

# Impacting Policy, Systems and Environmental Change

## Knowing “The Rules of the Road”

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*Victor Colman & Robbi Kay Norman*

# Webinar Outline

- Context (authorizing environments)
- Actual Rules (what you can and cannot do)
- Strategy and Tactics (how do I apply this information in the real world?)
- But I Need More!

# Webinar Goal

How to engage in policy, systems and environmental changes processes  
*safely AND effectively*



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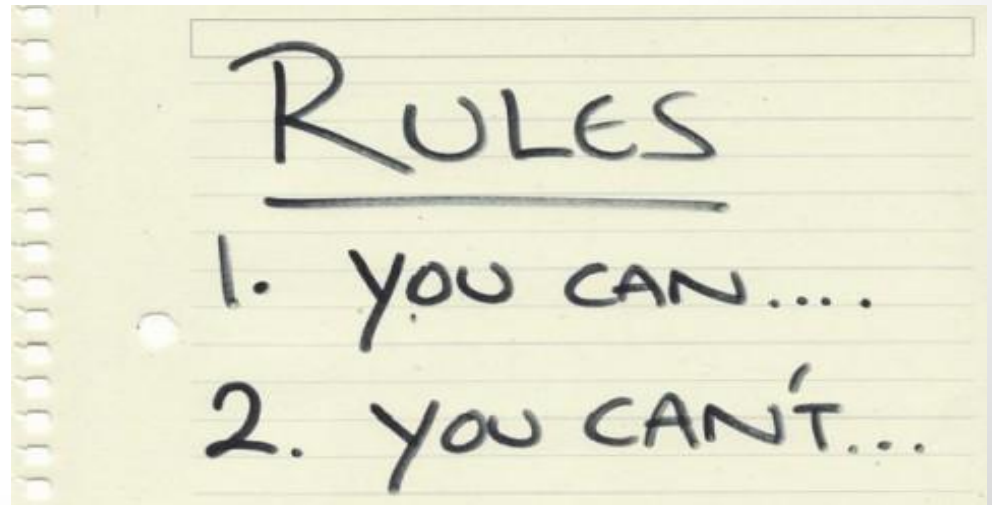


# The Times We Are In

- Reconciling funder interest in using PSE as a vehicle to positively impact health behaviors while knowing that such funds cannot be used to lobby
- We need to know the “what” and the “how”
- ☛ Be smart, be strategic and be collaborative

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# Definitions: What is “Advocacy”?

## A General Definition

*Defined as the “Act of speaking, writing, or acting in support of something or someone.”*



# Definitions: “Advocacy” Becomes “Lobbying” When?

... when trying to influence a specific policy proposal

- **Direct Lobbying:**  
"Lobby" and "lobbying" means any communication with an official of the executive or legislative branch of government ... for the ultimate purpose of influencing any executive, legislative, or administrative action.
- **Grass Roots Lobbying:**  
Getting the *general public* to act in support or opposition to a specific policy proposal (a “call to action”)



# Advocacy vs. Lobbying

## Advocacy

- Education
- Facts
- Bipartisan
- Balanced
- No call to action
- Formal position on specific proposal *not* taken
- Activities that *broadly* defend, support or maintain a cause

## Lobbying

- Influencing specific legislation, regulation, funding by ...
- ... actions aimed at influencing public officials
- ... that include a call to action to the general public (for *grass roots lobbying*)



# Who Does The Regulating?

**TYPE A:**

GOVERNMENT  
REGULATORY  
ENTITY

**TYPE B:**

YOUR  
EMPLOYER

**TYPE C:**

YOUR FUNDER

# Who Does the Regulating?

## TYPE A:

### FEDERAL REGULATORY ENTITY

Restrictions include:

- HHS grant recipients (and their contractors) cannot use Federal funds to lobby the legislative branch at local, state or Federal levels or Federal executive branch agencies.
- HHS grant recipients should also be careful not to give the appearance that Federal funds are being used to carry out impermissible activities.

[http://api.ning.com/files/2B3BVUMwR8WVOMDncizyfq\\*23HG2j6P9OThreHXn7QP4mZY/NHNXtHHDpflzy\\*M\\*8Rtvira7XkMxcCukNTfUI4fcoZi36Ox/CDC\\_Reminder\\_AR12.pdf](http://api.ning.com/files/2B3BVUMwR8WVOMDncizyfq*23HG2j6P9OThreHXn7QP4mZY/NHNXtHHDpflzy*M*8Rtvira7XkMxcCukNTfUI4fcoZi36Ox/CDC_Reminder_AR12.pdf)

# TYPE A: Four Categories of Rules

## STATE PUBLIC DISCLOSURE COMMISSION (PDC)

1. There are activities that are **NOT** deemed lobbying by the PDC
2. There are activities that **ARE** deemed allowable lobbying but are **NOT** reportable to the PDC (*what the heck is this?*)
3. There are activities that **ARE** deemed allowable lobbying and **ARE** reportable to the PDC
4. There are activities that **ARE** considered lobbying and **ARE** deemed unallowable

# TYPE A: CATEGORY 1 – These Activities Are **NOT** Considered Lobbying

PDC

- **State Legislature**

Recommendations or reports to the legislature in response to a legislative request, whether oral or written, expressly requesting or directing a specific study, recommendation or report on a particular subject.

- **Office of Financial Management (OFM) Requests**

Requests for appropriations by state agencies to OFM or requests by OFM to the legislature for state agencies.

