



ChangeLabSolutions



**Public Health Advocacy vs. Lobbying:
The Legal Basics**



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Who We Are

- National nonprofit that works with communities, policy makers, and public health advocates
- Create policy solutions to support healthy communities
- Help overcome legal barriers to healthy change



DISCLAIMER

The information provided in this discussion is for informational purposes only, and does not constitute legal advice. ChangeLab Solutions does not enter into attorney-client relationships.

ChangeLab Solutions is a non-partisan, nonprofit organization that educates and informs the public through objective, non-partisan analysis, study, and/or research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

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Presenter



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AGENDA

1. Basics of Policy, Advocacy & Lobbying
2. Review of Lobbying Restrictions
3. What You CAN DO
4. Group Exercise
5. Practical Considerations
6. Wrap Up and Q/A



POLL:

What is your current occupation?

Policy, Advocacy & Lobbying



WHAT IS A "POLICY"?

SNAP-Ed Guidance definition:

A written statement of an organizational position, decision, or course of action.

Ideally policies describe actions, resources, implementation, evaluation, and enforcement. Policies are made in the public, non-profit, and business sectors. Policies will help to guide behavioral changes for audiences served through SNAP-Ed programming. (Page 14)

WHAT IS ADVOCACY?

Dictionary:

1. the act of pleading for, supporting, or recommending;
2. the act or process of advocating or supporting a cause or proposal;
3. the act of assisting, defending, pleading, or prosecuting for another.

WHAT IS LOBBYING?

Every law defines it a little differently, including:

- Federal tax law (nonprofits)
- Federal appropriations riders
- Federal Anti-lobbying Act
- Byrd Amendment
- OMB circulars (A-87, A-122)
- Federal Agency Rules (USDA SNAP-Ed Guidance)
- Federal lobbying registration and disclosure laws
- State and local lobbying registration and disclosure laws

WHAT IS LOBBYING?

SNAP-Ed Guidance: *Lobbying is any activity or material to influence Federal, State, or local officials to pass, or sign legislation or to influence the outcomes of an election, referendum, or initiative.*
(Page 91)

In general, there are two basic types:

1. *Direct lobbying*
2. *Grassroots lobbying*



GRASSROOTS LOBBYING

A **communication encouraging** the public to take action to influence specific legislation.

JOIN THE PETITION

To all Members of US Congress:
As concerned citizens, we call on you to stand for a free and open internet and vote against both the Protect IP Act and the Stop Online Piracy Act. The internet is a crucial tool for people in the US and around the world to exchange ideas and work collectively to build the world we all want. We urge you to show true global leadership and do all you can to protect this basic pillar of our democracy.

Already an Avaziz member?
 Enter your email address and hit "Send".

Email **SEND >**

First time here? Please fill out the form below.

Name
 Email
 Country Post code
 Cellphone

Avaziz.org will protect your privacy and keep you posted about the latest news and events.

SEND >

Restrictions on Lobbying



GOVERNMENT GRANTS

Grants from federal agencies **generally prohibit** grantees from using funds for lobbying, for example:

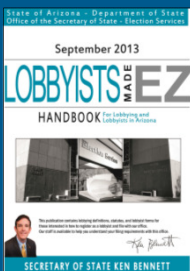
- SNAP-Ed Guidance prohibits the use of funding for lobbying activities (See Pages 18, 56, 60, and 64)
- OMB Circular A-87 (governments) and A-122 (nonprofits) lists lobbying activities as unallowable costs for reimbursement

NONPROFIT ORGANIZATIONS

Nonprofit 501(c)(3) Organizations should keep in mind:

- The use of funds might be restricted by contract, grant or your tax exempt status
- You may need to comply with lobbying restrictions by the IRS that overlap with federal grant rules
- There are similarities between the IRS rules and federal grant rules

LOBBYING DISCLOSURE LAWS



Arizona Law **DOES NOT** prohibit lobbying; only requires:

- Registration of Lobbyists;
- Disclosure of lobbying activities; and
- Disclosure of lobbying expenditures.

