lobbying vs. advocacy

How to use your voice without breaking the rules



newfutures

today's **presenters**



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Vice President of Advocacy, New Futures



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Initiative Leader, Behavioral Health,
New Hampshire Charitable Foundation

who we are

Solving problems through policy change.

New Futures works to improve the health and well-being of all Granite Staters through public policy change and civic empowerment.



how we **do it**



Promoting Civic Engagement

to empower Granite Staters to take action on issues they care about.

Educating Communities

about the legislative process in NH.

Building Partnerships

to work together to solve NH's health problems.

Advancing Public Policy

to build a brighter, healthier NH.

our impact

2025 legislative session



225+

bills tracked

50+

policy wins

3,400+

unique advocates

4,100+

actions taken

More than $199 Million

secured in the 2026-2027 NH state budget for programs supporting NH's most vulnerable children, families, and individuals

Every one dollar invested in **New Futures** returned **$111** in funding for critical community programs!

overview of **today's session**

- **High level review of the various laws/rules that impact non-profits lobbying ability**
- **Different types of advocacy non-profits can engage in**
- **A Funder's perspective: Why it's important to support advocacy ?**

legal disclaimer



- New Futures provides this presentation to community partners at no cost.
- New Futures staff members do not represent clients.
- New Futures staff members are not legal counsel.
- This presentation is not a substitute for legal counsel.
- This presentation just hits the high points. Request a full Lobbying vs Advocacy training at www.new-futures.org

why does nonprofit advocacy **matter?**



NH relies on nonprofits to deliver human services that are mandated by state & federal law.

We speak for the needs of NH residents, especially our most vulnerable.

We are trusted allies of those we serve. We can empower them to share their stories.



state legislators

- Volunteers
- No research staff
- 424 members

What Can Nonprofits Do and Not Do?

Nonprofits CAN advocate!

Advocacy is educating legislators and other covered officials about your work & what your field and organization does.

Nonprofits CAN lobby

If it constitutes 5% of annual budget or less (more later)

Nonprofits CANNOT participate in political intervention

including political campaigns and endorsing or opposing any candidate for office.

Nonprofit CAN do voter registration drives

including voter engagement, publicize that Election Day is coming and share information about where to register, registration deadlines and other voter information.

nonprofits must be **nonpartisan**



- Advocate on an *issue*
- Conduct candidate forums will **all** candidates
- Send questionnaires to each candidate
- Voter education on issues
- Voter registration
- Candidate education

What Can Nonprofits Staff and Board Members Do?

- Nonprofit organizations are prohibited from supporting or opposing candidates for public office (“campaign intervention”). **This prohibition, however, does not apply to the activities of board members when they are acting in their individual capacity.**
- Nonprofit staff do not give up the right or privilege to vote or fully engage in the political process just because they work for a nonprofit- **they must do so on their own time, with their own resources.**
- **Remember Advocacy=Education.** There is nothing to keep staff or board members from providing education about what the organization does.
- VOTE, VOTE, VOTE



you can always advocate by **educating** - without taking a direct position

advocacy ≠ lobbying

advocacy

lobbying

defining advocacy

The act or process of supporting a particular cause or proposal

Specific legal definitions:

- **None-** The government does not restrict advocacy activities based on your organization's funding or status, unless those activities **fall into the definition of lobbying.**

What is Advocacy?

Advocacy:

- is the promotion of an idea or cause through **education, outreach, and community organization**.
- includes a broad range of activities where one works to move forward a **policy or principle**.

Examples of non-lobbying advocacy activities?

- Building a coalition around an issue
- **Educating** individuals (including lawmakers) on a topic
- Inviting lawmakers to an event
- Writing a letter to the editor or opinion editorial (as long as it does not include a **call to action** on a bill)
- Nonpartisan research or analysis

Lobbying vs. Advocacy

Advocacy ≠ Lobbying

Lobbying is one type of advocacy activity

Always check with your organization first

You can always advocate off-the-clock

Lobbying requires a direct “ask”

You can always advocate by **educating**!

501(c)(3) organizations CAN lobby

If it constitutes 5% of annual budget or less

defining lobbying

To attempt to influence a politician or public official to support a cause.

