

A FOUNDATION'S

GUIDE TO

ADVOCACY

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THE DIFFERENCE BETWEEN NETWORKING AND LOBBYING

hrough activities such as Foundations on the Hill-District Days, the Council, together with its partners, encourages grantmaking organizations to establish solid working relationships with their elected officials. Often, however, foundation officials say they cannot participate in such activities because the law does not permit them to lobby.

This is not true. While private foundations are prohibited from lobbying, exceptions to the lobbying restrictions do allow private foundations and public charities to establish positive relations with elected officials. Public charities, such as community foundations, have the flexibility to go further and engage in a limited amount of lobbying activity. Both private foundations and public charities often are surprised about the amount of permissible advocacy activity in which they can engage. While an in-depth discussion of the legal rules is beyond the scope of this publication, it hopefully will increase your organization's confidence that many discussions with legislators are permitted and encouraged.

What surprises many grantmakers is that the federal treasury regulations definition of "lobbying" is much narrower than one would expect. The regulations divide lobbying into two types: direct and grassroots. Direct lobbying is generally defined as communication with a legislator or legislative employees that reflects a view about specific legislation—bills that are introduced as well as legislative proposals. Thus, a meeting with an elected official

is not generally considered direct lobbying unless the communication between the grantmaker and the lawmaker refers to a specific piece of legislation or legislative proposal. Grassroots lobbying is generally a communication that encourages members of the public to contact legislators about specific legislation. Since the focus of this publication is on legislative visits, we will focus only on the direct lobbying definition.

Communications with legislators that do not meet the definition of direct lobbying outlined above are permissible for private foundations and public charities. For example, it is perfectly appropriate to arrange a meeting with a senator to talk about acid rain as long as your purpose is to educate the senator about the issue, not to comment on or suggest any specific legislative proposal. It is also perfectly legal to educate your lawmaker about the extent of your foundation's activities, the grants you make, and the importance of your work to your lawmaker's constituency. Such discussions constitute advocacy or networking, not lobbying.

The treasury regulations also provide exceptions to the definition of lobbying for both private foundations and public charities. For example, if a communication falls within an exception, it is not lobbying. One such exception allows private foundations and public charities to express opinions on "self-defense" issues directly with legislators (or their staff) even if there is a specific bill or legislative proposal on the topic. Self-defense issues are those that affect a private foundation or public charity's

existence, tax-exempt status, powers and duties, or the deductibility of contributions to the organization. For example, a private foundation could discuss with its lawmaker the payout rate for private foundations or encourage legislators to reduce or repeal the excise tax on net investment earnings for private foundations without violating the prohibition against lobbying. Community foundations could discuss legislation regulating donor advised funds under the self-defense exception available to many public charities.

Note that public charities may lobby legislators about specific legislation of interest to the organization even if no self-defense issue is involved. For example, a

public charity can ask its senator to vote for an appropriation that would increase funding for health insurance for children. While such a communication would be prohibited for a private foundation, it would be permissible for a public charity. Public charities wishing to engage in lobbying should familiarize themselves with the limits on lobbying and the reporting requirements to ensure compliance with the law.

Finally, remember that neither private foundations nor public charities may participate in partisan political activity including, but not limited to, assisting political campaigns, contributing to political action committees, or contributing directly to a member's campaign fund.



¹ Treas. reg. section 53.4945-2 contains the regulations on private foundation rules regarding lobbying. The Council on Foundations publication, "Top 10 Ways Private Foundations Can Influence Public Policy," provides more details on permissible advocacy activity. Treas. reg. section 56.4911 contains the regulations on lobbying by public charities that govern the section 501(h) expenditure test. The article "What You Need to Know: Getting Involved in Public Policy" provides a brief overview of the two different tests for measuring lobbying by public charities.



STEPS TO SCHEDULING A MEETING WITH YOUR MEMBER OF CONGRESS

Organize a small group of grantmakers to meet with your member of Congress.

Form a group of three to five representatives from a variety of grantmaking organizations (for example, corporate, private, and community foundations). However, any face-to-face meeting between a member of Congress and any individual(s) representing organized philanthropy is beneficial. Survey the group of attendees to see if anyone has a personal connection to the lawmaker. If someone does, ask that person to call the lawmaker's scheduler to arrange a meeting.

