



Rules of the Road

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Dan Hunter, Massachusetts Advocates for the Arts, Sciences, and Humanities

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Education, Advocacy & Lobbying

Education *ed·u·ca·tion*

Noun: the act or process of imparting or acquiring general knowledge

Examples:

The arts add value to society

The arts create jobs and tax revenue

Arts education diminishes the drop out rate

Kids with an arts education score, on average, 100 points higher on their SATs

The non-profit arts generate \$166.2 billion a year in economic activity





Education, Advocacy & Lobbying

Advocacy *ad·vo·ca·cy*

Noun: The act of pleading or arguing in favor of something, such as a cause, idea, or policy; active support

Examples:

Support the arts as they add value to society

Support the arts as they create jobs and tax revenue

Support arts education as it diminishes the drop out rate and kids with arts education score, on average, 100 points higher on their SATs

Support the non-profit arts as it generates \$166.2 billion a year in economic activity

Oppose efforts to cut arts funding





Education, Advocacy & Lobbying

Lobbying *lob·by·ing*

Verb: To try to influence the thinking of legislators or other public officials for or against a specific cause

Examples:

Support increasing funding for the NEA and NEH in the FY09 Appropriations Bill

Support increasing funding for arts education in the FY09 Appropriations Bill

Cosponsor S.548 or H.R. 1524, the artist fair-market value deduction bill



501(c)(3)s & 501(c)(4)s

Elections, Ballot Initiatives & Lobbying –

What's What??



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501(c)(3)s & Electioneering

- 501(c)(3)s are absolutely prohibited from supporting or opposing candidates for public office.
- Other allowable activities in an election – covered later.



Ballot Initiatives & Referenda

- Proposed statutory changes or constitutional amendments put on election ballots for public vote.
- Not Electioneering – prohibition applies only to work “for or against candidates for public office.”
- Is Lobbying – passing laws.
- 501(c)(3)s can lobby.

Two Forms of Lobbying

- **Direct Lobbying**
 - when an organization attempts to influence specific legislation by stating its position to a legislator or other government employee who participates in the formulation of legislation, through its staff or members.

Two Forms of Lobbying

- **Grassroots lobbying**
 - When an organization urges the general public to take action on specific legislation.

- **Key elements of grassroots lobbying:**
 - Refer to specific legislation;
 - Reflect or state a point of view on the legislation's merits; and
 - Encourage the general public to contact legislators.

Is Work on a Ballot Initiative Direct or Grassroots Lobbying??



Ballot Initiative Work is Direct Lobbying

- Public becomes the legislature.
- Lobbying the public to vote for or against a legislative/constitutional measure.
- Important because (c)(3)s can spend more on direct lobbying.



How much can a 501(c)(3) spend on Lobbying?

- **A generous amount:**
 - 20 % of the first \$500,000 of annual expenditures;
 - 15 % of the next \$500,000;
 - 10 % of the next \$500,000;
 - 5 percent for every additional \$500,000 up to \$1 million.

ABC nonprofit with expenditures of \$50,000.

- 20% of \$50,000 = \$10,000 = Overall lobbying limit

Grassroots Lobbying Expenditures Limited

- Charitable nonprofits may spend 25% of their total allowable lobbying expenditures on grassroots lobbying.
- **ABC nonprofit with expenditures of \$50,000.**
 - 20% of \$50,000 = \$10,000 = Overall lobbying limit
 - 25% of \$10,000 = \$2,500 = Grassroots lobbying limit
 - Total lobbying activity \$2,500 on grassroots lobbying, and \$7,500 on direct lobbying or all \$10,000 on direct lobbying.



Only 501(h) Electors

- These expenditure limits and lobbying definitions only apply to (c)(3)s that take the (h) election.
- Easy to do!
- If not an (h) elector, lobbying cannot be a “substantial part” of your activities.
- Substantial not defined. No set expenditure limits or definitions.