# TYPE A: CATEGORY 1 – These Activities Are **NOT** Considered Lobbying

PDC

## OFFICIAL REPORTS

- Includes recommendations submitted periodically by a state agency as required by law
- Recommendations or other communications between or among public entities, including preparation or adoption of policy positions within an agency or group of agencies

**TYPE A: CATEGORY 2 – These Activities ARE Defined as “Lobbying” but ARE NOT Reportable**

**PDC**

**LOCAL PUBLIC AGENCIES:**

- Attempting to influence other local agencies or lobbying federal agencies
- Attempting to influence the interpretation or application of *existing* state rule or policy

**STATE PUBLIC AGENCIES:**

- Attempting to influence the action of other state agencies
- Lobbying local and federal agencies

## TYPE A: CATEGORY 3 – These Activities ARE Defined as “Lobbying” but ARE Reportable

### PDC

- Providing information or communicating on matters pertaining to official agency business
- May lobby for passage/defeat of an initiative to the legislature once before the legislature
- Advocating the official position or interests of the agency
- Requesting necessary legislative action or appropriations through proper official channels



# TYPE A: CATEGORY 4 – These Activities **ARE** Determined to be “Lobbying” and **NOT** Allowed

## PDC

- Lobbying as part of a grass roots campaign that includes direct expenditures supporting a “call to action”
- Public officers and employees may not use public facilities for the purpose of promoting and opposing a ballot proposition
- Gifts or contributions with public funds

# WHO DOES THE REGULATING?

## TYPE B:

**YOUR EMPLOYER**

- Non-Profit
- Public Entity (local/regional government)

## TYPE B: Rules of the Road for Non-Profits

# YOUR EMPLOYER

### *Non-Profit Lobbying: Options*

**How much can be spent on lobbying under the IRS rules?**

- 20% of the first \$500,000 of your annual budget
- 15% of the next \$500,000 of your annual budget
- 5% of your budget over \$1 million annual budget

# WHO DOES THE REGULATING?

## TYPE C:

### YOUR FUNDER

- Foundations
- Public Entity (any unit of government)

# TYPE C: Rules of the Road for Funders - Foundations

## YOUR FUNDER

### *Foundation Rules:*

- Private foundations cannot earmark (explicitly designate) funds to non-profits for lobbying
- Foundations can make general support grants to non-profits that engage in lobbying
- Community foundations can earmark grants for lobbying (*but as a 501(c)(3) they must include those grants as part of their own lobbying expenditures*)

# TYPE C: Rules of the Road for Funders - Foundations

## YOUR FUNDER

### *Rules For Funders: Public Sector*

- Public sector funders do not generally allow contracted parties to lobby under the terms of their contract
- Public sector cannot delegate duties to third parties (like non-profits) that they (the public sector) are barred from performing

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# Strategies and Tactics

## What Activities Can Influence PSE Development That Is **Not** “Lobbying”?

- ✓ Information and education sessions for policymakers
  - ✓ Educate general public about the importance of the relevant issue
  - ✓ Focus on PSE implementation
  - ✓ Provide decision-makers with technical assistance (i.e., model ordinances)
  - ✓ Provide the latest science and background information about the relevant issue
- Remember: private citizens can always lobby without restrictions (but ...)**



# Strategies and Tactics

- Building partnerships and collaborations is the best recipe for public policy success  
(“inside/outside game”)
  - Everyone has a role in PSE change processes – you need to know what hat to wear in what situation



# Strategies and Tactics

## What Would You Do?



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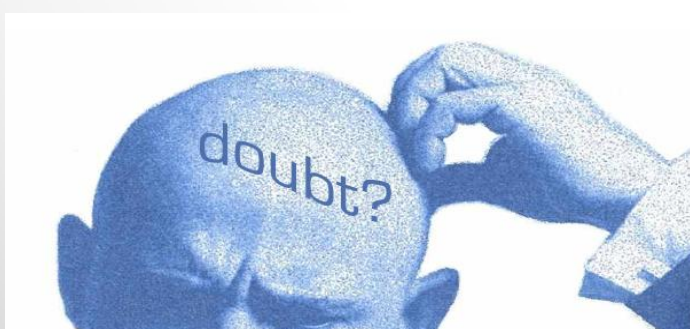
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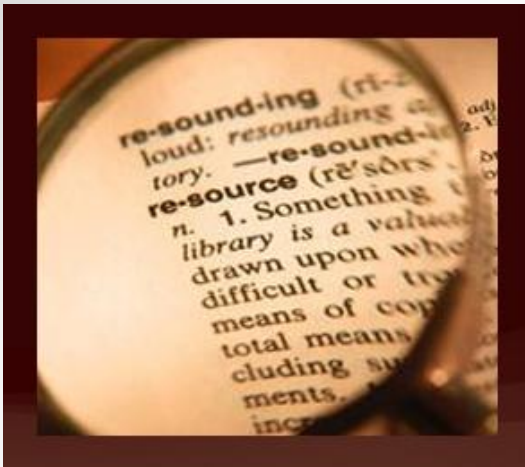
# What's Available?

- Additional technical assistance
- Tailored training
- Additional resources (*see next slide*)

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If you are in doubt about what's appropriate action to take, please ask your DOH consultant or C.H.E.F. technical advisor





# Key Resources

- [http://www.independentsector.org/charity\\_lobbying](http://www.independentsector.org/charity_lobbying)
- [http://www.mncn.org/policy\\_lobby\\_law.htm](http://www.mncn.org/policy_lobby_law.htm)
- <http://www.afj.org/for-nonprofits-foundations/resources-and-publications/about-advocacy-lobbying.html>
- <http://www.publichealthlawcenter.org/sites/default/files/resources/tclc-news-04-10.pdf> (pp. 5-6)

# THANK YOU



• Víctor Colman & Robbi Kay Norman •