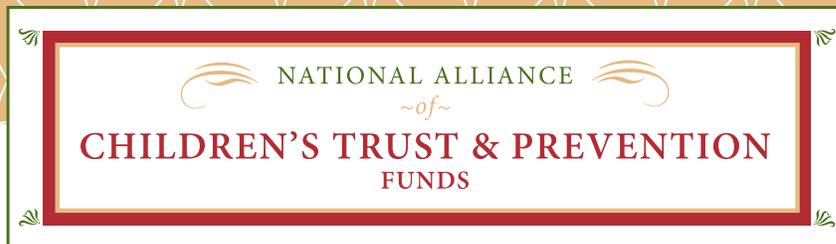
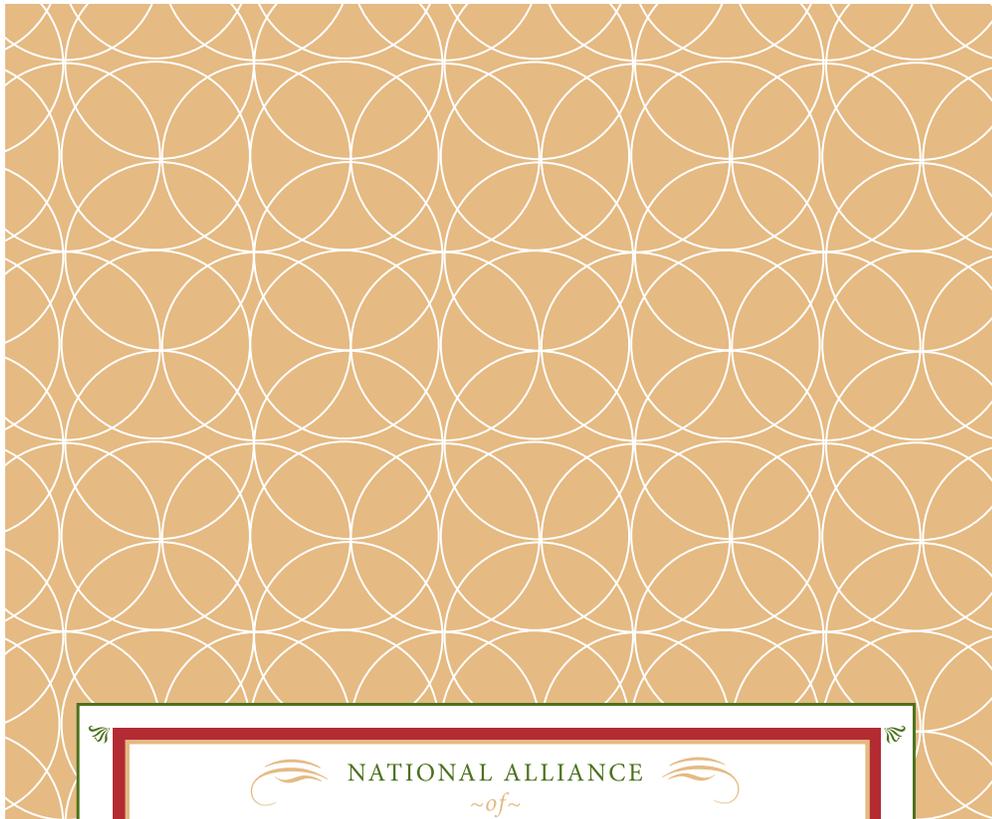


ADVOCACY TOOLKIT



Advocacy for Prevention: A Civic Responsibility



www.ctfalliance.org

Tom Birch

The Prevention Advocate

The best advocate for public funding for prevention is you – the staff and volunteer leadership of your state’s Children’s Trust Fund and of the non-profit organizations and programs providing prevention services in your communities. You are the experts who can make the case for the public benefit of tax dollars spent to support prevention. Whether talking to legislators in the state capital or the nation’s capitol, you are the key advocates who can ensure the government’s commitment to support your efforts.

The local point of view counts the most with politicians. The most powerful advocacy contacts are made by constituents. It’s the hometown voice that gets the message through in the calls and letters and office visits to legislators. According to congressional staff on Capitol Hill in Washington, D.C., programs that demonstrate a grassroots constituency get priority attention. And when legislators talk about our issues, their comments inevitably turn into a report on what their constituents are saying. Former Speaker of the U.S. House of Representatives Tip O’Neill said it best – “All politics is local.”