Specific legal definitions:

- Internal Revenue Code
- Federal Consolidated Appropriations Act § 503
- NH State Law- RSA 15

lobbying: **two main factors**



Employer

Government
Non-profit



Funding

Federal government
State/local government
Private

internal **revenue code**

can nonprofits lobby? **yes**



Under the IRS, nonprofits may lobby
Cannot constitute a “substantial” part of their activities.

Insubstantial Parts Test
Less than 5% of annual budget on lobbying to be considered insubstantial.

501(c)(3) organizations

Can lobby with restrictions

- **5% of annual budget or less**
  defined as “insubstantial amount”
- **Can be up to 20%**
  by filing 501(h) election [Form 5768]

Cannot endorse or oppose candidates for public office



501(c)(4) organizations

Can lobby without restrictions

Can endorse or oppose candidates for public office

calls to action



- **Asking the audience to communicate with a legislator, including:**
  - Identifying the legislator as someone who represents the audience
  - Providing the legislators contact info
  - Sharing the legislators position on the legislation with the audience
  - Sharing the legislators position on a committee or other specific power
- **Expressing view on legislation within two weeks of a vote**

record-keeping



- Staff/volunteer time
- Direct costs associated with lobbying activities
- Overhead expenses



you can always advocate by **educating** without taking a direct position

key points



Nonprofits can lobby

Less than 5% of annual budget

Apply for up to 20% of annual budget

IRS lobbying restrictions limit:

Communications

Expressing a view on specific legislation

Restrictions apply to legislation only

Federal Congress, state legislatures, local legislative bodies

Does NOT include executive, judicial, or administrative bodies

federal restrictions

Federal Consolidated **Appropriations Act § 503**



- Cannot use federal grant funds to lobby
- **You can still lobby using other funds**
- **Definition of lobbying is broader than Internal Revenue Code**

More lobbying activities are prohibited

federal **prohibitions**



Legislative lobbying
federal, state, and local

Executive lobbying
Includes agency regulations, administrative actions, executive orders

Lobbying on tax increases or regulations of consumer products

what is **allowed?**



Examination or discussion of broad social, economic, or health problems

- Does not refer to specific legislation
- Does not contain a call to action

what is **allowed?**



Nonpartisan policy research, study, or analysis

- “Full and fair” exposition allows the recipient to form an independent opinion
- May give a viewpoint, and name a legislator
- Cannot contain a call to action
- Must be broadly disseminated

what is **allowed?**



Educating the public

- Personal health behaviors and choices
- Health issues and their public health consequences
- Examples, best practices, success stories across states or localities

what is **allowed?**



Responding to a request from a legislative body for technical advice or assistance

- Request must be in writing from a committee or body (not an individual legislator)
- Response must be available to all members of that body
- May advocate a viewpoint or opinion if the request specifically asks for one

what is **allowed?**



Self Defense

- Direct (not grassroots) contact with legislature about actions that could affect group's existence, powers, duties, or tax-exempt status

what is **allowed?**



Health departments may work on policy related issues and policy implementation with other executive agencies

- A city health department can lobby another city agency

key points



Employees on federal grants can lobby using other nonrestricted funds

Seek guidance!

The lobbying restrictions are legally complex. You should consult your employer's guidance documents, project officer, legal counsel, etc.



you can always advocate by **educating** without taking a direct position

new hampshire law

nh lobbyist laws



- Scope
- Registration
- Identification
- Disclosure
- Use of public funds

use of **public funds**



- **State funds cannot be used to lobby**, attempt to influence legislation, participate in political activity, or contribute funds to any entity engaged in these activities
- Any recipient of state funds that wishes to engage in these activities must **physically and financially separate** from any non-state funds that may be used for these purposes
- **Mere bookkeeping separation of the state funds from other moneys shall not be sufficient**

exceptions!