Send a letter to your member of Congress requesting a meeting.

Use the sample letter on page 14 (or write your own if you prefer). You can copy this letter, place it on your letterhead, and send it to your member's scheduler and tax aide. You can find your member's address and staff list on the Internet (see page 17), or you can call the Council's government relations staff for assistance. Send the letter no earlier than two months in advance and no later than two

weeks in advance. Any longer than two months and your meeting may get on the calendar, but it may also get moved numerous times. Any notice shorter than two weeks may cause the scheduler to dismiss your request. Remember that a meeting with your member doesn't always have to take place in Washington. Members have many congressional recesses throughout the year during which they are available for meetings in your home state or district. During those periods, the member is more focused on his/her constituents without having to be interrupted by votes. Please see the next section for possible meeting formats.

Follow up the letter with a telephone call or e-mail after 10 days.

To find your lawmaker's phone number, see page 17 or call the Capitol switchboard at 202-224-3121 and ask for your senator or representative's office. When you reach the office, ask to speak with the scheduler and say you are following up on a recent meeting request. Given the demands on congressional staff, you will need to be patient but persis-



tent. In fact, you may need to make several calls before establishing a firm date for a meeting. Don't give up.

Remember, too, that your member of Congress (and their staff) will be more receptive to what you have to say if they are well briefed. Take this opportunity to ask the scheduler if you can send background materials, such as:

- annual reports
- lists of grants your organization has made in the member's district
- examples of grants to organizations that represent the member's interest areas (for example, aging or health)
- issue papers about legislative activities in Congress of interest or concern to the grantmaking community (for example, self-defense issues)

issues of concern to your foundation (note that private foundations must make sure to avoid communications that would meet the definition of lobbying discussed on pages 2 and 3)

Send the materials to both the scheduler and the appropriate staff person.

Follow up with the office two to three days before the meeting.

Because congressional schedules change daily, call the member's office to confirm the date, time, and location of your meeting. Also use this as an opportunity to ask any last-minute questions or to answer any of the staff's questions. Be sure to provide at least one cell phone number for your party so the congressional staff can alert you to any last-minute scheduling conflicts.





MEETING WITH YOUR MEMBER: FORMAT OPTIONS

hile the format of your meeting is completely up to you, think outside of the box!
Keep in mind that the format should:

- suit the wishes of your member of Congress
- put the planners at ease
- fit time and/or financial constraints

When planning the location and time of the meeting, keep in mind that your member needs time to get from point A to point B to point C. This is true whether your meeting is going to take place in your home state or in Washington, D.C.

The samples below will help give you ideas for possible formats. These were all actual meetings held with members. Note that in planning any event involving the serving of food or paying for travel or other items, you will need to consider the ethics rules of the relevant governmental body before proceeding.

Council of Michigan Foundations (CMF)

Each year CMF participates in Foundations on the Hill, an advocacy event sponsored by the Council and the Forum of Regional Associations of Grantmakers. CMF brings approximately 30 foundation representatives and hosts a dinner for the entire delegation while in D.C. It selects a location near Capitol Hill to increase the likelihood that lawmakers can attend, especially if they may have to return to the Hill for a vote. The dinner has become such a tradition that some Michigan representatives ask about it before they receive the invitation!

Project Connect

Project Connect, organized by the Robert Wood Johnson Foundation, helps grantees build relationships with members of Congress. Several times a year, grantees arrange site visits or meetings with their representatives. The meetings promote the work of the foundation and its grantees to critical audiences, including the media, potential corporate funders, community organizations, and the general public.

The Community Foundation Serving Richmond and Central Virginia

Rep. Robert C. "Bobby" Scott (D-Va. 3) visited J. Sargeant Reynolds Community College at its downtown campus in Richmond, Va. The theme for the day was to highlight the work of grantmaking foundations—specifically The Community Foundation Serving Richmond and Central Virginia



and the Richmond Memorial Health Foundation. The focus was workforce development and the role of community colleges, which receive funding from both the public and private sectors.