What Is Advocacy? What Is Lobbying?

The words advocacy and lobbying are often confused. Advocacy encompasses a wide range of activities, which might not always include lobbying. Lobbying is only a small part of advocacy, yet lobbying is an essential part of advocacy. Lobbying always involves advocacy, but advocacy does not necessarily involve lobbying.

Advocacy means speaking up for what we believe is important and talking about our concerns with the people who have the power to support our cause. Advocacy is building familiarity and trust between you and your elected officials. Advocacy is providing reliable information to legislators. Advocacy is offering a personal perspective where public policy decisions are made. Advocacy is something all of us should do; it is democracy in action.

Lobbying is about making positive change to laws that affect us and the causes we serve. Lobbying is trying to influence the voting of legislators; it is urging the passage (or defeat) of a bill in the legislature. Lobbying is citizen action at all levels of government. Participation in democracy includes a responsibility to lobby.

❖ Providing information about the importance of public support for prevention is advocacy. Asking a legislator to vote for an increase

ad-vo-ca-cy: The act of pleading or arguing in favor of something, such as a cause...or policy.

The American Heritage® Dictionary of the English Language

lob-by-ing: Activities aimed at influencing... members of a legislative body on legislation.

Merriam-Webster’s Dictionary of Law

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in public funding for preventive services in a pending appropriations bill is lobbying.

- ✦ Informing legislators about the role of home visiting services in supporting new parents is advocacy. Requesting a legislator’s support for a specific bill mandating home visiting services to new parents is lobbying.

Almost all important changes in public policy and legislation begin with non-lobbying advocacy and end with lobbying the legislature. Your elected officials need to hear from you before there is a crisis, before you have a problem to solve. Building a relationship is the foundation for advocacy and lobbying. Developing that relationship with a legislator and creating an understanding, through advocacy, about the role of prevention services in a community can lead to successful lobbying for legislation that will support your efforts.

Children’s Trust Funds: Leadership in Prevention Advocacy

Children’s Trust Funds – whether state agencies or private non-profit entities – provide leadership and support to advocacy as the principal case-maker for the benefit of public funding for prevention. The basic foundation for advocacy – information – is available from the trust fund to grantees and other constituents to build the case for public support. With data showing how public funds are used, trust funds have the tools advocates need to explain the public benefits derived from dedicating public dollars to prevention.

Non-profit organizations need to understand that participation in developing public policy is as important as their other day-to-day program, management and governance activities. To succeed as advocates for prevention, organizations need to build the advocacy capacity of their board members. That means training in how to be an effective advocate, training on lobbying restrictions under government grant rules and on lobbying restrictions under tax rules,

and developing an organizational support for advocacy.

Many non-profit organizations, including their board members, need a better understanding of the importance of public policy participation, of advocacy and lobbying. Sometimes when people hear the word lobbying, they say, “It’s illegal for nonprofits to lobby” or “Lobbying is for organizations with enormous resources” or “Lobbying is for paid experts with insider information.” These are among the myths about lobbying in the interest of public policy.

Board Members as Advocates

The leadership of a community’s prevention organizations should be at the forefront of building public understanding and legislative support for prevention. Board members bring impressive credentials to advocacy: position and experience. Their standing in the community and their personal knowledge about the needs of the community add up to a powerful ability to persuade politicians and encourage others to take action on an issue.

It is a special responsibility of board membership to be an advocate for the organization’s programs and mission. The boards of Children’s Trust Funds and of our non-profit, community-based organizations often include politically active community leaders who are able to connect legislators with their local constituency, increasing the potential of advocacy for prevention in their communities. Advocacy belongs in the job description of every board member of every non-profit organization.

Board members can articulate well the personal and public benefit of your organization’s programs. Board members are uniquely positioned to increase the understanding among legislative and executive decision makers in government about the value of the arts and cultural programs. As advocates, board members offer two things which legislators value: information and recognition.

And when volunteers are the advocates, lobbying is a low cost activity.

Much of what is called advocacy – talking about the value of public funding for prevention services – is not considered lobbying within the federal tax law. Actual lobbying – contacting a legislator with the intent to generate support or opposition to particular legislator – constitutes a small piece of the advocate’s job description.

