose expenditures;  
3.75% of the next \$500,000, and so on, up to \$250,000 a year.

Should your organization receive a government grant, these funds cannot be used to lobby. Apply lobbying costs to other parts of your budget, such as earned or privately contributed income.

For-profit corporations are responsible for their own lobbying, and your encouragement (including providing materials and information) would count as grassroots lobbying. However, if someone is paid to lobby – a corporation, consultant, or employee – it counts against your lobbying limits under the tax law.

**501(h) Election:** Electing to come under the **501(h)** lobbying definition is free, simple and permanent. By choosing to be covered by the Lobbying Law, the IRS will determine how much a 501(c)(3) nonprofit can legally lobby. The printable 501(h) election form may be found on the IRS website at <http://www.irs.gov/pub/irs-pdf/f5768.pdf>

**501c(3) vs. 501c(4) Nonprofits in the Arts:** **501(c)(3)** nonprofits are tax-exempt organizations organized for charitable or educational purposes. **501(c)(4)** nonprofits are tax-exempt organizations organized specifically for lobbying or political campaigning. Unlike donations to 501(c)(3) non-profit organizations, donations to a section 501(c)(4) organization are not deductible by the donor. This also means that *contributions to 501(c)(3) organizations may be earmarked for lobbying, but the donor cannot take a tax deduction for it.*

**Lobbying vs. Electioneering:** Electioneering is prohibited by law. Defined as actively working or taking an active stance on a political party or candidate, electioneering is very different from lobbying and *is not allowed by nonprofits*. Nonprofits may not support, endorse or oppose parties or candidates, and they may not provide materials, money, or other resources for that purpose. An arts organization may not urge others to support or oppose candidates.

However, nonprofits are allowed to consult with candidates and parties to seek their views on issues and to communicate their organization's viewpoint. The nonprofit may then publish the responses in a fair, balanced, nonpartisan manner. The most common way to achieve this is to submit a questionnaire to all candidates, specifying a reasonable deadline for their responses. This is called "voter education," and 501(c)(3)s frequently publish such materials and make them available to their subscribers, members, employees, etc, prior to election day.

Performing arts organizations may expend funds and take public positions on referenda, ballot initiatives, propositions, tax levies, etc., as long as they do not cross the line into party or candidate endorsement. If a nonprofit wants to lobby on an issue as it would a legislator, it has to be able to lobby the public. A nonprofit may endorse ballot issues,

advertise, pass out leaflets, participate in debates, write letters to the editor, and engage in similar activities designed to communicate its point of view to the general public.

**Tracking Expenses:** When using organizational funds for lobbying activities, an accurate record should be kept of how much money was spent, for what purpose, which officials were lobbied, and when. Costs may include any of the following: Congressional mailings, direct meeting costs, or providing complimentary tickets. This section of the budget, which is to be reported on your annual IRS Form 990, will likely be far below the legal lobbying expense limit (please see **501(h) Election**). Indirect lobbying (or grassroots lobbying) should also be reported. Indirect lobbying is defined as expending funds to use the media or appealing to the public to get elected officials to act on specific legislation.

*Rules exist about Congressional gifts and for your state legislators as well. For state rules, check with your state nonprofit association or state arts advocacy group.*