Minnesota

The regional association in Minneapolis plans annual meetings with each of its congressional representatives. The association strives for balance, seeking variety in the types of foundations represented (corporate, community, and private). It also seeks variety in terms of the foundations' size and grantmaking interests. The resulting perspective shows the members that while the grantmaking community is diverse in its approach to philanthropy, it is unified in its purpose.

As you can see, there is no set formula for building a strong, long-lasting relationship with your member of Congress. But you can take certain steps to achieve your goal, including:

- scheduling face-to-face meetings annually
- ensuring the meetings take place
- making sure your member understands how foundations help advance the common good
- keeping in touch throughout the year via annual reports, news of special grants, etc.





CONGRESSIONAL STAFF ROLES

o those unfamiliar with the role of staff on Capitol Hill, the titles given to congressional staffers can be confusing. We have listed the most commonly used titles and principal functions of key congressional staff below so that you can communicate most effectively.

Chief of Staff (COS)

This individual has direct access to the member and overall responsibility for offering advice on legislative initiatives and constituent relations. The COS usually oversees office operations and supervises key staff. (Administrative assistant [AA] is another title used interchangeably with COS. More and more congressional offices, however, are giving the AA title to individuals in less-senior positions, such as receptionists and other front-desk staff people.)

Legislative Director (LD)/Deputy Chief of Staff/Senior Legislative Assistant

The LD monitors the member's legislative schedule and analyzes the pros and cons of specific legislative proposals for the member and COS. The LD also frequently oversees the work of the legislative assistants (see below).

Press Secretary or Communications Director

The press secretary's main function is to promote the member's views or positions on a variety of issues to the media, constituents, and the general public. This person understands the special requirements of both the print and electronic media and knows how use these tools to build effective

lines of communication with constituents and the media. The press secretary also writes media releases, attends events with the member, and defuses bad publicity.

Legislative Assistant (LA)

An LA typically reports to the LD and is charged with tracking specific issues or issue areas (for example, tax, health, energy, etc.). The LA writes floor statements, monitors legislation, researches issues for the member, keeps staff apprised of developments during committee hearings, and meets with constituents to discuss legislation.

Legislative Correspondent (LC)

The LC answers mail sent to a member's office. He or she also can help the LAs monitor legislation, meet with constituents, and write policy briefs.

Scheduler/Appointment Secretary

Schedulers manage the complex and multiple demands placed on a member. This individual must find a balance between constituent requests, congressional responsibilities, and staff requirements in deciding the member's availability for meetings. The scheduler also may be responsible for making travel arrangements, arranging speaking dates, and planning visits to the district.

Other Staff Titles

Other members of the representative's staff may include caseworkers (who are assigned to help resolve constituent issues in the state/district), the office manager, and receptionists (sometimes known as administrative assistants—see above).

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MEETING WITH YOUR REPRESENTATIVE: WHAT TO SAY AND HOW TO SAY IT

n meeting with your member of Congress, the goal is to educate and inform and, in some cases, persuade. You want your representative to understand the importance of your work and respond to your concerns.

Before the meeting, you will need to do some homework so you can provide relevant examples of grantmaking and community involvement. You want to leave a positive and lasting impression of the work you are doing and why you are doing it. Having specific examples for your senators and house members is key to portraying how your work is affecting their constituents.

To make your job easier, here is a sample agenda for your meeting.

Give a brief introduction

Start with the basic facts, including who you are (individual or group), where you are located, and the type(s) of foundation(s) you represent. Offer some examples of your mission and grantmaking focus. For example, you might offer an anecdote such as, "Our donor has a keen interest in education. Last year, in accordance with our mission to promote educational excellence in St. Clair County, we provided scholarships for 28 high school seniors to attend state universities." Also provide copies of annual reports or similar information, if possible.

State your case

Explain the important role foundations play in your member's state or district, including:

- the number of foundations that reside there
- the types of charities supported by your grants
- the annual level of grantmaking

Tailor this information to your member's areas of interest and committee assignments. The Foundation Center is a great source of data. Its annual yearbook, "Foundation Giving," provides fiscal data on grantmaking foundations by region and state (see list of references, page 18).