- ❖ **Information:** As board members, be prepared to articulate the personal value and the public benefit of the programs offered by your organization. You are the authority on the subject. You have information your legislators need to make good decisions about public spending on prevention.
- ❖ **Recognition:** When your legislator helps your organization by advancing your cause, show your appreciation. You and your legislator have the opportunity to make news together. When grant money supported by your legislator is awarded to an organization in your community, say thanks and show your appreciation publicly. That’s recognition.

Remember that your senators and representatives in Washington, D.C. and your state legislators at home are there to represent and serve you. Expressing your opinions as a constituent is a key function of the democratic process. Your elected officials welcome the views and concerns of their

constituents. Let your voice be heard in the halls of government.

Advocacy Events

Involving public officials opens new opportunities to develop political support for your programs. By seeing what you do and the services you support, a politician becomes personally informed about the importance of the work of your organization in the community. With a first hand look, the politician becomes familiar with the benefits provided by your organization. It is also a perfect time to thank the invited officials in public view for their support.

Events sponsored by the Children’s Trust Fund can be an important component of a successful advocacy effort, including annual advocacy days and legislative luncheons in the state capital, and regional meetings with legislators and grantees that focus on advocacy. For example, the Children’s Trust Fund can provide staff and volunteer leaders of the state’s prevention services with data and information on issues to bring to their legislators.

An invitation to visit a local program can help to develop a relationship with the politician. Regular information can follow from the organization about prevention efforts in the community and the state. Requests for specific action on legislation or policy questions then can be made in the context of an ongoing relationship.

Twenty Action Strategies

“What’s working in your state?” Typically, this is one of the first questions asked when advocates get together. While the answers are often as varied as the states, there are many common strategies.

Here are 20 proven strategies used by advocates from around the country to help strengthen support for preventive services with public officials. While it is likely that you are already employing some of these strategies, you may find a new idea to put to work in your state.

1 Identify Candidates

in advance of elections, and become involved in state and local politics. Get to know the candidates and their campaign aides early in the game. The aides often become top policy advisors after the election, and you will already be familiar with your new governor, mayor, state legislator or city council member. Your board members are often valued participants during election campaigns.

2 Stand Up at Election Time

and begin educating politicians before they take office. Participate in candidate forums, town meetings and “meet and greet” parties in your neighborhood. Talk with the candidates about your issues. Ask the candidates where they stand on support for prevention services.

3 Welcome New Legislators to Office

after the election by writing to offer assistance on questions about services to children and families. Send along information about your organization and the situation in your state. Get to know your legislators from the beginning, many of whom are new to the issues of public support for prevention, and some of whom will be appointed to committees that handle your legislation and budgets – the leaders to whom you will turn in the future.

4 Operate as a Reliable Source

for information, an advocate’s prime commodity. Respond to all inquiries, even when asked a question you can not answer. Tell the legislator you will get back with the information, or, if appropriate, refer the query to someone who can respond.

5 Create a Good Excuse to Contact Your Legislators

when you are not asking for something. Send your legislators a copy of your newly published report, or a new guide to your programs. Seize the opportunity to show your legislators what you do and to remind them who you are. Establish a good basis of understanding for that time when you will need something from your legislators.

6 Invite a Legislator

to address your conference, or to write a column for your newsletter. Your request will force that politician to focus thoughts on your issues and, in the process, become better informed about the situation in your state.

7 Recognize Politicians

for their good work and thank the people who helped you. Wrap up your legislative advocacy campaign, after all the letters have been written to legislators asking for their support, with a letter of thanks. By giving credit where it is deserved, you are reminding legislators that their support is important to their constituents.

8 Cultivate Legislative Friends

Guarantee that you have at least one strong advocate in the legislature and as many friends as possible. Build legislative friendships over the long term by providing legislators with information that they can use to promote the cause. Show them how their support for your issues can help them achieve their other legislative goals.

9 Enlist the Legislator You Know Best

to advocate for your cause with legislative colleagues whose support is essential. Persuade your legislator to seek support for your legislative issues from politicians outside your district, because elected officials listen to the people they represent -- and also to their fellow legislators.

10 Arrange a Group to Make a Visit

to your legislator's office to discuss the impact of public support for prevention services in your community or state. Gathering a diverse group of interested and knowledgeable people can demonstrate the breadth of concern among your legislator's constituents.

11 Communicate Simply and Concisely

in discussing with your legislators what you want and what you are trying to do. Avoid using acronyms and jargon. Keep your message clear, because while you are the experts, most politicians are lay people when it comes to discussing the issues of funding for your programs.

