LOBBYING AND ADVOCACY FOR NONPROFITS

WHAT IS ADVOCACY? WHAT IS LOBBYING? ARE THEY ONE IN THE SAME?
No. The terms are often used synonymously, but the truth is ADVOCACY describes a broad set of strategies and LOBBYING is merely a tool in the advocacy toolbox. Advocacy is NOT lobbying and there is no limit to the amount of advocacy you can do.

IS ADVOCACY AND/OR LOBBYING IMPORTANT TO YOUR MISSION?
Absolutely. All nonprofits have a vital role to play in democracy. Learning the basics will empower your efforts and hearing examples of impact from our panelists today will affirm the necessity for nonprofit engagement in the policy process.

THE DO’S FOR ALL ORGANIZATIONS (ACTIVITIES NOT CONSIDERED LOBBYING)
- It is not considered lobbying is to engage in the following five activity categories:
  - **SELF-DEFENSE:** Communication on any legislation that would affect an organization’s existence, powers and duties, tax-exempt status, or deductibility of contributions is not lobbying
  - **TECHNICAL ADVICE:** Providing technical advice to a governmental body in response to a written communication is not considered lobbying
  - **NON-PARTISAN ANALYSIS:** Studying community problems and their potential solutions is considered non-partisan if it is “an independent and objective exposition of a particular subject matter... (which) may advocate a particular position or viewpoint so long as there is a sufficiently full and fair exposition of pertinent facts to enable the public or an individual to form an independent opinion or conclusion”
  - **EXAMINATIONS & DISCUSSIONS:** Of broad social, economic, and similar problems. Communication with the organization’s own members with respect to legislation which is of direct interest to them, so long as the discussion does not address the merits of a specific legislative proposal and make no call for action is not lobbying
  - **REGULATORY & ADMINISTRATIVE ISSUES:** Communication with the governmental officials or employees on non-legislative (i.e. administrative) matters e.g. rulemaking is not lobbying under federal law

THE DON'TS
- Nonprofits may not engage in:
  - Partisan political activities, such as:
    - Endorsing or opposing a candidate, or mobilizing supporters to elect or defeat a candidate
    - Align with or contribute to political parties
LOBBYING: INFORMED=EMPOWERED
THE LAWS PLAIN AND SIMPLE

Lobbying is any attempt to influence legislation (any bill introduced or a draft bill that may be introduced in any legislative body from city council to Congress)

WHAT AMOUNT OF LOBBYING IS ALLOWED?

- Prior to 1976, charities could only devote an “insubstantial” amount of their resources to lobbying, a vague standard that led many charities to forsake lobbying altogether. In 1976, Congress passed a law clarifying what charities could do, a law that was clearly intended to encourage more participation by charities.
- In 1976, Congress passed a bill that provided better clarity and authority for lobbying without jeopardizing tax exempt status. Sections 501(h) and 4911 of the Tax Reform Act of 1976 established clearer guidelines called the “lobbying-expenditure test.” However, it took until 1990 for the Internal Revenue Service to issue final rules regarding these changes.
- Who is affected?
  - Public Charities- that have any degree of involvement in public policy issues, even if they have not elected to be covered by them.
  - Private Foundations- affected because the regulations elaborated on the standards foundations must meet to comply with the general ban on lobbying by private foundations.
- The 501(h) election provides clear guidance on the limits for lobbying expenditure. Whether you elect the 501(h) rules or not, lobbying nonprofits must keep records of lobbying activity. The bookkeeping system should include line items for total lobbying expenses as well as grassroots expenses. Nonprofits that lobby need a clear understanding of their total “exempt purpose expenditures” as the amount of funds available for lobbying depends on these totals.

