

## Private Foundations May Advocate!

Private foundations may participate in the advocacy arena. Although they incur a prohibitive tax on any lobbying expenditures, lobbying is only one type of advocacy. **There are many types of non-lobbying advocacy in which private foundations may legally engage.**

There are two types of lobbying—direct and grassroots. **Direct lobbying** is a communication with a legislator (federal, state, or local) or legislative staff member that refers to specific legislation and takes a position on that legislation. **Grassroots lobbying** is a communication with the public that refers to specific legislation, reflects a view of that legislation, and contains a call to action.

Private foundations may engage in any activity that does not qualify as lobbying. Therefore, while they incur a tax on expenditures for direct and grassroots lobbying, they may engage in:

### Advocacy that falls outside of lobbying definitions, including

- Discussing broad issues, without mentioning specific legislation
- Litigation, either by signing on to *amicus* briefs or filing suit to challenge a law or enforcement of the law
- Advocacy before special purpose boards (e.g., school boards, planning commissions)
- Building relationships with legislators and helping grantees build and sustain relationships
- Training grantees how to lobby
- Convening nonprofits and decision-makers to discuss broad issues
- Educating legislators about broad issues
- Conducting public education campaigns that do not include calls to action or mention of specific legislation
- Regulatory efforts

### Advocacy that meets one of the specific lobbying exceptions

- Technical advice or assistance
- Nonpartisan analysis, study, or research
- Self-defense lobbying
- Discussions of broad social, economic, or other issues

See *Investing in Change: A Funder's Guide to Supporting Advocacy* for more detailed discussions of the rules, including the definition of lobbying and descriptions of the activities described above.

Note: This handout provides general guidelines only, and is intended to serve as an overview. Because the application of law is fact-sensitive and context is critical, it should not be relied upon as legal advice.

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