MAIN POINTS

- Lobbying is restricted or regulated by funders: check with your **program officer, contract manager and/or legal counsel** about your particular grants/contracts and state/local laws
- Lobbying is a very specific activity, so remember the definitions of lobbying
- **Many key activities aren't lobbying:** So focus on them!



What Can You Do?



POLICY, SYSTEMS, & ENVIRONMENTAL CHANGE

- **Engage:** Get people excited about their vision for change
- **Assess:** What's the problem? What solutions are there?
- **Propose:** Draft a strong policy that expresses the vision
- **Advocate:** Identify and meet with decision makers
- **Implement:** Stay focused even after a policy gets adopted


Engage
What is allowed?



GENERAL EDUCATION

Licensing & Zoning

Tools for Public Health



City of Cleveland
nplan

What Are Complete Streets?

A Brief Report for Advocates and Community Members






Photo courtesy of nplan

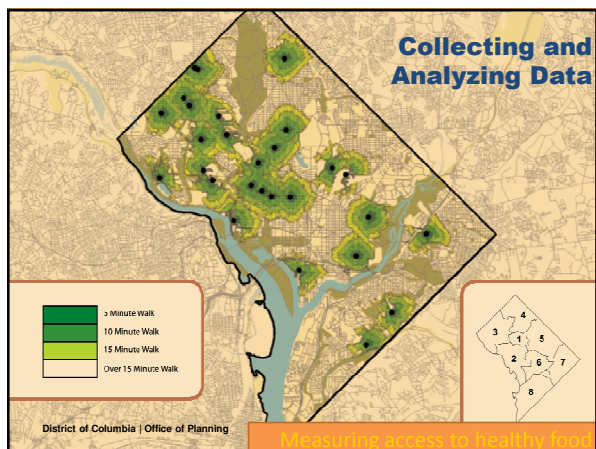




Assess

What is allowed?





WHITE PAPERS & REPORTS: NONPARTISAN ANALYSIS, STUDY, OR RESEARCH

Putting Business to Work for Health
Incentive Policies for the Private Sector



1. Independent, **balanced** and objective;
2. **Fair to both sides** of an issue (contains a full and fair exposition of the pertinent facts);
3. Allows a reader to **draw his/her own independent opinion or conclusion**, but author may include his/her own conclusion;
4. Conclusion is based on **evidence and facts**, but not unsupported opinion;
5. **Broadly distributed** to the public, and not directed to only one side of an issue.

Propose What is allowed?

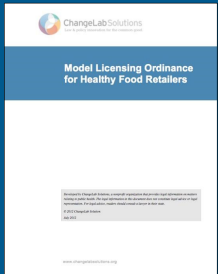


PROPOSING APPROACHES THAT AREN'T SPECIFIC LEGISLATION



Voluntary business policies

DEVELOPING EVIDENCE POLICY (LEGISLATIVE) APPROACHES AND BROADLY SHARING



For example, model legislation

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Examples of Nonpartisan Reports:
Healthy eating and active living reports



The image displays four report covers from ChangeLab Solutions. From left to right: 1. 'Playing Smart' with a collage of photos showing people playing sports. 2. 'Getting the Wheels Rolling' featuring a bicycle and a person walking. 3. 'How to Create and Implement Healthy General Plans' with a green background and silhouettes of people. 4. 'Getting to Grocery' showing a shopping cart in a store aisle.



At the **written request** of a government or legislative body, a **technical or factual presentation** of information to decision-makers regarding a specific legislative proposal.

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Government officials may communicate with anyone within the same government about policy or legislation

HYPOTHETICAL EXERCISE

A Wellness Coalition is made up of representatives from the local government agencies, such as county staff, a school board member, and city parks department. The Coalition also includes residents, nonprofit organizations and community groups. The Coalition would like to engage in policy activities to advance healthy eating and active living strategies. Your organization/government agency would like to participate in these coalition meetings.

POLL QUESTION #1

Can you discuss pending city legislation regarding new bike lanes at a coalition meeting?

