

# Advocacy vs. Lobbying: An Arts Primer

Every day, policy decisions are made that have a major impact on the arts. School boards determine how much—or how little—time and money are devoted to arts education. Mayors and county councils enact economic plans that include—or exclude—the creative sector. State legislatures decide how much to fund—or how much to cut—the budgets and staff of state arts agencies.

Citizen voices matter in policy decisions about the arts, and the pathway to making those voices heard is through advocacy. But what leeway do arts organizations, board members and artists have to advocate? What differentiates advocacy from lobbying? This expanded edition of *The Practical Advocate* answers these questions and helps you to visualize how you can play a meaningful role in the policy process.

## Why Advocate?

"When we are at the table, we can ensure that our priorities are heard, that our communities are represented, that good ideas are funded.... We can help set the stage for real and lasting success for the people and issues we serve. The fact is, our respective missions will never be fulfilled if we are relegated to accepting decisions that are made without us."

—[Stand for Your Mission](#)  
**BoardSource**

## What Is Advocacy?

Advocacy is democracy in action! Simply stated, **advocacy is the act of expressing support for a cause, idea or policy.** It may be useful to think of advocacy as one way of educating the public about the arts:

- **Education** includes activities like sharing research about the impact of the arts, raising public awareness about the effects of the arts or pointing out how public funds for the arts are put to use in your community. This also may include educating elected officials about the arts as an issue.

- **Advocacy** is education that adds one small—but important!—element, asserting that the arts should be an important part of *public policy*. Advocacy includes communicating about how government can better support the arts or how policy decisions can affect the arts. It also includes establishing relationships with elected officials, to let them know that you have arts expertise to offer should it become useful to their policy deliberations.

## Isn't Advocacy by Nonprofits Illegal?

No! The right to advocate is a bedrock value of American democracy. The founding fathers understood this, weaving the rights of petition and assembly into the Bill of Rights as the U.S. Constitution was being ratified. Today, nonprofits from every sector—health, education, social services, natural resources, aging and the arts—actively engage in advocacy because they know

### It's Not about Politics...

"The most effective charitable organizations have recognized that successful advocacy does not require stepping into the quagmire of partisan politics. It simply means using our voices as committed and informed champions for our missions."

—[Stand for Your Mission](#)  
BoardSource

that it's important to fulfilling their missions and helps improve conditions for the populations they serve. In fact, the origin of the word *advocacy* comes from the Latin *advocare*, which means "called to aid."

The Internal Revenue Service recognizes that advocacy serves an important public purpose. IRS [definitions](#) note that nonprofits "may advocate a particular position or viewpoint" as long as the activity is nonpartisan and objective. IRS [guidance](#) states that nonprofits may "involve themselves in issues of public policy without the activity being considered as lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status."

It's also important to understand your state laws with regard to lobbying and advocacy. While almost every state allows nonprofits to advocate and conduct issue education, some states have specific compliance requirements for lobbying. Many statewide associations of nonprofits conduct clinics or offer tip sheets on this topic. The organization [Bolder Advocacy](#) also is a useful resource. It publishes a [Practical Guidance Series](#) that outlines the latitudes, limits and requirements for lobbying in most states.

## What's the Difference Between Advocacy and Lobbying?

While advocacy is an expression of support for the arts as a public policy issue, lobbying entails a narrower set of activities—**it attempts to influence elected officials' votes on pending legislation.**

Lobbying involves the following components: a communication (in person or in writing) with a policymaker (an elected official or government officer) in which that official is asked to adopt your preferred position (favoring or opposing) on specific legislation (a bill, resolution, appointment confirmation or ballot initiative). There are two kinds of lobbying:

- **Direct lobbying:** communications directed to policymakers that ask them to vote for or against specific legislation
- **Grassroots lobbying:** communications that mobilize the general public (the grass roots) to contact elected officials and urge them to vote for or against specific legislation

Communications about the benefits of public arts funding—without requesting a specific vote or referencing a particular bill—do not constitute lobbying!

#### EDUCATION

According to national studies, economically disadvantaged kids who receive arts education are five times less likely to drop out of school.

#### ADVOCACY

Supporting our arts council improves education and economic outcomes in our state. Arts council programs are worthy of public funds because they keep kids in school, raise achievement and prepare our future work force.

#### LOBBYING

Please vote in favor of Senate Bill #123 to increase arts funding.



## Does Federal Law Allow Nonprofits to Lobby?

Yes, although nonprofits must be nonpartisan in their approach and observe certain financial limits. Within those limits, arts nonprofits can weigh in on important legislation affecting the cultural sector—and can encourage their allies and audiences to do likewise.

The IRS follows the [principle](#) that **lobbying cannot comprise a "substantial part" of a nonprofit organization's activities**. Many tax practitioners [advise](#) nonprofits that they can safely devote 3-5% of their overall time and expenses to lobbying (based on a [federal court ruling](#) that 5% of a nonprofit organization's time and effort was an insubstantial part of its activities). However, the IRS has published no definition of "substantial," and considers "a variety of factors" in its assessments of lobbying.



