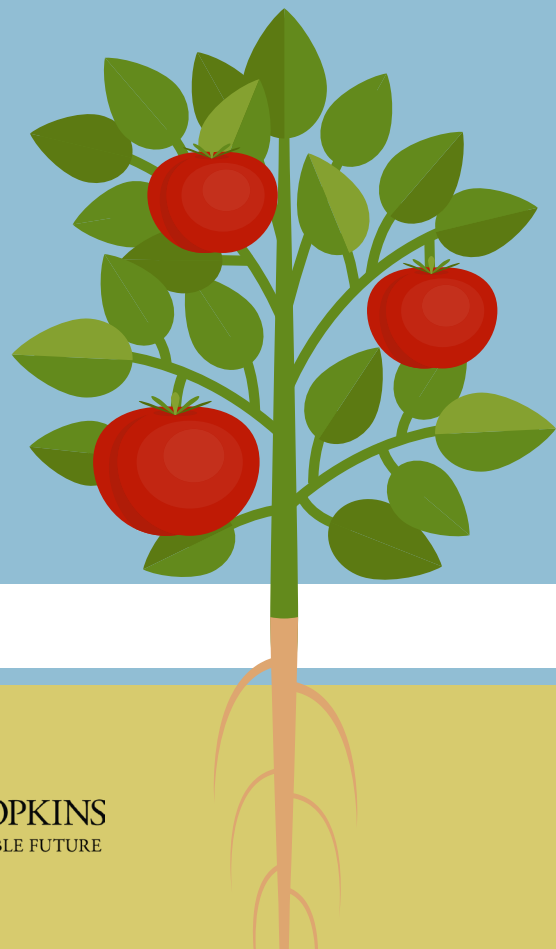


ADVOCACY & LOBBYING 101 FOR FOOD POLICY COUNCILS



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FOOD LAW
and POLICY CLINIC
HARVARD LAW SCHOOL



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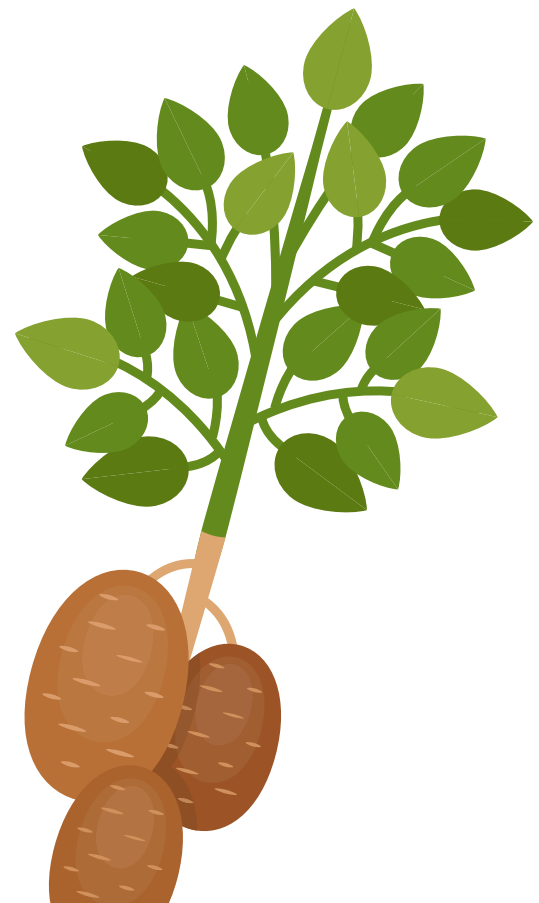
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INTRODUCTION

Many food policy councils (FPC) work to improve the food system by engaging in public policy advocacy, which includes lobbying. This guide explains the legal definitions and laws applicable to lobbying to help FPCs understand how they can influence the decisions of local, state, and federal government officials.

HOW CAN FPCs INFLUENCE POLICY?

