

Power, Policy & Purpose

Advocacy for Fundraisers

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Today's Agenda

Navigating Complexities as AFP Leaders

- ▶ A Growing Need for Advocacy in a Rapidly Evolving Political Environment
 - ▶ Legislative and Regulatory Risks
 - ▶ Uncertain Financial Climate
 - ▶ Evolving Challenges for Nonpartisanship
- ▶ Advocacy & Lobbying
 - ▶ Fundamental Skills and Strategies
 - ▶ Cornerstone Nonpartisan Protections
 - ▶ Opportunities for Engagement
 - ▶ 501(h) Election
 - ▶ Ensuring Compliance

A Growing Need for Advocacy in a Rapidly Evolving Political Environment



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Increased Political Oversight and Scrutiny of Grants

- ▶ Executive orders and agency directives require additional staff, including senior appointees, to approve discretionary awards and payments
 - ▶ Notice of grant opportunities and funding awards are often delayed as a result
- ▶ Guidance prevents discretionary awards from being used to fund, promote, encourage, subsidize, or facilitate any initiatives that compromise public safety or promote anti-American values
 - ▶ Commonly cited examples include engaging in or supporting gender gender-affirming care, illegal immigration, and diversity, equity, and inclusion initiatives

Funding Uncertainty, Continued

- ▶ Grant cancellations and potential rescissions often occur with little notice
 - ▶ The magnitude of federal funding uncertainty poses significant challenges in immediately securing replacement philanthropy
- ▶ Strategic, precise advocacy and diversified funding are essential for resilience
- ▶ AFP leaders are expected to witness greater compliance standards for communications and funding sector-wide

Legislative and Regulatory Risks

- ▶ Frequent executive orders and agency guidance fosters significant uncertainty, especially as litigation and complex rulings rapidly evolve
 - ▶ Vague definitions, accelerated timelines, and the potential of funding revocations endanger speech
- ▶ To ensure compliance and effectively communicate with your network, plan to stay proactive and credible as you interpret and disseminate briefs, guidance, and recommendations

Expected Impact for AFP Leaders

- ▶ As federal directives and executive orders are issued, organizations are likely to experience more frequent and rapid reviews, documentation, and audits
- ▶ The resulting unfamiliar and uncertain climate is likely to spark shared anxiety among staff and sector-wide
 - ▶ Clear and consistent communication alongside guidance can ease concerns and aid in a unified approach
- ▶ Supporting and fortifying your organization's capacity for advocacy is essential to managing risk and mitigating funding loss

Advocacy & Lobbying

All lobbying is advocacy, *but not all advocacy is lobbying*



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Separating Advocacy & Lobbying

- ▶ **Advocacy:** an act of supporting or creating a change for an issue locally, statewide, or federally
 - ▶ *Examples: education, research, data, storytelling, coalitions, site visits, testimony*
 - ▶ Unlike lobbying, there is *no ask for a vote*
- ▶ **Lobbying:** an attempt to influence government action or non-action through written or oral communication
 - ▶ *Examples: a petition that combines a specific bill or budget and an explicit, direct ask*
 - ▶ The framing is often included as a *public call-to-action*, including through grassroots campaigns
- ▶ Advocacy and lobbying are legal for **all** 501(c)(3) organizations
 - ▶ However, while no limitations exist on advocacy, lobbying must be tracked and funded correctly

501(c)(3) Limitations

- ▶ 501(c)(3) organizations are strictly prohibited from engaging in the following activities
 - ▶ Candidate endorsements and opposition campaigns
 - ▶ Use of organizational resources to fund partisan campaign activity
 - ▶ Use of federal awards to fund lobbying efforts
 - ▶ Organizational campaign contributions
 - ▶ Attempts to mask lobbying as “education” when urging action

Unrestricted 501(c)(3) Actions

- ▶ 501(c)(3) organizations may engage in the following activities without any restrictions or limitations
 - ▶ Conduct year-round meetings, site visits, and briefings to educate policymakers and the public regarding an issue's impact
 - ▶ Organize and host events to raise awareness for an issue
 - ▶ Educate partner and network organizations regarding the legislative and rulemaking process

Unrestricted 501(c)(3) Actions, Ctd.