- **Public testimony** before a legislative committee or subcomittee
- **Written documentation filed in the course of a public proceeding** or any other communication made on the record in a public proceeding
- **Communication made by a public official acting in their official capacity**
- **Public communication** made in any material distributed to the public in a medium of mass communication (RSV14:1 V)



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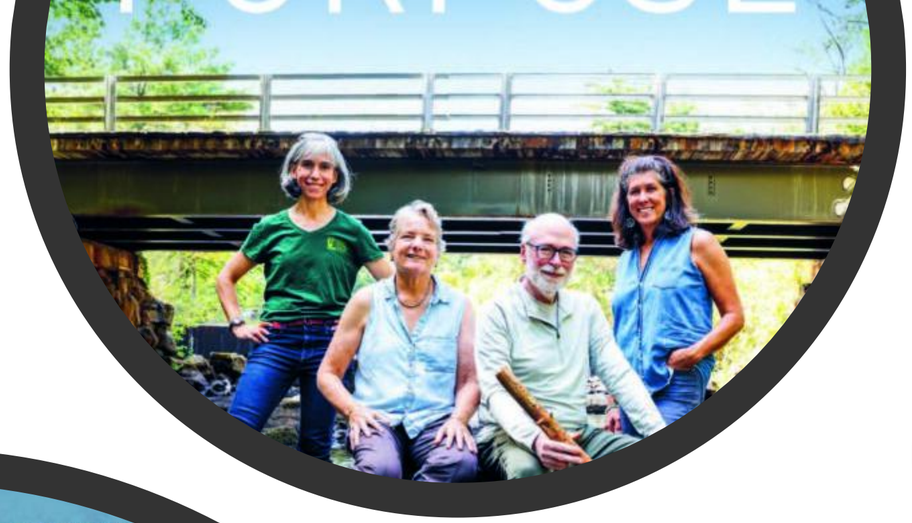
is here to support you in your advocacy!









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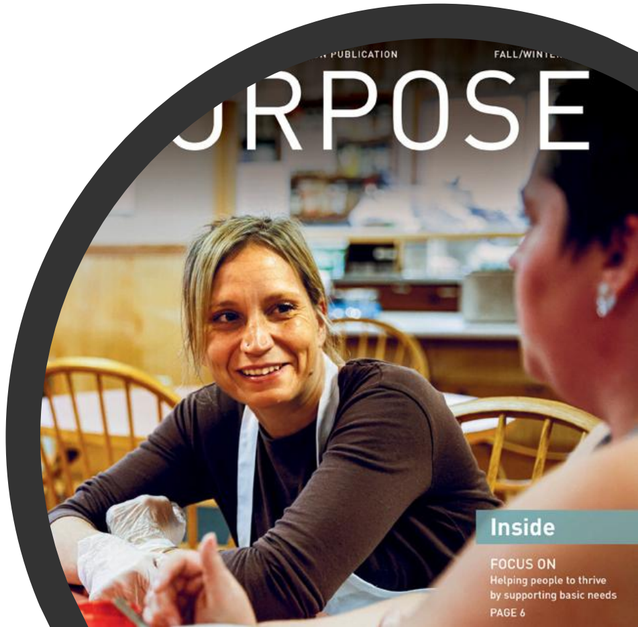


ABOUT US

The New Hampshire Charitable Foundation is New Hampshire's statewide community foundation, founded in 1962 by and for the people of New Hampshire.

We are the place where generosity meets the dedication and ingenuity of nonprofits and the potential of New Hampshire students. For six decades, thousands of people have entrusted their charitable resources to the Foundation, creating a perpetual source of philanthropic capital and making it possible for the Foundation to award more than $75 million in grants and scholarships every year.

Learn more about our work by visiting our blog, What we're up to, and by reading our *Purpose* newsletters and annual reports.

Community foundations can engage in and support advocacy and lobbying



COMMUNITY FOUNDATIONS ARE CLASSIFIED AS

501(C)(3) PUBLIC CHARITIES

RATHER THAN PRIVATE FOUNDATIONS

Thanks to the vision of the donor, **Oliver Hubbard**, who established one of the Foundation's largest funds in the late 1990s,

an overarching theme for the NH Charitable Foundation's funding to address substance use and co-occurring mental health issues is a targeted and long-term focus on **policy and advocacy**

to improve public financing, advancement of best practices and access to services.