12 Get the Votes

for your issues by asking your legislators directly if they will vote for your position. It is critical that you ask, "Will you vote to support this bill?" The worst they can do is say "no". If they are not sure, offer to provide more information, and do it right away. If they say "yes", thank them for their support and move on to get the next vote.

13 Establish an Effective Advocacy Committee

within your organization, with a clear job description and responsibilities for the committee members. Chaired by a board member, the committee should be made up of influential leaders in the community and grass roots volunteers to set up the advocacy operation, and to make policy recommendations to your organization's board.

14 Make Advocacy an Agenda Item

at every board meeting of your organization with a regular a report on relevant legislation and policy issues. The time spent discussing advocacy will help to keep your board members better informed about current issues and encourage all board members to fulfill their roles as advocates.

15 Recruit Board Members

to work as advocates. Include advocacy in the job description of board members. Bring extra clout to your advocacy by identifying community leaders who may be individuals recognized by and known to politicians.

16 Write a Monthly Advocacy Column

on important legislative issues in your state. Distribute the column to other organizations in your state. Ask that they run it each month in their own publications.

17 Organize a Statewide Advocacy Day

each year in the state capital. Provide the staff and trustees of community-based organizations throughout the state with data and information about issues to bring to their legislators. Set aside part of the day's program for tips on being an advocate in the community. Dedicate the major share of the day to time for advocates to meet with their legislators.

18 Foster and Employ a Statewide Coalition

of advocates that organizes events locally and on the state level, and that emphasizes direct contact with legislators, local officials and community leaders.

19 Promote Alliances

with other advocates such as education and law enforcement organizations, pediatricians and mental health groups, chambers of commerce and

business groups. Develop collaborative advocacy strategies with these groups on issues of mutual interest.

20 Collect Funding Examples

and anecdotes with data in support of the major arguments for funding preventive services in your community or state. Produce visual documentation to support the points you make. Keep these presentation examples and materials up-to-date and available for advocates to use.

Tips on Meeting with Your Legislators

Meeting face-to-face with your legislators is the most effective approach to public policy advocacy. You have the opportunity to present your case, raise questions, and provide the answers and information your legislator needs to do the best job in representing your interests. Build a relationship with your legislators and their staff.

Visit legislators in their offices in the capital or when they are at home. Indeed, the most productive visits are usually those that happen when your legislators are at home. They have more time then, and you have the opportunity to invite them to see your work.

- ✘ **Make an appointment:** Schedule your meeting in advance. Explain the purpose of the meeting and who will attend.
- ✘ **Be brief and concise:** You will probably have 10 to 20 minutes to meet with your legislator. If you need more time, request a breakfast or a luncheon meeting.
- ✘ **Establish a relationship:** Advocacy is a person-to-person activity. If you have friends in common or if you have met before, mention that connection during the beginning of your visit.

- ✘ **State your purpose:** Within the first few minutes, make clear who you are and why you have asked for a meeting. Be straightforward.
- ✘ **Appeal to reason:** An emotional appeal is not enough. Back your arguments with facts and substance. Show how proposed legislation would affect the prevention efforts in your state or community.
- ✘ **Ask for the business:** Tell what action you would like your legislator to take in support of your request. Never leave the meeting without asking for something. Don't hold back!
- ✘ **Make your politics local:** As a constituent, you are in the best position to explain what your legislator needs to know – what your request will mean to your community. Explain what you do and how the issue at hand will affect you.
- ✘ **Don't bluff it:** If you don't know the answer to a question, say "I don't know, but I can get that information for you." Then follow up later.
- ✘ **Seek guidance:** Ask your legislator's advice on how you might proceed with your issue. Elected officials, like anyone else, like to talk as well as listen. They can offer useful information on how to pursue your interests elsewhere.

- ✘ **Leave evidence:** Bring with you material about your program and brief written information about the issue you have discussed. It provides a reminder of your visit and a refresher on the points you have presented.
- ✘ **Appreciate staff:** You may be asked to meet with a staff member instead of with your legislator. Don't be put off. This person should

have a good understanding of your issues and will relay your concerns to your legislator.

- ✘ **Remember to thank:** Send a note thanking your legislator for the meeting. You can use this opportunity to mention any points you may have forgotten or to send information you promised to provide.