The goals of FPCs are wide-ranging— from securing conservation easements for farmland preservation, to increasing Supplemental Nutrition Assistance Program (SNAP) benefits and Electronic Benefit Transfer (EBT) card access at farmers markets, to creating financing or credit programs for food-related entrepreneurial enterprises. For each goal, an FPC must determine which decision-makers can implement the desired policy change. Does change rely on the government taking action? Or can non-governmental actors implement the change? Does the change require amendments to an **institutional policy**—one that is internal to a private institution, such as a private hospital or university—or to a **governmental policy**—one that was enacted by local, state, or federal government?

For example, an FPC may want to improve the food served in a nearby hospital. To make this change, members of the FPC might work with the hospital administration to modify the hospital's food procurement policies and standards for patient meals. On the other hand, if an FPC is looking to improve the food that children receive in the local public school, because the standards for school food are established by a government rule, the FPC would have to determine ways to influence that governmental policy.

An FPC must identify the particular policy to change as well as the decision-makers who govern that policy. **Efforts to change the institutional policies of private actors, like hospitals, are not specifically governed by lobbying laws, while efforts to change governmental actions may be regulated.** An FPC may freely interact with private actors, such as community residents, business owners, and other advocacy organizations, in an effort to change institutional policies of private entities without a specific set of legal guidelines. Alternatively, interacting with government officials in an effort to influence government policy may require adherence to specific laws and regulations. Laws that govern attempts to influence certain government actors, known as “lobbying” laws, are in place so that no single outside entity or group can exert a disproportionate amount of influence over government policy.

Nevertheless, an FPC should not shy away from trying to influence government policy simply because these laws exist. Influencing government actions can help support local as well as nationwide change in the food system. To create these changes, it is important to understand how to navigate the relevant lobbying laws.



This guide is intended to assist FPCs in the United States of varying structures in understanding how to proceed legally when attempting to influence government policymakers.

This guide first discusses what it means to lobby the government and explains how lobbying differs from general advocacy work. The second section addresses topics that every FPC should consider before engaging in lobbying. This guide then examines the different organizational structures of FPCs and how those differences affect how FPCs may lobby. Finally, the last section includes a case study exploring each FPC organization type to provide a clear picture of how to successfully and legally influence government policy.

WHAT IS LOBBYING? HOW IS IT DIFFERENT FROM ADVOCACY?

Creating change in the food system requires educating, organizing, and persuading others that change is necessary and feasible. In general, the term “advocacy” refers to this process of supporting a cause or proposal.¹ This section defines general advocacy work and then explains how lobbying differs.

Advocacy describes a wide range of actions and activities that seek to influence the world around us.



For instance, an FPC might host a documentary screening about food service workers and the minimum wage, encourage discussion among the audience afterwards, and hand out pamphlets with additional information about the topic. This effort would constitute an example of general advocacy, done for the purpose of educating people in the community. Advocacy is an effective tool that can raise awareness of issues an FPC is involved in, garner community support, and mobilize community members.

All FPCs can take part in advocacy and use it to create meaningful change in their communities, even if they are not able to lobby due to any of the restrictions covered later in this guide.

Lobbying, on the other hand, is a subset of advocacy that refers to activities aimed at influencing government officials, namely legislators.²



As mentioned above, United States federal, state, and local laws restrict how individuals and organizations can attempt to influence certain government officials.³ These laws are intended to maintain transparency and fairness in our democratic system by tracking who is speaking with legislative officials and limiting what mechanisms those individuals can use to persuade officials.

There are many examples of how FPCs can effectively lobby government actors to change the food system. For instance, members of an FPC may be interested in raising chickens in their backyards, but find that they are not allowed to because of municipal zoning ordinances. An FPC may find that the best way to address this challenge is by lobbying the city council to change the existing city government policies around urban livestock husbandry.

Lobbying can take place at the federal, state, and local level.