Discuss self-defense issues

As mentioned above, private foundations and public charities may discuss self-defense issues with their legislators. The Council—which regularly reports to its members on all current legislative issues affecting grantmakers—and its Policy Action Center are great resources on these issues. You can find issue papers on a variety of topics that you can download and leave behind with your law-maker. The Council's government relations staff members also are willing to brief you by phone in preparation for a congressional visit.

As discussed in more detail on pages 2 and 3, public charity grantmakers may engage in some lobbying activity and also may choose to discuss other legislative issues of importance to the charity.

Ask the important questions

During your meeting, be sure to ask:

- Would the member like to receive more information on the philanthropic sector in his/her state or district?
- Which staff person is the main contact for followup, especially with respect to tax bills?
- How can you assist your legislator?
- How can your legislator help you? Can s/he cosponsor or support a bill or join the Congressional Philanthropy Caucus? Please remember to refer to pages 2 and 3 for the rules on networking and lobbying for foundations.

Offer to be a resource to the member on all charitable issues. In some cases, providing information about other issues (for example, health care delivery or affordable housing) may be possible under another exception to the lobbying rules that allows a private foundation or public charity to produce and share nonpartisan analysis, study, or research.² No matter where you get the information—through your regional association, the Council, or the Foundation Center—your member of Congress will regard you as a valuable resource.

Thank your member for spending time with you

A thank you goes a long way! Exchange business cards with any staffers in attendance and offer to send any additional materials requested.

Don't forget to thank the tax aide and scheduler

It is important to maintain a relationship with not only the member of Congress, but his or her tax aide and scheduler. Both of these staffers make it possible to bend the member's ear year-round on issues affecting the philanthropic sector. Remember to thank them both for setting up your meeting. Make sure you are sending the tax aide correspondence on a regular

basis, even if it is just a short call or e-mail to update them on your work.

A final note:

How will you know if your meeting has been a success? Sometimes that answer becomes obvious over time, especially if your member cosponsors important legislation or is willing to support your opposition to a bill that could be detrimental to the philanthropic field.

On other occasions the answer is more immediate. Your representative might call the next day wanting to know how to obtain a grant for a constituent. Your first thought should be, "Great. They see us as a valuable resource." You've established a dialogue and are on track to building a mutually beneficial relationship. Obviously, you will need to explain that each foundation has its own mission and funding, and cannot fund every worthy program or area. Your representative should be comfortable with this concept, knowing that Congress also cannot fund everything and must set priorities. Again, you have an opportunity to educate your lawmaker about the limits as well as the advantages of organized philanthropy.

The test of success lies in the answers to your own questions.

- Does my congressional representative better understand the role of foundations in improving the lives of the citizens of our city, state, and nation?
- Have I left the member with a memorable, anecdotal example of a grant that illustrates the valuable contributions our foundation has made to constituents?
- Have I "put a human face" on my foundation's grantmaking?

If you can answer yes to these questions, you will have taken an essential step toward creating a legislative climate that will allow philanthropy to flourish.

² While the details of this exception are beyond the scope of this publication, find more details on this at www.foundationsonthehill.org and www.cof.org/legal.



FOLLOW-UP, FOLLOW-UP, FOLLOW-UP!

his publication tells you how to have a successful meeting with your congressional representatives. To continue the momentum and establish a strong, mutually beneficial relationship, you need to keep the lines of communication open. Here are a few ways you can do that.

Send a thank-you letter

First on the list of follow-up duties is writing a thankyou letter. Fax the letter to your member and copy (or e-mail) it to the legislative assistant handling tax issues. Keep it to one page if possible and:

- recognize the member's legislative efforts affecting foundations
- express your appreciation for the time spent meeting with you
- provide a brief recap of the issues discussed
- offer to send additional information (or include the promised materials as part of the fax)
- express your hope that future meetings will take place

Invite your representative to select events

Occasionally invite your member to events such as site visits and grant award ceremonies when they are back in their home states or districts. These events demonstrate philanthropy at work and allow the member to speak to a group of grantmakers and grantees. The most opportune

times are when Congress is in recess during major calendar holidays, such as Memorial Day, Independence Day, and Labor Day. The Council can help facilitate these events and meetings during Foundations on the Hill-District Days.