A Powerful Advocacy Tool: Showcase Your Work

It is helpful if the children's trust fund and the local program collaborate in planning visits with policy makers whenever possible. If the children's trust fund is unable to take this role, these materials can be shared with local program staff, board members and parents and the policy maker's visit can be supported in other ways. Policy makers like to see coordination and collaboration among constituents to ensure the best use of resources. It is also helpful to have a coordinated message for policy makers to make their job easier and avoid confusion. The following section relates specifically to arranging site visits to help inform policy makers about the real life results of prevention programs.

When you invite a legislator or other public official to visit your program, you have created a powerful situation for your advocacy. You have the opportunity to raise the awareness of those with influence over your program to see first hand the service you provide to the community. Inviting your elected officials to see what you do and hear from those you serve can strengthen your position as a key player on the issues important to you.

When you invite your legislator to visit your program, use the meeting to educate your legislator (and legislative staff) about your program and what you do for the district and the state by serving the families that official represents.

Arranging the Visit

You may wish to ask the legislator to address your board meeting, but the most valuable experience you can offer is an opportunity to see the work you do, the programs you support, and the families you serve. The best meeting would include three important representatives from your program or agency:

- ✘ A person with a connection to the public official, usually a member of your board
- ✘ A person with the facts about your program, usually the director of the agency
- ✘ A person with a compelling personal story, usually someone who has received your services

Scheduling the Visit

Contact the local office of your legislator and ask to speak to the scheduler. Tell the scheduler you would like to invite the legislator to visit your program. Give several possible dates. You might not get an answer right away. Follow up your phone call with a formal letter requesting the visit to your program with details about the location and what you plan to include in the visit.

Preparing for the Visit

Send briefing materials about your program to the legislator in advance of the meeting. Include any pertinent information about the public funding you receive to support the services you provide.

In addition to touring whatever facility your program offers, you want to make sufficient time for the legislator to hear from one of more representatives of the families you serve. This is the heart of the occasion.

The most convincing advocate is the individual who can talk about a personal experience and can explain how services supporting parents and families can change the lives of people and vitalize the communities in which they live.

Managing the Visit

Welcome the legislator to your program. Your board chair or a board member known to the legislator should make the welcome. Your executive director should give an overview of the program's services, some information about the demographics of the families you serve and the

scope of the problems you attempt to address. A representative of those you serve should tell a personal story about involvement with your services.

Have a photographer on hand to record the event. Make the pictures and information about the visit available to your local and community news. After the visit, send a note of thanks to your visitor along with any additional materials, including the news coverage.

The Result of the Visit

Once a legislator has been exposed to the work you do and has had the chance to understand the scope of your efforts in the community, you will surely have an advocate for your cause. You can become a trusted advisor with direct access to a legislator who can help you achieve your goals.

Sample Letter of Invitation

Date

The Honorable Legislator
State Capitol
City, State 10010

Re: Invitation to visit our agency/program

Dear Rep./Sen. Name,

On behalf of the board and staff of the Children's Trust Fund, I would like to invite to visit our program so that you might see first-hand the work we do to serve the families in your district/state.

Our work is part of the core safety net and is the first response to families under stress. Child abuse and neglect prevention is the most critical issue we can address for the long term prosperity of our state and country. Prevention reduces the chance that families will require more costly government services. The Children's Trust Fund is the only entity in our state solely focused on prevention. We hope you will agree when you have visited our program that the services we offer provide a cost-effective way to reduce the abuse and neglect of children.

I will/I have contact(ed) your scheduler to set a mutually convenient date. Your visit is much anticipated. We look forward to seeing you there.

Sincerely,

Advocacy Through the Media

The media can be a highly effective tool with which to publicize and promote the good work of prevention in your community and call attention to critical issues such as funding and policy concerns.

Utilizing the media to build public awareness for programs and to highlight the importance of supporting new parents and families in your community helps to communicate your legislative message and build grassroots support for prevention. There are many newer forms of media that may be used to gain attention and support for our issues. This section will focus on strategies that have proven effective with print and broadcast media. Some may apply to other forms as well –i.e, blogging instead of a letter to the editor.

Consider the media a partner. You're actually helping them to inform and educate the public on how your work is changing lives in your state.

Here are some general tips for working with your local media, along with some suggestions for thinking strategically about exposure in the press to help you be an effective advocate.

The Press Release and Media Advisory

Press releases and media advisories are the standard vehicle for expressing the who, what, where, when and why of your story.