https://www.nhcf.org/what-were-up-to/oliver-hubbard/



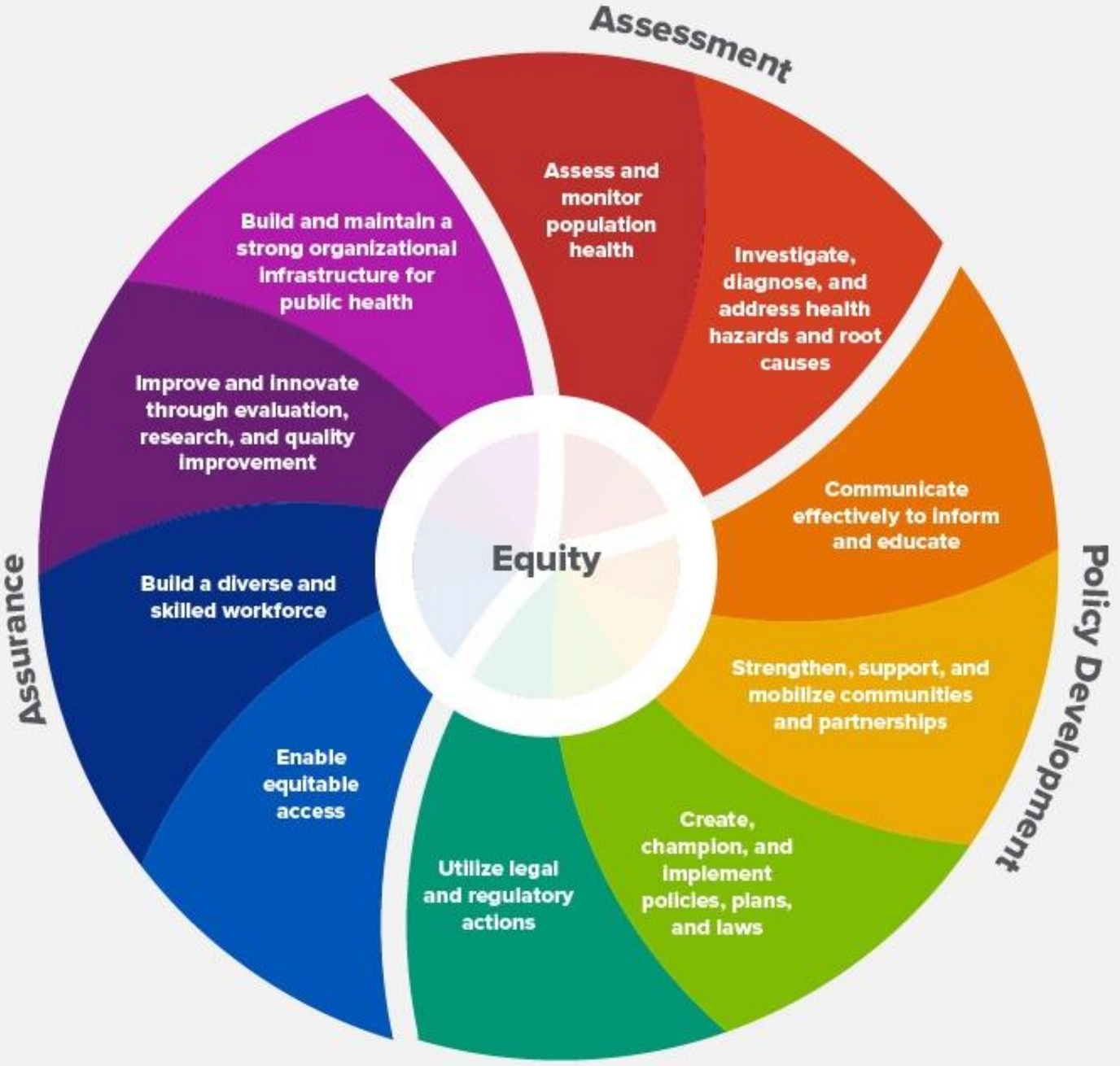


Funding restrictions should not get in the way of good public health



THE 10 ESSENTIAL PUBLIC HEALTH SERVICES

To protect and promote the health of all people in all communities



THANK YOU

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sign up for **action alerts**

PRIVACY.FLOWCODE.COM

Request a training
www.new-futures.org/training/sign-up

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