To avoid this ambiguity, nonprofits that anticipate doing a lot of lobbying can choose a lobbying election under Section 501(h) of the Internal Revenue Code. In completing a [one-page form](#), nonprofits agree to follow a simple formula limiting the amounts they spend on lobbying. The [limits](#) work on a sliding scale: organizations with total exempt expenditures of \$500,000 or less can spend up to 20% of their

exempt expenditures on lobbying. The scale is capped at \$1 million in lobbying expenses for the largest nonprofits. **This scale allows plenty of room for the kind of lobbying most arts organizations want to do. Moreover, the limits apply specifically to lobbying, not to advocacy or other educational activities.**

Nonprofit lobbying expenses are reported to the IRS through annual Form 990 filings. Taking the Section 501(h) election does not signal that you are a political organization, it simply means that you're planning ahead to keep any lobbying activities within certain limits. Nonprofit organizations can opt in or out of the election at any time.

Alerting your network about new legislation affecting the arts is not considered lobbying unless those communications urge people to ask their elected officials for a specific yea or nay vote. Remember that government funds (received through an appropriation, grant or contract) can never be used for lobbying.

## Can My 501(c)(3) Organization Participate in Political Campaigns?

No. IRS regulations clearly state that 501(c)(3) nonprofits are "[absolutely prohibited](#)" from engaging in political campaigns. This includes expressing opposition or support for any candidate as well as making campaign contributions. It also means your organization cannot rate or rank individual candidates based on your views of their stance on your issues. Holding candidate forums, publishing voter guides or conducting voter registration drives can be considered electioneering unless they include strictly equal coverage of all candidates, all points of view and all populations.



This is an area where caution is encouraged, since the penalties for nonprofits found to be engaging in campaign activities can include loss of exempt status, fines and other legal complications.

The Advocacy Continuum				
	EDUCATION	ADVOCACY	LOBBYING	ELECTIONEERING
<b>Definition</b>	Increasing public understanding about the arts	Expressing support for the arts as an important public policy issue	Attempting to shape votes on pending legislation related to the arts	Making the arts an issue in political campaigns for elected office
<b>May include:</b>	<ul style="list-style-type: none"> <li>• Sharing information on the impact of the arts</li> <li>• Raising awareness or recognition of the arts</li> <li>• Giving prominent credit for public funds</li> <li>• Inviting elected officials to attend free arts events</li> <li>• Explaining how public arts funding benefits your community</li> <li>• Answering questions asked by elected officials</li> </ul>	<ul style="list-style-type: none"> <li>• Urging elected officials to include the arts in their policy and budgeting priorities</li> <li>• Describing a desirable policy direction that would benefit your community through the arts</li> <li>• Explaining how policy or budget decisions have affected the arts in the past</li> <li>• Sharing your viewpoint about the potential effects of future policies</li> </ul>	<ul style="list-style-type: none"> <li>• Asking government officials to support or oppose a bill</li> <li>• Asking the public to contact their elected officials to urge votes for or against a bill</li> <li>• Circulating or signing a petition</li> <li>• Organizing a rally focused on a specific legislative decision</li> </ul>	<ul style="list-style-type: none"> <li>• Campaign contributions</li> <li>• Any expressions of opposition to, support for or endorsement of a candidate</li> </ul>
<b>Legal limits</b>	No limits for nonprofits (board or staff), as long as activities are nonpartisan	No limits for nonprofits (board or staff), as long as activities are nonpartisan	Permitted for nonprofits (board or staff), within expenditure limits set by the IRS	<b>Prohibited for 501(c)(3) nonprofits.</b> 501(c)(4), (5) or (6) groups may engage in campaigns, although that cannot be the group's primary activity.

## Can I Engage in Campaigns as a Private Citizen?

You may not conduct any campaign activities using resources from your nonprofit organization. On their personal time, nonprofit board members and employees may exercise their First Amendment rights to volunteer for campaigns, make personal contributions to candidates or engage in other political activities. It is necessary, however, to make a clear distinction between your personal and professional presence. In some cases—especially for senior managers, board members or staff with communications roles—an affiliation with your nonprofit may be implicit even when your activities take place after hours or through personal channels. Always make it clear that you are acting as a private citizen, not on your organization's behalf.

## I'm Ready to Advocate! Where Do I Start?

- **Thank your elected officials** every time you receive funding from a public arts agency.
- Visit NASAA's [advocacy resource page](#) for **tools** that can help you be a stronger advocate.
- **Communicate often** about the [benefits](#) of public arts funding with your audiences, donors and members of your social network.
- If citizen advocates in your state convene for an annual **arts day at the capitol**, plan to participate. These events are a chance to meet other cultural organizations, learn about new research and receive advocacy training.
- Make advocacy a standing item on your **board's agenda**. A good resource for board engagement is [standforyourmission.org](#)

### TOP TOOLS

Download—and share!—NASAA's most popular advocacy tools:

[Three Simple Ways to Advocate for the Arts](#)

[Five Reasons to Support the Arts](#)

[Being an Arts Ambassador](#)

[Meetings Matter!](#)

## National Assembly of State Arts Agencies

The National Assembly of State Arts Agencies (NASAA) is a nonpartisan, not-for-profit organization that serves America's state arts agencies. We are a clearinghouse for information on best practices and research on cultural policy, public funding for the arts and the programs of state arts agencies. For more information, visit [www.nasaa-arts.org](http://www.nasaa-arts.org).

Photo credits: page 3, Jerry Foster, Alabama Arts Alliance; page 4, SC Arts Alliance

© 2023 National Assembly of State Arts Agencies



[www.nasaa-arts.org](http://www.nasaa-arts.org)



This work is licensed under a [Creative Commons Attribution-Noncommercial 4.0 International License](https://creativecommons.org/licenses/by-nc/4.0/).