Although the lobbying rules and restrictions differ at the federal level and among states and municipalities, FPCs are generally able to lobby at every level of government—federal, state, and local. For example, at the federal level, an FPC may choose to take a particular stance on sections of the Farm Bill. At the state level, an FPC may urge state officials to pass a law that allows potentially non-hazardous, home-processed (“cottage”) foods to be sold at farmers markets within their state. At the local level, an FPC may ask voters to support a city ordinance that limits the sale of sugar sweetened beverages. FPCs can effectively make change throughout all levels of our system of government.

Lobbying laws only govern efforts to influence legislation, not efforts to influence other government actions.



With the exception of election-related work that is discussed below, to be considered lobbying, an FPC’s actions must: (1) take a position on (2) a specific piece of legislation. If an FPC is focused on something other than a specific piece of legislation OR if it does not take a position on the legislation,



its work likely does not qualify as lobbying.

The IRS defines legislation as: “action by Congress, any state legislature, any local council, or similar governing body, with respect to acts, bills, resolutions, or similar items (such as legislative confirmation of appointive office), or by the public in referendum, ballot initiative, constitutional amendment, or similar procedure. It does not include actions by executive, judicial, or administrative bodies.”⁴ In other words, lobbying does not include attempting to influence court decisions or regulations enacted by agencies in the executive branch of government.⁵

To illustrate, an FPC might be interested in collaborating with an executive agency at the federal or state level that is working to implement a law that the legislature has already passed. Perhaps a state agency would like help reforming its process for issuing federally-funded SNAP benefits to distribute benefits throughout the month, instead of on a specific day. This kind of work, in which an FPC partners with an executive agency, is not considered lobbying because it is not an attempt to influence specific legislation.

Moreover, as written above, lobbying laws are only applicable to efforts that attempt to influence the outcome of specific legislation. FPCs can still educate community members about the potential impacts of government policy without triggering the requirements and restrictions of lobbying laws. For example, an FPC could host a community meeting to discuss how a potential public transportation overhaul might influence access to grocery stores. If the meeting does not include a specific call to action on a piece of legislation, it does not constitute lobbying.



Lobbying can include speaking to government officials or to community members.

Lobbying to change government policy can take several forms. Specifically, the IRS describes two variations of lobbying: direct and grassroots. **Direct lobbying** involves communicating directly with “a member or employee of a legislative body, or with a government official who participates in formulating legislation.”⁶ **Grassroots lobbying** “refers to attempts to influence legislation by attempting to affect the opinion of the public with respect to the legislation and encouraging the audience to take action with respect to the legislation.”⁷



Lobbying laws also come into play during elections.

Lobbying laws also affect partisan political work. The rules around partisan campaigns are particularly relevant for FPCs that are structured as nonprofits.

To protect their tax-exempt status, FPCs that are structured as 501(c)(3)s **cannot** “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”⁸ That being said, nonpartisan voter education or taking actions that encourage people to vote without mentioning specific candidates are typically not considered partisan political campaign work.⁹ Individuals in an FPC may also run for office or speak out about elections as individuals, rather than as representatives of an FPC.¹⁰

Additionally, while not directly related to lobbying laws, members of FPCs who are government employees may face additional restrictions on their political activities because of laws like the federal Hatch Act, which prohibits some executive branch federal employees from engaging in forms of political activity.¹¹



ADVOCACY

EXAMPLES

Educating the public on potential effects of a specific policy, but not encouraging people to take a specific position	↔	Hosting a community meeting to discuss how a transportation system overhaul may affect access to grocery stores
Gathering information on a topic	↔	At the request of the planning commission, suggesting effective zoning laws for urban agriculture
Urging the public to vote or become more civically engaged	↔	Organizing an educational public forum for local politicians to debate and share their views on various food issues
Broadly asking for more political attention on a social issue	↔	Hosting a film screening about farmworkers' struggles to raise awareness about labor in the food system
Conducting and distributing nonpartisan analysis, study, or research on a specific piece of legislation	↔	Conducting a cost-benefit analysis of implementing a city-wide food waste collection program
Providing advice to a government agency or commission that submitted a formal request for technical assistance or advice	↔	Hosting a community meeting to discuss how a transportation system overhaul may affect access to grocery stores
Meeting with a legislator to educate him or her generally about an issue	↔	Speaking with a Congressperson about how the farmers market incentives program has impacted the community