Send materials about philanthropy to your member's office

Keep your member informed of your work via carefully targeted materials, such as your annual report, special studies, or media coverage of your organization's grantmaking. Send the materials to the attention of the staff member(s) who attended your meeting!

Renew the personal acquaintance at least once a year

Let your member know that you would like to meet formally at least once a year to discuss local philanthropic efforts as well as legislative issues affecting foundations and the charitable sector. If you plan to meet with the member as part of a larger group, share the responsibility for planning the event with your foundation peers.

Through your efforts, you can help create a climate in which philanthropy can flourish. We've offered a blueprint you can follow to begin establishing a long-term and mutually beneficial relationship with your members of Congress. Good luck!



FORMAT FOR A FAX TO CONGRESS

To a Senator

The Honorable (Full Name) United States Senate Washington, DC 20510

Dear Senator (Last Name):

Your message

To a Representative

The Honorable (Full Name) House of Representatives Washington, DC 20515

Dear Representative (Last Name):

Your message

Note: When writing to the chair of a committee or the Speaker of the House, it is proper to address him or her as Dear Mr. Chairman or Madam Chairwoman, or Dear Mr. Speaker or Madam Speaker.

FORMAT FOR AN E-MAIL TO CONGRESS

When addressing an e-mail to a member of Congress, follow the same format as a printed letter. In the subject line of your e-mail, include the issue or bill number. The body of your message should use this format:

Your Name Street Address City, State ZIP

Dear (Title) (Last Name):

Your message

SAMPLE LETTER #1: REQUESTING A MEETING

[If faxing, insert your foundation's letterhead]

[Insert Date]

The Honorable (Full Name)
(Room #, Name of Building)
United States Senate/House of Representatives
Washington, DC 20510/20515

Dear Senator/Representative [insert last name]:

I would like to request the opportunity [to meet/for a small group to meet] with you on [date and location].

[Insert information regarding who you are, what your organization does, and what area(s) it covers]. Our most recent data indicate that there are [X number] of grantmaking foundations in [state name], with combined assets over \$X, making grants annually of \$X.

During our meeting, I/we would like to discuss how our foundation is positively impacting our state and local communities and how Congress can continue to support and encourage philanthropy.

I will call your office to confirm receipt of this letter and to speak with your scheduler about a specific meeting time. I look forward to meeting with you and your staff.

Sincerely,

[Insert your full name and telephone number. If e-mail, insert your full address as well.]

cc: [Insert full names of any staff members in your meeting]

SAMPLE LETTER #2: THANK YOU LETTER

[If faxing, insert your foundation's letterhead]

[Insert Date]

The Honorable (Full Name)
(Room #, Name of Building)
United States Senate/House of Representatives
Washington, DC 20510/20515

Dear Senator/Representative [insert last name]:

Thank you for taking the time to meet with me and [insert names of other group members, if any] on [date/place]. We enjoyed talking with you about the good work of our foundations and our mutual interests in growing philanthropy in ways that both merit the public trust and effectively address the needs of our communities.

During the meeting, we discussed **[issue/s]**. I/We would welcome the opportunity to meet with you again at a future date and time to keep you apprised of the work we are doing and to share with you any new or updated information. **[Name]** will be in touch with your district staff to work out a mutually convenient date.

Again, thank you for meeting with our group. Please feel free to contact me by phone **[insert phone number]** or e-mail **[insert e-mail address]** for additional information about our foundation or philanthropy in **[insert state]**.

Sincerely,

[Insert your full name and telephone number. If e-mail, insert your full address as well.]

cc: [Insert full names of any staff members in your meeting]



USEFUL INTERNET SITES

Council on Foundations Policy Action Center

http://www.cof.org/policy

For the philanthropic sector to fulfill its mission to serve our communities and those in need, it must be engaged in the public policy process. As Congress continues to examine the charitable sector—looking at compensation, foundation governance, and charitable giving vehicles like donor advised funds and supporting organizations—it is vital that lawmakers hear from their foundation constituents. The Policy Action Center allows Council members to read about calls to action and legislative developments that affect philanthropy. Direct communication is one of the most effective ways foundation constituents can and should communicate with their congressional members. Therefore, by visiting the Policy Action Center, visitors can send a formal and timely message to their legislators in less than five minutes. Visitors also can sign up for the Legislative Network, a free weekly update sent directly to one's inbox.