Commons Myths & Misperceptions

- If we receive government funding, we cannot lobby at all.
- We cannot use foundation funds for lobbying.
- We cannot lobby a candidate for public office during an election season.



More Latitude for (c)(4)s and 527s

- (c)(4)s
 - No restrictions or limitations on lobbying.
 - Can work on behalf of candidates (support or oppose) but only secondary activity.
 - Contributions are not tax deductible.
- 527s
 - Sole focus on candidate campaigns.
 - Only work on ballot initiative if clear nexus between it and candidate's prospects for election.
 - Funds must come from traditional political sources (donations, dues, etc)
 - Contributions not tax deductible.



Check State Laws

- State Election Laws.
- State Tax Laws – especially on ballot measure activities.

Basic Rule

Section 501(c)(3) organizations may engage in educational activities related to the electoral process as long as they do not:

- participate or intervene in any political campaign
- in support of, or in opposition to, any candidate for public office



Permissible Educational Activities

- Voter guides/candidate questionnaires
- Candidate forums
- Officeholder scorecards
- Voter registration
- Issue education





Voter Guides/Candidate Questionnaires

- All candidates asked to participate
- All responses published, unedited
- No indication of preference
 - Editorial opinion
 - Comparison to organization's positions
- Variety of issues





Officeholder Scorecards

- Voting records of politicians
- No indication of preference
- Variety of issues
- Method and timing of distribution relevant



Candidate Forums

- All candidates invited
- Range of issues addressed
- Equal opportunity to respond
- No indication of preference
 - Editorial comments





Voter Registration/Get-Out-The-Vote

- Must be nonpartisan
- Not directed at voters likely to support a particular candidate





Issue Education

- A 501(c)(3) does not lose its ability to engage in educational activities simply because a political campaign is in process
- In fact, it is during the election season that the interest of voters in key issues may be at its highest





Some Helpful Factors for Issue

- A history of non-electoral issue education
- Research showing the need for education
- Disclaimers of endorsements
- No reference to a candidate





Examples of Prohibited Political Conduct

- Endorsement of a candidate
 - Fundraising appeals
- Rating of candidates
- Contributions to candidates
- Distribution of materials prepared by candidates
- Establishment of a PAC





Other Issues

- Penalties for engaging in prohibited political conduct
- Relevance of election laws





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In the Beginning...



Arts 'Wins'

- All 5 D's publish arts policy platform
 - all 5 platforms include key arts proposals
- Arts coverage as an election issue
- Outreach to 67,000 arts voters
- "Sold-out" candidates forum on arts issues
- Arts-inclined candidate elected

*"The arts and culture people
are smart and well organized."*

Wendy Warren, Philadelphia Daily News



Keeping the Promise

In his first six months in office, Mayor Nutter is:

- Doubling the Cultural Fund
- Preserving Historic Facilities
- Appearing Onstage
- Using the Data