The best thing to do with your release is to keep it simple. If your local newspaper is small, there is a good chance it may be printed word for word. More often, however, it is used as a starting point for a broader story. Here are some suggestions for writing your release:

- ✘ Keep it short, punchy and to the point. Limit it to one page, front and back, double-spaced (for readability).
- ✘ Engage your reader with a strong headline and catchy lead paragraph. Use action verbs.

- ✘ Think “inverted pyramid”: most important details near the top, less important in the paragraphs to follow.
- ✘ Assume your reader knows little, if anything at all, about your organization and cause. Be thorough.
- ✘ Give the editor a timeframe. By writing “For Immediate Release” on top, you are saying the information is relevant now.
- ✘ Include a boilerplate at the end to identify your organization--just a brief sentence or two explaining who you are and what you do. Remember: at the end, not in the lead!
- ✘ Be professional: avoid flashy letterhead, fancy paper, way-oversized headlines and flippant jargon; and never send something handwritten.
- ✘ Proofread!

Issue press releases and media advisories announcing activities in your community as well as any grants received, and how the money will be used and who will benefit.

Editorials

An important part of your efforts to win support for your prevention efforts in the community will be gathering editorial support from the local media. Newspapers are under no legal obligation to take a position on any particular issue or to present contrasting viewpoints, so you must take the initiative to develop good working relationships with those responsible for developing editorial positions, including editors, publishers, managing editors and beat reporters.

The publisher or managing editor decides the positions on issues that a small newspaper takes. A group from the editorial staff decides editorial positions in larger newspapers: the editorial board, comprising the publisher, editor-in-chief, managing editor, editorial page editor and editorial writers.

If you have never coordinated an editorial board meeting, contact one of these individuals, describe your organization and indicate that you would like to arrange an editorial board meeting to discuss why it is important for the newspaper to take an editorial position on the issue important to you.

If the newspaper does not have a formal editorial board, suggest an informal meeting with the publisher or editor. Ideally, you should limit the number of people you bring to an editorial board meeting to two or three. Be prepared to stress from a local perspective why public funding for prevention is important and deserves their support, using facts, anecdotes and other details.

If the paper runs a favorable editorial, make copies and distribute them to your local elected and appointed officials, members of Congress, funders, and others who may have a vested interest in your organization. It's important to maximize public relations efforts to their fullest potential and make them continue to work for you. If the newspaper decides not to take a position or to oppose your position, ask the newspaper to print an opinion-editorial, or op-ed, stating your position.

Opinion Editorials (Op-Eds)

Consider an op-ed or a letter to the editor as a forum for your views and a means of communicating with your legislators. Writing your own piece lets you make your points exactly as you want.

Before you sit down to create an op-ed, be sure you have a market for it. Feel free to call the paper and present your idea briefly to the editorial page editor, who should give you a good sense of whether it is something the paper is interested in. The editor may even suggest a direction for you to pursue. Op-eds should raise general awareness of an issue while educating policy makers and positioning your organization as a resource for the media and the public.

When writing an op-ed, it is important to underscore your broader message with examples

and statistics of local significance. Some general guidelines:

- ✘ Be clear and concise. Your op-ed should only be about 500-800 words. Include a suggested headline and byline, as well as a very short (one sentence) biographical statement about the author.
- ✘ Remember the reader. Don't get carried away with jargon. Keep your statements short and punchy. Assume your reader does not know as much as you do about the subject.
- ✘ Be creative. Take a fresh approach. Find a way to engage your reader from start to finish.
- ✘ Know your timeline. Newspapers take up to two weeks sometimes to publish an op-ed. Be patient. Keep in touch to find out the status of the piece once you have submitted it.

Letters to the Editor

Letters to the editor are an excellent and personal way to communicate about issues important to the community. Letters are usually in response to a local issue of importance or a recent article or editorial. Publications are open to critical letters, as long as they are composed in a constructive manner and raise valid concerns.

Include in the letter your name, address and phone number. Never send an anonymous letter, as the majority of newspapers refuse to publish letters without signatures. Make sure that the letter is, at maximum, 250 words in length and is proofed carefully before it is sent.

Radio and Television

Much of what has been said about approaching the print media applies equally to radio and television, except that you need to give even greater emphasis to the visual or audio possibilities of your story. Also, remember that on television or radio, there is much less time to get into the details of a story; the average piece is between 30 and 90 seconds.