LOBBYING

EXAMPLES

Conducting and disseminating research that only presents a single position on a legislative issue	↔	Releasing a report that explains why an urban agriculture zoning bill should pass
Calling on the general public to urge legislators to take a particular stance on pending legislation	↔	Sending a mass email to a listserv asking subscribers to contact their legislators about retaining funding for the local Master Gardener program
Calling on voters to vote "yes" or vote "no" on a ballot initiative	↔	Encouraging local residents to vote for a tax on sugar-sweetened beverages
Providing specific advice to a legislator on how to vote on a piece of legislation	↔	Calling or writing members of Congress asking them to vote against the current version of the Farm Bill

An FPC attempting to influence the work of a legislature, whether it be at the local, state, or national level, must always pay attention to the relevant federal and state rules and restrictions. For example, these rules require FPCs to keep track of expenditures and staff time used for lobbying. The following flowchart from Alliance for Justice may be helpful for understanding if an FPC's action constitutes lobbying under the IRS tax law rules: <https://www.bolderadvocacy.org/wp-content/uploads/2015/11/Lobbying-Flowchart.pdf>.



CONSIDERATIONS FOR EVERY FPC WHEN LOBBYING:

An FPC should first decide on its goals and then develop strategies for achieving those goals. If the goals involve attempting to influence legislation, here are a few things to keep in mind. These topics are all discussed in greater detail below.

Structure

The structure of an FPC impacts its ability to lobby—the section following this checklist is organized by the varying structures of FPCs to more fully address the relevant differences.

- **Nonprofit:** Nonprofit FPCs structured as 501(c)(3)s face a unique set of rules and restrictions that will be explored below. For example, 501(c)(3)s may not engage in any partisan political activity, such as supporting a particular candidate for office.
- **Government-embedded:** These FPCs likely cannot engage in much lobbying work because they are part of the government.
- **Unincorporated/grassroots:** Unincorporated FPCs have more lobbying capacities because they are coalitions of individuals, rather than organizations recognized as separate legal entities.
- **University-embedded:** FPCs that are embedded in universities may face constraints similar to government FPCs if they are associated with public universities. If the FPC is affiliated with a private university, the general 501(c)(3) rules, in addition to university policies regarding advocacy and lobbying, will likely apply.

Acting as an individual versus acting as a council

- **Acting as a council:** As mentioned above, FPCs as organizations may face certain restrictions on their lobbying actions due to their nonprofit status or their connections to government. If an FPC is structurally limited from directly lobbying, it may still support the lobbying efforts of other organizations or individuals by highlighting issues in educational ways.
- **Acting as an individual:** Individuals in an FPC may be able to speak out about legislation in a personal capacity. State and federal definitions of “lobbyists” usually exclude individuals who are taking a position on legislation without receiving compensation for their efforts.¹² If an FPC’s advocacy efforts are limited by lobbying laws, its members may want to pursue individual efforts outside of their work with the FPC.

Membership

The occupations of the members of an FPC also may influence their ability to lobby.

- **Government employees:** If an FPC includes individuals who are government employees, those individuals’ advocacy efforts may be limited by lobbying laws. To illustrate, federal government employees face lobbying restrictions under the 1919 Anti-Lobbying Act.¹³ Under a Department of Justice interpretation of the statute, federal employees cannot participate in

“substantial” grassroots lobbying efforts (although how significant the effort must be in order to qualify as “substantial” remains ill-defined).¹⁴ Government employees who are members of FPCs should pay close attention to the rules governing their position as municipal, state, or federal employees.