UNDER THE 501 (h) EXPENDITURE TEST, PUBLIC CHARITIES MAY SPEND:

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<tr>
<th>If the amount of exempt purpose expenditures is:</th>
<th>Lobbying nontaxable amount is:</th>
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<tbody>
<tr>
<td>≤ $500,000</td>
<td>20% of the exempt purpose expenditures</td>
</tr>
<tr>
<td>&gt;$500,00 but ≤ $1,000,000</td>
<td>$100,000 plus 15% of the excess of exempt purpose expenditures over $500,000</td>
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<tr>
<td>&gt; $1,000,000 but ≤ $1,500,000</td>
<td>$175,000 plus 10% of the excess of exempt purpose expenditures over $1,000,000</td>
</tr>
<tr>
<td>&gt;$1,500,000 but ≤ $17,000,000</td>
<td>$225,000 plus 5% of the exempt purpose expenditures over $1,500,000</td>
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<tr>
<td>&gt;$17,000,000</td>
<td>$1,000,000</td>
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REGISTERED LOBBYIST

- Staff/organizations that spend a substantial amount of time/resources to affect specific law, policy, contract, etc., should register and track expenditures/activities:
  - IN Legislative – if spend more than $500/yr, register before lobbying with the IN Lobbying Registration Commission at www.in.gov/ilrc
  - IN Executive – if an organization spends more than $1000/yr, they must register. Lobbyists have fifteen (15) business days from the date of initial contact with an executive branch agency to file an initial Executive Branch Lobbyist Registration Statement with IDOA. Once you have filed your initial registration statement you will be required to file an annual report at the end of the year. See: www.in.gov/idoa/2471.htm
  - Federal – not applicable for Indiana United Ways and most small nonprofits
  - Note: organizations that hold certain government contracts may be subject to additional rules

KEEP A LOG
Maintain a log or otherwise track lobbying expenses such as postage, copying, faxing, and messenger services. Lobbying nonprofits should appoint one person to become the authority on the lobbying rules. This lobbying monitor should act as clearinghouse for all projects.

MONITOR THE EXPENSES
Importantly, nonprofits should learn the rules regarding how expenses for things such as newsletters, “action alerts” and direct mail letters should be allocated. The first allocation question concerns lobbying vs. non-lobbying expenses. The second question concerns direct vs. grassroots lobbying.

LOBBYING IS ALSO BROKEN DOWN INTO DIRECT LOBBYING AND GRASSROOTS LOBBYING...

DIRECT LOBBYING
- Defined as an attempt to influence legislation by stating a position on specific legislation to legislators or other government employees who participate in the formulation of legislation, or urging your members to do so.

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<tr>
<th>PERCENT</th>
<th>AMOUNT</th>
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<tr>
<td>20%</td>
<td>Of the first $500,000 of its exempt purpose expenditures</td>
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<tr>
<td>15%</td>
<td>Of the next $500,000, and so on, up to $250,000 a year</td>
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GRASSROOTS LOBBYING
- Defined as an attempt to influence legislation by stating a position on specific legislation to the general public and asking the general public to contact legislators or other government employees who participate in the formulation of legislation

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<tr>
<th>PERCENT</th>
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<tr>
<td>5%</td>
<td>Of the first $500,000 of its exempt purpose expenditures</td>
</tr>
<tr>
<td>3.75%</td>
<td>Of the next $500,000, and so on, up to $250,000 a year</td>
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EFFECTIVE ADVOCACY COMMUNICATION AND STRATEGY

TARGETING YOUR MESSAGE
- Numbers, Numbers, Numbers!
- Understand the key policy issues related to your mission
- Know the basics of the federal, state, and administrative policy process
- Policy Committee role

WORKING WITH LEGISLATORS AND STAFF
- The Power of the One-Pager
- Be Brief, Be Encouraging
- Find Common Values
- Invite Them to Tour, Recognize Leadership
- Stay In Contact
- Prep Them With Intel and Local Data/Stories

STAY ENGAGED
- Prosperity Indiana: http://prosperityindiana.org and click “advocate,” which leads to our action center or read in-depth blog postings at http://prosperityindiana.org/blog
- National Community Reinvestment Coalition: http://www.ncrc.org/
- National Alliance of Community Economic Development Associations: http://www.naceda.org/
- National Low Income Housing Coalition: http://nlihc.org/
- Prosperity Now: http://prosperitynow.org/
- Association for Enterprise Opportunity: http://www.microenterpriseworks.org/
- Housing Assistance Council: http://www.ruralhome.org/
- National Housing Trust: http://www.nhtinc.org/
- National Law Center on Homelessness and Poverty: https://www.nlchp.org/
- National Alliance to End Homelessness: http://www.endhomelessness.org/

QUESTIONS? CONTACT US
- Kathleen Lara, Policy Director, Prosperity Indiana
- klara@prosperityindiana.org
- 317-454-8536