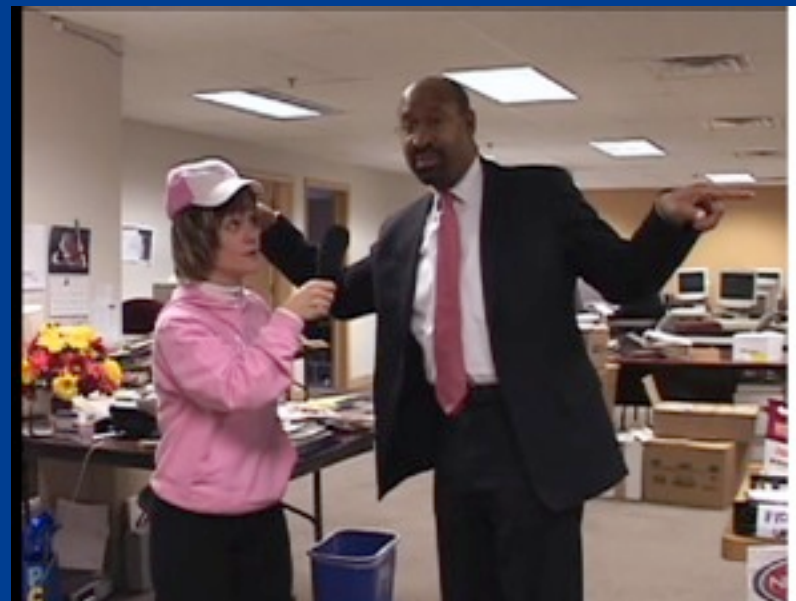
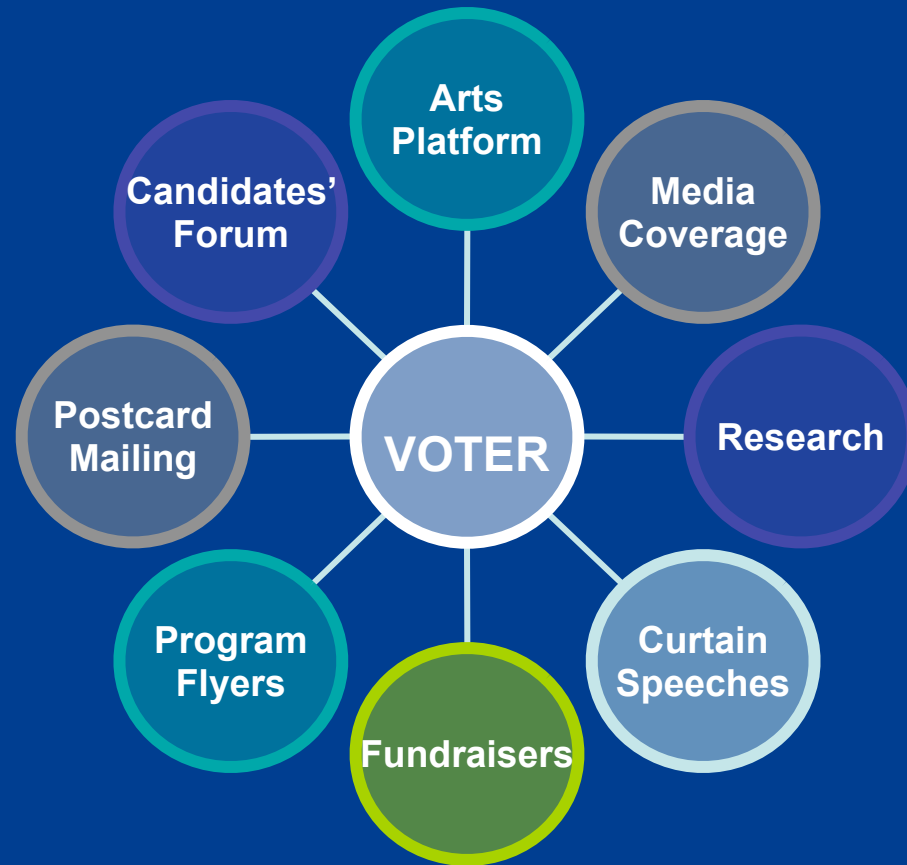


Photo Credit: Jennifer Childs, as Patsy from South Philly, interviews Philadelphia Mayor Michael Nutter for 1812 Productions' production of *This Is The Week That Is: More Political Humor for the Holidays*. Photo taken from video footage by Jorge Cousineau.

Surround the Voter(s)



Surround the Candidate(s)





No (Wo)Man is an Island

- Advocacy Task Force
- Arts Colleagues
- Service Organizations
- Political Consultant

Caveat: Not everyone has to be on board to move ahead.





