

## Public Foundation Representatives Can Safely Visit Legislators!

Public foundations are important voices in their communities that can be amplified by exercising the right to lobby. Like other public charities and unlike private foundations, public foundations may lobby as long as the lobbying activity doesn't exceed the generous limits set by law.

**How much lobbying the foundation can do depends on which of two sets of IRS rules it uses.** Under the “insubstantial part” rules, lobbying may not constitute a “substantial” part of a foundation’s activities. The alternative set of rules, known as the 501(h) election, provides more specific guidelines. Foundations that make the 501(h) election can spend as much as 20% of their budgets on lobbying. The 501(h) rules also contain a definition of lobbying and a list of activities that are exceptions to that definition.

**Lobbying is an attempt to influence public officials in support of or in opposition to specific legislative proposals** (but *not* administrative rules or other non-legislative policies). Lobbying includes communicating with legislators and their staff directly and encouraging others to contact their legislators. For example, it is not lobbying to meet with legislators to educate them about the problem of air pollution. It is lobbying to express a view on a specific legislative proposal to address the problem of car emissions.

### Advocacy activities that are exceptions to the definition of lobbying include:

- *Nonpartisan analysis, study, research.* When a public foundation presents a comprehensive, accurate study or analysis of a policy issue, it is nonpartisan educational activity, not lobbying. The document should provide enough information to allow readers to draw their own conclusions about the issue, even if the report contains a specific conclusion. For example, a foundation might study access to healthcare by low-income children, which might conclude with a recommendation for increased healthcare funding.
- *Proposals affecting an organization’s existence and rights.* It is not lobbying when public foundations engage in advocacy around legislation that affects their legal status. For instance, proposed legislation to change the lobbying definitions for public charities would fall within this so-called “self defense” exception.
- *Requests for technical assistance.* Any response to written requests for assistance from government bodies is not lobbying. For example, in response to a written request from the chair of a committee of the state legislature, the president of a public foundation could testify in support of a clean indoor air bill.
- *Examinations of broad social issues.* Efforts by foundation board or staff to discuss broad issues rather than specific legislative proposals are not lobbying. Examples include educating legislators about the important role foundations play in developing healthcare models or the impact of a foundation’s grants to promote sustainable agriculture. These are all non-lobbying communications.

**People associated with foundations do not lose their rights as individuals to participate in the policy process.** As an individual, you may speak with elected representatives about issues that are important to you. In order for your actions to not be counted as lobbying by the foundation, it is important to separate your individual advocacy from the activities you undertake as a foundation representative. For instance, setting up a meeting with a legislator, with no mention of your foundation affiliation, on your own time, allows you to discuss issues as an individual constituent.

1/9/04