Get to know the appropriate correspondents, program directors and producers on your nearest public radio and public television stations, since these are often the people most inclined to publicize a nonprofit cause in a sympathetic way. Listen to, and watch carefully, what they produce. Then consider how you can mesh your interests with theirs. Think of how you can help them by providing interesting news and feature coverage for their audiences.

A radio talk show is one of the easiest and most effective ways to get your word out. The electronic equivalent to the letter to the editor page, the talk show format has the benefit of dialogue during which you can develop your case more fully. And local radio stations reach listeners at home, at work and in transit.

Television talk shows are ideal for exploring issues and building awareness of your organization. Appearing on a show is an easy, free and fast way to raise your issue's visibility or get your message across, but, because you do not have control of the show, you must be selective about the show you appear on and your spokesperson must be prepared. Although the audience is more limited, local television affords easier access and can be

invaluable in providing exposure for your issue. Most television and cable stations publish a list of producers and will provide your organization with a copy. You should contact the producer, the host and the researcher of the program you are interested in; send a letter, along with a press release or press kit, and follow up with a phone call.

Tips for working with local television:

- ✘ Organize a list of experts from within your organization or the field, offer a source list to the assignment editor.
- ✘ Work with specialty reporters, those who consistently cover human services stories, as they can help you "sell" the story.
- ✘ In your release, if a word or name is tricky to pronounce, insert in parentheses the pronunciation in phonetics after the word.
- ✘ Provide background videotape whenever possible, particularly to smaller stations. Whether they use it or not, it may influence the way the station shoots its own story. (Be sure to include only a brief clip, however. And don't expect the tape back!)

Advocacy by Non-Profit Organizations: Tax Laws and Lobbying

Advocacy: A First Amendment Right

The U.S. Constitution guarantees the basic democratic right of all citizens to petition their government: to contact their legislators and plead a case. The leaders, members and supporters of non-profit organizations have proven themselves to be effective and respected players participating in advocacy and shaping public policy. Because non-profit organizations are an effective channel for citizens to participate in the process and

discussion of policy and legislation, the federal government clearly supports lobbying by charities.

Recognizing the value of the research and information provided by non-profit groups lobbying on various public issues, Congress enacted legislation in 1976 making it possible for charities to lobby freely for their causes, and for the communities and individuals they serve. Federal tax code regulations, issued by the IRS in 1990, reiterate the policy of providing wide latitude for charities to lobby.

Lobbying by Charities in the Public Interest

The 1976 legislation passed by Congress and enacted into law permits charitable 501(c)(3) organizations greater freedom and clarity in spending on lobbying activities. This law and its 1990 regulations are clearer than the prior law applied to 501(c)(3) groups, and are more generous about the lobbying activities in which a nonprofit can engage. Under prior law, charities could spend no more than 5 percent of total expenditures – less than a “substantial” amount, determined as a rule of thumb from a federal court ruling – on lobbying. Since the IRS regulations were issued in 1990, non-profit organizations that are tax exempt under section 501(c)(3) of the IRS Code can easily conduct their lobbying under the 501(h) provisions of the 1976 law, allowing expenditures up to 20 percent for the lobbying and advocacy activities of non-profit organizations.

In general, non-profit organizations that select 501(h) status under the lobby law may spend 20 percent of the first \$500,000 of their annual budget on lobbying (\$100,000) and 15 percent of the next \$500,000. Because lobbying by non-profit groups is rarely expensive – involving communications and printing costs, some staff time, and considerable volunteer activity – most charities are not likely even to approach overspending the legal limits on lobbying. Organizations not selecting 501(h) status still operate under the old “rule of thumb” standard permitting some small measure of lobbying activity.

The Main Elements of the Federal Lobbying Law

1. Specific permitted levels of lobbying

spending. The 1976 law states that lobbying activities are permitted, provided only that they fall within spending ceilings established in the law. The overall budget ceiling is based on a percentage of an organization’s annual budget, starting at 20% of the first \$500,000 and scaling down for expenditures over that.

For an organization with \$1,000,000 budget, for example, 20% of the first \$500,000 and 15% of the remaining \$500,000 can be used for lobbying, for a total \$175,000 lobbying budget.

The law makes a distinction between “direct lobbying” – direct communications with legislators and their staffs, with executive branch officials who participate in the formulation of legislation, and with the organization’s members to urge them to contact legislators – and “grassroots lobbying” – attempting “to influence legislation through an attempt to affect the opinions of the general public or any segment thereof”.

