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.

**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.

**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
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 that it’s important to fulfilling their missions and helps improve conditions for the populations they are committed to 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."

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: attempts to influence elected officials' votes on pending legislation related to the arts.

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 favor or oppose 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
- **Grass-roots 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!

**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 clear definition of "substantial," and considers "a variety of factors" in its assessments of lobbying.

To avoid this ambiguity, nonprofits 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

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<td><strong>Definition</strong></td>
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<td><strong>May Include</strong></td>
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<td><strong>Legal Limits</strong></td>
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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.

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?

- Make advocacy a standing item on your board’s agenda. A good resource for board engagement is standforyourmission.org.
- Visit NASAA’s Act Now! website for networks, videos and 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.