Foundations on the Hill Website http://www.foundationsonthehill.org

Foundations on the Hill-District Days (FOTH-DD) Website

http://www.foundationsonthehill.org/districtdays/

Every year, the Council and the Forum of Regional Associations of Grantmakers (the Forum) co-hosts FOTH, a two-day legislative and public policy event in Washington, D.C., for foundation staff and philanthropic leaders. The goal of FOTH is to

promote to members of Congress the important role foundations and philanthropy play in serving the public good.

When members are home during congressional recess breaks, we encourage you to participate in FOTH-DD. While the longest recess break takes place in August, there are many recesses to take advantage of during any given year. Also cosponsored by the Council and the Forum, FOTH-DD is an opportunity to show members what you are doing to help get their job done in the community.

Because we believe that building strong relationships with lawmakers is one of the most effective ways foundations can communicate their message, FOTH and FOTH-DD both offer an ideal opportunity for foundation staff members, board members, and trustees to personally meet and discuss their work with their elected representative and senators. To prepare for meetings on Capitol Hill, participants receive training, background materials, and legislative briefings on key issues.

The FOTH website also contains information and resources on the legal rules referenced in this publication. The memorandum on "Legal Considerations when Meeting with Legislators and Legislative Staff" may be particularly helpful.

Council on Foundations Legal Information http://www.cof.org/legal

This section of the Council's website contains information on legal issues. Information about advocacy and lobbying rules are available under the grantmaking resources.

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THOMAS

http://thomas.loc.gov

Acting under the directive of the leadership of the 104th Congress to make federal legislative information freely available to the public, a Library of Congress team brought the THOMAS World Wide Web system (named for Thomas Jefferson) online in January 1995. It includes information on the floor activities of both the House and Senate, information on any bill dating back from the 104th Congress to the current session, and access to the Congressional Record.

U.S. House of Representatives http://www.house.gov

This site contains information and links to individual leadership, member, and committee offices; a complete House directory; current floor action information; C-SPAN programming; and the Internet Law Library and Library of Congress.

U.S. Senate

http://www.senate.gov

At the Senate's homepage, you can access information on legislative activities, committee information, links to individual senators' websites, contact information, and historical background on the Senate.

The White House

http://www.whitehouse.gov

At this site, you can obtain information about the president and vice president, read White House press releases, look through White House historical documents, get information about White House tours, and browse the White House library.





REFERENCE BOOKS

Congressional Yellow Book

Published quarterly, it provides current information on members and staffs.

Leadership Directories, Inc.

1001 G Street N.W., Suite 200 East

Washington, DC 20001 Phone: 202-347-7757

http://www.leadershipdirectories.com

Congressional Staff Directories

Provide detailed information on staff as well as members of Congress.

CQ-Roll Call Group

1255 22nd Street N.W.

Washington, DC 20037

Phone: 202-419-8500 http://www.cq.com

Politics in America

Published in July following election of a new

Congress.

CQ-Roll Call Group

1255 22nd Street N.W.

Washington, DC 20037

Phone: 202-419-8500 http://www.cq.com

The Almanac of American Politics

The Almanac presents everything you need to know about current American politics.

The National Journal Group

600 New Hampshire Avenue N.W.

Washington, DC 20037

Phone: 202-739-8400

http://www.nationaljournal.com

Foundation Giving Trends

A yearbook of facts and figures on private, corporate, and community foundations.

rate, and community roundations

The Foundation Center

79 Fifth Avenue/16th Street

New York, NY 10003-3076

Phone: 212-620-4230 http://www.fdncenter.org

Council on Foundations

To contact the Council's Legal Services and Public Policy Department, please call 703-879-0600 or e-mail govt@cof.org.