- ▶ 501(c)(3) organizations may engage in the following activities without any restrictions or limitations
 - ▶ Nonpartisan voter education and mobilization
 - ▶ Encourage individuals to meet with representatives to discuss their experience and knowledge of issues
 - ▶ Organize and engage in coalitions and coordinated messaging
 - ▶ Lobby within limits using appropriate (unrestricted and private) funds

Understanding Lobbying

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Exceptions to Lobbying

- ▶ Nonpartisan analysis, study, and research with full and fair exposition
 - ▶ Note, the materials cannot include a call to action
- ▶ Technical advice regarding a written request from a legislative body or committee
- ▶ Self-defense communications
 - ▶ *Examples include existence, powers, duties, tax status, and deductibility*

Communicating Federal Awards

- ▶ Lobbying costs are unallowable to awards
 - ▶ Calls to action often offer a helpful reference point: awards should not be allocated to lobbying initiatives with a call to action
- ▶ Prepare detailed cost allocations, maintaining essential safeguards
 - ▶ Allowable → awards
 - ▶ Lobbying → unrestricted/private
- ▶ Expect scrutiny of “influencing” language

Simplified Tracking and Reporting

- ▶ When recording a lobbying action, log the following
 - ▶ Date
 - ▶ Minutes
 - ▶ Bill/line
 - ▶ Costs
 - ▶ Audience
 - ▶ Funding source
 - ▶ Ask

Decision Aid

- ▶ Lobbying requires an action to
 - ▶ (1) Name a specific bill and appropriation
 - ▶ (2) Urge lawmakers to vote or maintain a certain position *OR* urge the public to contact lawmakers
- ▶ When both conditions are met, the action must be tracked and privately funded
- ▶ Actions that fail to meet each of the above are forms of advocacy and **not** lobbying

Advocacy or Lobbying?

Distinguishing Key Sector Actions



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Emailing a representative's office to share the outcomes of a program

Through our organization's mentorship programs, our cohort of 30 students collectively experienced a 50% decline in absenteeism and a 75% increase in math and reading test scores in 2024.



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Sending an email to your grassroots network with the following message,

H.R. 91 would severely limit access to nutrition programs. The Congressional Budget Office estimates that individuals enrolled in SNAP would decrease by 35%.

Tell your representatives to vote NO on H.R. 91.



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Calling your Senator to request that line-item funding for family resource centers be increased in the 2026 appropriations bill



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Inviting your Congressperson to attend a community event or site visit



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Requesting that a representative
introduce a bill to increase awareness
of child abuse



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Signing onto a letter on behalf a coalition

Co-signing a letter on behalf of the NonProfit Alliance and a coalition of Combined Federal Campaign (CFC) participant charities to ask the federal Office of Personnel Management not to cancel the annual Combined Federal Campaign (CFC)



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Offering to campaign for a candidate



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Advocacy or Lobbying, Answered

Advocacy

Grassroots lobbying

Direct lobbying

Advocacy

Direct lobbying

Advocacy

Prohibited

501(h) Election

A Consideration for Eligible Public Charities



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501(h) Election, Form 5768

- ▶ Many organizations file because it offers more clarity and reduces risk compared to the "substantial part" test
- ▶ Facilitates strategic tracking and planning through
 - ▶ Clear lobbying dollar limits and definitions of lobbying communications
 - ▶ Greater lobbying dollar limits and fewer items that count toward the exhaustion of those limits
 - ▶ Absent limit on lobbying activities that do not require expenditures, including unreimbursed activities conducted by bona fide volunteers

Of Note

- ▶ Separate limits exist for total lobbying and grassroots advocacy
 - ▶ Grassroots advocacy constitutes 25% of total limit
 - ▶ Sliding-scale limit is based on exempt-purpose expenditures
 - ▶ *Absolute cap \$1,000,000/yr*
- ▶ Volunteer and unreimbursed lobbying typically do not count toward limits
- ▶ Election persists until revoked
- ▶ *Form can be filed at any time during the tax year*

Upholding Nonpartisanship

A Shared Organizational Responsibility



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Reviewing the Nonpartisan Standard

- ▶ All staff, leadership, board members, interns, consultants, volunteers, and any individual acting for the organization are required to uphold the standard of nonpartisanship
- ▶ 501(c)(3) organizations **cannot** engage in, lead, or publish partisan publications, events, web pages, emails, social media communications, or coalitions
- ▶ During election years, scrutiny is often heightened
 - ▶ Advocacy must remain issue-focused