Expenses for “grass roots” lobbying are limited to one-quarter of the overall ceiling (\$93,750 of the allowed \$175,000 for a charity with a \$1,000,000 budget). Lobbying expenses over \$93,750 in the example must be for “direct” lobbying.

2. **Defined exclusions from lobbying.** The law describes which expenditures for activities related to public policy and legislative issues will not be considered lobbying. These include:
 - a. Discussion of broad social, economic and similar policy issues whose resolution would require legislation, so long as there is no discussion of specific legislative measures.
 - b. Responding to written requests from a legislative committee or subcommittee for technical advice on pending legislation.
 - c. Communications to members of the organization that discuss legislation but do not urge action by the members.
 - d. Providing results of analysis or research on a legislative issue with a full and fair exposition of the pertinent facts to enable the audience to form an independent opinion. This applies even to research that takes a direct position on the merits of legislation, but which

presents the facts fully and fairly and does not call the reader to contact legislators.

- e. Under the rules defining lobbying activities, a charity can make any public statement it likes on a legislative issue -- so long as it does not call for the public to act -- without the costs counting against its limit for “grass roots” lobbying.
 - f. “Self-defense” lobbying on issues that might affect the organization’s own existence or exempt status, for example.
3. **Flexible sanctions.** The law includes a system of sanctions more flexible than the tax law before 1976, to replace the “death sentence” of loss of exemption as the only sanction for violating the “substantiality” test. The initial sanction for spending above the overall or grass roots limits is a 25% excise tax on the lobbying spent in any year above the ceiling. Loss of exemption is imposed only if spending exceeds 150% of either the grassroots or total lobbying limit aggregated over a four year period.
 4. **Clear financial standards.** The previous law was unclear about what activity counts against the “substantiality” standard, but under section 501(h) the only factor that must be taken into account is the cost of communications for direct and grass roots lobbying, including the cost of preparing the communication, such as staff time, facilities, and allocable overhead.
 5. **Little additional accounting.** All Section 501(c)(3) organizations, if they have elected 501(h) or not, must report the total amount of their lobbying expenditures on Form 990. Organizations electing under 501(h) will be able to omit the detailed descriptions of lobbying activities from their tax returns. The only additional requirement for electing organizations is that they break down the expenditures into “direct” and “grass roots” lobbying activities. Both classes of organizations

must maintain records to support the entries on the tax return.

6. **Managers’ liability removed.** For organizations not electing, there is a tax on managers “who willfully and unreasonably agree to lobbying expenditures knowing they are likely to cause loss of exemptions.” This rule does not apply to organizations under section 501(h).

To elect to come under section 501(h) of the IRS Code, simply file IRS Form 5786 which identifies the organization and indicates that its governing body has elected to come under the provisions of the 1976 law.

Some Questions about 501(h) Status

Q. Does 501(h) status provide a non-profit organization with more leeway to spend on lobbying activities?

- A. Yes. The law establishes a specific dollar ceiling based on a percentage of the organization’s overall budget (higher than the vague percentage used under the old “substantial” test) with clear definitions for deciding whether an activity that could effect public policy is lobbying. The new rules are relatively generous in their percentage and specific in their definitions, relieving an organization from the ambiguity of the old situation.

Q. Does electing 501(h) status negatively affect the ability of a charity to receive grants?

- A. No. In fact, the IRS regulations specifically allow a private foundation to make a general purpose grant to an electing organization without any liability. Additionally, a private foundation may make a grant to support a specific project that includes lobbying so long as the grant is less than the amount budgeted for the non-lobbying parts of the project.

Q. Does electing put an organization on an IRS “advocacy hit list”?

A. No. Electing to come under the 1976 lobby law does not increase the chances of being audited by the IRS. The IRS indicates no connection between electing 501(h) and becoming subject to an audit on account of lobbying activities. To the contrary, the IRS auditors anticipate that questions about lobbying expenditures are more likely to arise on an audit in the case of organizations that have not elected.

Q. Does electing 501(h) change an organization’s status from that of a 501(c)(3)?

A. No. The election is a subcategory. Electing organizations retain their status and identity as 501(c)(3).

Q. Will agencies of state government be prohibited from paying dues to an organization which has made the 501(h) election?

A. No. The extent of an organization’s lobbying and advocacy activities does not change because of the election. The 501(h) designation is one that exists for purposes of accounting between the IRS and the 501(c)(3) organization.