

# Advocacy vs. Lobbying: What's the Difference? Understanding Regulations for Researchers and Nonprofits

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Authors: Brennah Ross, Ciara Nestor, Brittany Gay, Taylor Scott



## Purpose and Overview

Researchers are often interested in providing their expertise to assist lawmakers' creation of evidence-based legislation but may be unfamiliar with the rules and regulations around advocacy and lobbying. This practice brief reviews the key differences between lobbying and advocacy and the rules that nonprofit or federally funded researchers need to consider when engaging in policy-related work.

The Research-to-Policy Collaboration model aims to engage researchers in non-lobbying activities consistent with an “**honest brokerage**” approach, which entails providing a menu of ideologically diverse policy options rather than narrow and specific legislative recommendations.



## What's the Difference Between Lobbying and Advocacy?

All lobbying is advocacy, but not all advocacy is lobbying. The main difference between lobbying and advocacy is that **lobbying indicates an opinion about specific legislative change** (e.g., particular changes to specific laws). Lobbying is always allowed as a private citizen, but researchers should be cautious about using **resources** (e.g., paid time, grant funded travel) to lobby whilst in a professional capacity. This restriction is related to what resources are used for lobbying – thus the amount of time used is the focus of any required reporting for tax-exempt organizations. Government funding is strictly prohibited from being used for lobbying; though many researchers receive blended funding that is less explicitly restrictive. In short, if you're worried: minimize the use of organizational resources for lobbying.

### Is the Work Supporting a Position & Referencing Specific Existing Legislation?

**NO**  
↓

**YES**  
↓

#### General Advocacy

#### Lobbying

- Sharing best practices and success stories, including model legislation
  - Making available **nonpartisan** analysis, study or research
  - Examining or discussing broad, social, economic and similar problems
- Updating an organization's members on the status of legislation, **without** a call to action
- Providing technical assistance or public advice to legislative body in response to a written request (e.g., hearings)
- Communication about matters affecting the existence of a tax-exempt organization (the "self-defense" exception)
- Coalition building
- Providing comments or research on administrative/agency rules or regulations

- Attempting to influence specific legislation
  - Advocating for the adoption or rejection of legislation
  - Writing lobbying materials that support a position or specific recommendation
  - Preparing arguments in support of your position
- Contacting legislative staff in support or opposition to specific legislation (i.e., direct lobbying)
  - Including time for preparing and planning
- Urging the public to contact legislative staff in support or opposition to specific legislation (i.e., grassroots lobbying)
- Strategy or coalition meetings that coordinate lobbying activities about specific legislation

## Lobbying Rules for Nonprofit Organizations

Many researchers' workplaces and affiliations are likely nonprofits and, more specifically, nonprofits categorized as 501(c)(3)s (e.g., public colleges or universities, research institutes). As such, it is important that researchers are aware of the lobbying rules for nonprofit organizations. Nonprofits classified as 501(c)(3)s public charities must not use "substantial" resources for lobbying, though it is not prohibited outright. These organizations have the right to lobby for issues they believe in or against issues they do not. It is only when this advocacy deals with specific legislation that calculated cost limits apply. If the rule that "no substantial part" of activities be dedicated to lobbying seems too vague, consider an "election" to allow your organization to precisely report the amount of money spent on direct or grassroots lobbying. Researchers should consult with their organizational leadership about lobbying definitions, allowable activities, and how their paid time may be used when communicating recommendations to legislators.

## Lobbying Rules for Researchers who Receive Federal Grant Funds

There may also be lobbying restrictions put forth by funders. In particular, researchers with grants/funding from the government should be cautious about lobbying. This does not mean that they cannot lobby; it just means that they cannot use government funds (e.g., paid time, travel funds) or resources (e.g., email addresses, computers) to support lobbying activities.

As a <u>nonprofit</u> or <u>federally funded</u> research you can (and should!)...	You <u>cannot</u> use restricted <u>funds</u> or <u>resources</u> for...
<ul style="list-style-type: none"> <li>• Share research and implications outside academia</li> <li>• Share best practices and success stories with lawmakers</li> <li>• Share evidence-based policy approaches or describe model legislation</li> <li>• Speak as an individual scientist (if you are concerned about representing your organization)</li> <li>• Lobby as an individual citizen on a voluntary basis (e.g., call or write your legislators)</li> </ul>	<ul style="list-style-type: none"> <li>• Lobbying regarding pending or proposed legislation, resolution, appropriation, or measure</li> <li>• Pressuring government officials in relation to pending or proposed legislation</li> <li>• Supporting activities that take a position on pending or proposed legislation</li> </ul>

## How can Researchers Avoid the Slippery Slope from Advocacy into Lobbying?

It can be easy to unintentionally move from advocacy work to lobbying, some ways to avoid this slippery slope include:

- Focus on the issues and evidence
- Make ranging, specific recommendations as an honest broker
- Describe legislation objectively (not your opinion)
- Describe how evidence does or does not align with issues the legislation addresses
- Provide resources and responses in a publicly accessible format

Examples of Education/Advocacy vs. Lobbying Language	
Education/Advocacy	Lobbying
<p><i>The Juvenile Justice and Delinquency Prevention Act regulates the incarceration practices among juveniles, including deinstitutionalizing status offenders. Research shows that incarcerating low-risk offenders is related to higher recidivism rates.</i></p>	<p><i>We urge you to support the Juvenile Justice and Delinquency Prevention Act to reduce incarceration of low-risk offenders and lower recidivism rates.</i></p>

## What are the Exceptions to Lobbying?

Activities or communications that meet the definition of lobbying are acceptable for researchers or nonprofits to engage in under specified circumstances. Most interactions with non-legislative policymakers (e.g., in administration) are not considered lobbying. Two other exceptions to the lobbying definition are described below. These activities would not be considered lobbying. Additional information on other exceptions (e.g., self-defense, jointly funded project, broad social economic or similar problems) can be accessed [here](#).

Technical Assistance	The Nonpartisan Analysis, Study, or Research
<ul style="list-style-type: none"><li>• Researchers and nonprofits may be asked by a legislative body or committee to share their expertise in regard to a specific piece of legislation.</li><li>• Researchers and nonprofits are allowed to answer this request and provide their input, as long as the following criteria are met:<ol style="list-style-type: none"><li>1. The request must be made in writing by the entire legislative body or committee.</li><li>2. The expertise is provided to the entire legislative body or committee (i.e., not just one side, or a select few members).</li></ol></li></ul>	<ul style="list-style-type: none"><li>• In order to meet this exception, the communication must include a full and fair discussion and be broadly disseminated (e.g., made available online).</li><li>• If the above conditions are met, researchers or nonprofits may:<ol style="list-style-type: none"><li>1. Express an opinion or view related to specific legislation.</li><li>2. Include an <b>indirect</b> call to action (e.g., listing the legislators involved), but <b>cannot</b> include a <b>direct</b> call to action (e.g., telling readers to contact the legislators).</li></ol></li></ul>

## What Other Resources are Available on this Topic?

- Why scientists should be advocates
- NIH lobbying restrictions
- Nonprofit regulations by Independent Sector
- Nonprofit Limitations by the Center for Association Leadership
- Advice from a government agency
- IRS definitions of lobbying
- Advice for Nonprofits by Community Action Program Legal Services
- States' legislative ethics and lobbying laws
- The Technical Advice Exception
- Descriptions of all lobbying exceptions
- For additional guidance, consider reaching out to Bolder Advocacy at [advocacy@afj.org](mailto:advocacy@afj.org) or 1-866-NPLOBBY