A Sample Approval Ladder

- ▶ For all policy asks, refer to an organization's CEO and general counsel
 - ▶ When a bill is mentioned **without an ask**, refer to the communications and government affairs departments
 - ▶ When a bill is mentioned **with an explicit ask**, refer to the CEO and general counsel
- ▶ Refer to the communications department for public materials
- ▶ Refer to the finance department to develop coding and a monthly lobbying report

Additional Considerations

- ▶ Advocacy thrives within an organization-wide culture
 - ▶ Consider engaging board members in an annual training
- ▶ As advocacy continues, encourage program staff and government affairs departments to regularly reassess rapidly evolving issues to ensure advocacy continues to center the concern accurately and completely
- ▶ Meanwhile, advancement and communications departments should align donor/public alignment & funding check
- ▶ *Because initiatives that purely involve advocacy are unlimited for 501(c)(3)s, no approval is needed*

Reviewing Key Considerations of Advocacy & Lobbying

A Series of Checklists to Ensure Compliance



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A Micro-Checklist

Funding Guardrails & Coding

- ❑ Where is a lobby initiative's funding sourced from?
 - ❑ Lobbying should exclusively be funded by unrestricted and private funds
- ❑ Has a basic, up-to-date lobbying log been maintained?
 - ❑ Finance coding should separate lobbying and restricted funds
- ▶ Following the above checklist protects 501(c)(3) status by aiding nonprofits in lobbying successfully and safely

Funding Guardrails & Coding, Continued

- ▶ The checklist is especially helpful when,
 - ▶ A public call to action is present
 - ▶ Publishing an op-ed naming a bill with an ask or engaging in press initiatives
 - ▶ Hosting a meeting with a lawmaker where a direct and explicit ask is present
- ▶ For pure education (where a bill number and ask are **not** present), the checklist is **not** needed
 - ▶ Nonprofit status permits an unlimited amount of advocacy

A Micro-Checklist to Classify & Protect Funds

- ❑ Does the action qualify as advocacy, direct lobbying, or grassroots lobbying?
 - ▶ *Refer to definitions on slide 9 and slide 16's two-part question test*
- ❑ If lobbying, how are the actions funded?
 - ▶ Confirm all funding involved in lobbying is sourced from unrestricted and private dollars
- ▶ The checklist is especially helpful to use before calls to action, press initiatives that name a bill *and* an ask, or meetings with a legislator that involve an explicit and specific ask

Micro-Checklist

Approvals, Records & Fast Decisions

- ▶ Approvals for initiatives with a clear and specific ask: CEO/GC
- ▶ Approvals for all public media: Communications
 - ▶ Every department should either approve, escalate, or fix (funding or strip ask)
 - ▶ Throughout, ensure accurate records are maintained - *log & code*
- ▶ *One-line example: “H.R. 91 ... vote NO”*
 - ▶ Grassroots lobbying; unrestricted funds; approvals; log accordingly

Approvals, Records & Fast Decisions, Continued

- ❑ Ensure clear, accurate records are kept for
 - ❑ Lobbying
 - ❑ Monthly cross-checks
- ▶ The check is especially helpful in preparing to complete 990 Schedule C forms
- ▶ *Rely on government affairs and program staff to fact-check*
- ▶ *Refer to finance for coding*

Key Takeaways

- ▶ Advocacy is legal, expected, and necessary
 - ▶ 501(c)(3) are allowed to lobby within clear limits
- ▶ All activity must be nonpartisan
 - ▶ Retain an issue-focused lens and encourage voter engagement
- ▶ Protect financial awards
 - ▶ Do not lobby with restricted funds; ensure all funding sources are distinctly named

Key Takeaways, Continued

- ▶ Ingrain advocacy within your organization's foundation
 - ▶ Maintain relationships with electeds year-round
 - ▶ Designate corresponding staff to facilitate internal approval processes
 - ▶ Track lobbying clearly, consistently, and accurately

Leading With Confidence

- ▶ As challenges arise, the need for your voice merely grows
- ▶ Be vocal, remain nonpartisan, and track carefully to protect your mission & revenue

Questions?

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