POLL QUESTION/ANSWER #1

Can you discuss pending city legislation regarding new bike lanes at a coalition meeting?

ANSWER:
Yes, but it needs to be discussed in a non-partisan manner and allow an open discussion by all members. City decision-makers or staff should not be pressured.

POLL QUESTION #2

Can you discuss pending city legislation and convince other coalition members to contact city council members to support or defeat the legislation?

POLL QUESTION/ANSWER #2

Can you discuss pending city legislation and convince other coalition members to contact city council members to support or defeat the legislation?

ANSWER:
No, this would be grassroots lobbying because you are asking coalition members to take action on the pending legislation.

POLL QUESTION #3

Can you discuss revisions to a school district's procurement policy?

POLL QUESTION/ANSWER #3

Can you discuss revisions to a school district's procurement policy?

ANSWER:

Yes, but be cautious. If school board approval is required and school board members are present at the meeting, the discussion should not be focused on influencing the school board member's decision.

POLL QUESTION #4

Can you attend a school district's board meeting to discuss a resolution to change the district's procurement policy?

POLL QUESTION/ANSWER #4

Can you attend a school district's board meeting to discuss a resolution to change the district's procurement policy?

ANSWER:

Maybe. This depends on your role at the school board meeting. As we discussed earlier, if you receive a written request to present at the school board meeting, then yes. It is also OK to attend to listen. However, providing unsolicited testimony (public comment) to persuade the school board to vote yes or no on the resolution would be lobbying and unallowable with federal funding.

PRACTICAL CONSIDERATIONS



LEGAL STANDARDS VS. PUBLIC PERCEPTION

- Strict compliance with legal standards may not matter as much in the media or with public opinion. Keep in mind that public perception can matter as much as legal compliance.
- Understand your audience of any communications, including any reports to the USDA, regarding your activities, health outcomes and policy-related outcomes.

RECORDKEEPING

If you engage in policy-related activities, recordkeeping is important to document that:

- Activities billed to SNAP-Ed funding are allowable, but also show that unallowable costs (i.e., lobbying) are not billed to SNAP-Ed funding
- Billed activities fall within an exception to lobbying prohibitions (letters inviting testimony, for example)

IMPORTANT TIPS

- ✓ Maintain records/documents
- ✓ Focus on your scope of work and Grant/Contract
- ✓ Remember the general definitions
- ✓ Keep your program officer informed
- ✓ Practice situational awareness
- ✓ Communicate carefully

WRAP UP

- Policy-related activities are allowed, unless there are specific restrictions in your scope of work or grant/contract
- Lobbying is a specific activity, and restrictions on lobbying vary based on type of funding
- There are many allowable policy-related activities regardless of lobbying restrictions
- It is important to consult your program officer and/or legal counsel if you have questions

Questions?





www.eatwellbewell.org

USDA NON-DISCRIMINATION STATEMENT

The U.S. Department of Agriculture prohibits discrimination against its customers, employees, and applicants for employment on the bases of race, color, national origin, age, disability, sex, gender identity, religion, reprisal, and where applicable, political beliefs, marital status, familial or parental status, sexual orientation, or all or part of an individual's income is derived from any public assistance program, or protected genetic information in employment or in any program or activity conducted or funded by the Department. (Not all prohibited bases will apply to all programs and/or employment activities.)

If you wish to file a Civil Rights program complaint of discrimination, complete the USDA Program Discrimination Complaint Form, found online at www.usda.gov/aboutusda/about-usda-2013-01-01, or at any USDA office, or call (866) 632-9992 to request the form. You may also write a letter containing all of the information requested in the form. Send your completed complaint form or letter to us by mail at U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, by fax (202) 690-7442 or email at usda.nondiscrimination@aphis.usda.gov.

Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish).

For any other information dealing with Supplemental Nutrition Assistance Program (SNAP) issues, persons should either contact the USDA SNAP Hotline Number at (800) 221-5689, which is also in Spanish or call the Arizona Nutrition Network Hotline, in Maricopa County call 602-542-9935, outside of Maricopa County call 1-800-352-8401.

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