Pay-to-Play

- Political consultant: \$10,000 (\$2,500/month)
- Research reports: \$450,000
- Candidates' forum: \$3,000
- Arts Voter outreach: \$7,500
- Staff time: 2 people, 5 months

Advocacy Impact: Priceless





Sticky Situations

- Media wants endorsement
- Candidates want mailing list
- Candidate backs out of forum
- Candidate doesn't show at forum
- Other party demands to be heard





Parting Thoughts

- Set Goals
- Show Up & Do Something
- Take the Long View
- The Glass is Half-Full



Quote

I went to the event with very little concrete knowledge of any of the candidates and didn't expect to come away with too much of an opinion of them afterwards.

Given the limited scope of discussion, the arts and funding, I didn't expect to learn enough about each candidate to form a whole picture of what kind of candidate each person would be.

I was wrong. I learned quite a lot.



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Overview

- Impacting political decision making is about access.
- Access is directly tied to relationships
- If you want to be a player, you have to play by the rules that exist, not the rules you think should govern.
- Money plays a role and that's a fact.
- Making the case is only part of succeeding.
- It's an on-going process.

WHAT CAN YOU DO RIGHT NOW:





LEVEL 1: Set up creating the foundation for your future efforts.

- Always be proactive, not reactive.
- As a 501 (c) (3) you can advocate and educate all you want. You can lobby for or against legislation within limits. You can support candidates as individual citizens, but NOT as an officer or agent of your organization.
- Make the 501 (h) IRS election.
- Begin to create an advocacy / lobbying apparatus within your organization now. It will be easier to get what you want if you don't have to scramble to create the mechanisms when you need them.



LEVEL 1 (cont.): Set up creating the foundation for your future efforts.

- Begin to involve the whole of your organization in your advocacy efforts even if that means changing the culture of your organization towards advocacy. Appoint somebody to be the point person (staff member, volunteer, board member – somebody has to be in charge of the effort).
- Take advantage of this election year to begin to build relationships with elected officials even if you have no specific goal at the moment. Relationships give you access and access is the currency in politics.
- Consider alliances, coalitions and stakeholder involvement. It's easier to get where you want to go if you don't have to do it alone. But don't make the erroneous assumption that someone else will do it for you.





LEVEL 2: Know what you want and why.

- First, determine your objective(s) – short or long range. Be specific about what outcome you want or might want.
- Second, create some sort of plan and timeline of what you have to do to reach your objective.





LEVEL 3: Assessment.

- Identify your strengths and weaknesses
- Identify who in YOUR organization has a personal relationship with elected officials
- Determine what you need to be more effective as an advocate and lobbyist, and prioritize your immediate needs.



LEVEL 4: Action.

- Build RELATIONSHIPS with elected officials.
- Cultivate an angel to champion your current or future position.
 - Meet with them to introduce them to your issue.
 - Begin the two way street – invite them to your events, photo opportunities, and provide them the chance for them to cast a wider net for supporters.



LEVEL 4 (cont.): Action.

- Involve the people in your organization – as **INDIVIDUALS** – in supporting candidates for public office that support you.
 - Hold fundraising events for candidates where it makes sense as **INDIVIDUALS** and **NOT** in any official capacity of your organizational role.
 - Court media support – again, it is all about **RELATIONSHIPS**.





LEVEL 4 (cont.): Action.

- Begin to mobilize your foot soldiers.
 - Communicate
 - Train
 - Empower
 - Decentralize
 - Cast a wider net
 - Motivate





LEVEL 5: Prepare for the future NOW.

- Prepare to make the case for what it is you want – gather evidence and stories. Make these examples local in nature.
- Act on building a coalition, forming alliances and recruiting stakeholders
- Consider long term strategy – formation of a 501(c)(4), then a PAC
 - Get local legal and accounting advice
- Provide training to volunteers on how to stay on message and be effective





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Navigating the Road to Election Day

How Cultural Advocates Must Use Elections

- Plan Your Trip
- Know Your Destination
- Friends, Enemies and Everything in Between
- Help Your Friends
- It Doesn't End on Election Day





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