- **Non-government employees:** Non-government employees of an FPC will be more able to lobby the government without restriction if they are acting as individuals. When lobbying as individuals, FPC members should not use their FPC’s property or resources to do so. They also must not state or imply that they are speaking or acting on behalf of the FPC.

Funding

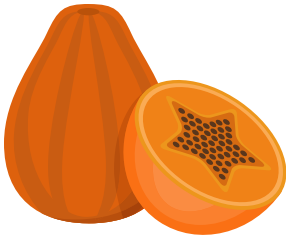
FPCs can receive funding from a variety of sources, including permanent funding from the government, grants from the government, or private donations. Each type of funding may come with certain limitations on lobbying.

- **Government:** FPCs that receive federal grants must pay for any costs associated with any lobbying efforts with non-federal funds.¹⁵ Further restrictions on federal funding may be present in appropriation bills or agency regulations from the Office of Management and Budget. Some states also restrict the use of public funds for lobbying work.¹⁶ For more information on public funding, FPCs can visit: <http://www.ncsl.org/research/ethics/50-state-chart-limits-on-public-funds-to-lobby.aspx>.
- **Private:** While private donors may put specific restrictions on their gifts, private funding may generally be used for lobbying work, subject to the lobbying laws.

Federal, State, and Local Lobbying Laws

An FPC will be governed by a different set of rules depending on whether the FPC is lobbying federal, state, or municipal legislators.

- **Federal:** If an FPC is lobbying the federal government, it must comply with the Lobbying Disclosure Act, available here: https://lobbyingdisclosure.house.gov/amended_lda_guide.html. The Act requires “lobbyists” to register and report lobbying activities and restricts or prohibits gifts to legislators. Under the Act, an FPC “lobbyist” is an individual: 1) who is either employed or retained by the FPC for financial or other compensation; 2) whose services include more than one lobbying contact with a covered government official; and 3) whose lobbying activities constitute at least 20 percent of the individual’s time in services for the FPC over any three-month period.¹⁷
- **State:** Each state’s lobbying laws are slightly different. If an FPC is lobbying at the state level, the FPC should research that state’s laws for possible unique requirements or restrictions. States vary significantly in their definitions of “lobbying” and “lobbyist.” In some states, including Arkansas, Connecticut, Indiana, and Wyoming, lobbyists are defined as persons who are compensated for lobbying on behalf of another person or entity. Here is a table that provides definitions of lobbying, lobbyist, and other relevant terms from all 50 state statutes: <http://www.ncsl.org/research/ethics/50-state-chart-lobby-definitions.aspx>. States also have different reporting requirements for expenditures which can be explored here: <http://www.ncsl.org/research/ethics/50-state-chart-lobbyist-report-requirements.aspx>
- **Local:** Municipalities may also require FPCs that lobby at the local level to register and file lobbying activity reports.¹⁸ FPCs should check with city clerks about local lobbying restrictions and requirements.



LOBBYING CONSIDERATIONS RELEVANT TO SPECIFIC FPC STRUCTURES:

An FPC's organizational structure can affect its ability to advocate or lobby. An FPC's goals and desire to engage in advocacy and lobbying should be an important consideration when deciding on an organizational structure for the FPC. This was the case for the Chicago Food Policy Action Council (CFPAC).

CFPAC is a 501(c)(3) nonprofit that advocates for responsible food and agriculture policy changes and has championed the adoption of a Good Food Purchasing Program for the city of Chicago. While CFPAC considered becoming a governmental FPC, it chose to remain a nonprofit organization in order to have more control over its messaging and priorities and to have leverage as an organization outside of government that can advocate and help shift the status quo. As a nonprofit, CFPAC can engage in advocacy and lobbying activities that otherwise might have been more limited if they had chosen to become a government-embedded organization.

Because FPCs can be structured in a variety of ways, the following sections examine considerations with regard to lobbying laws that vary with those structures.

Structure 1: Nonprofit FPCs

An FPC that is organized as a nonprofit may be structured as an independent 501(c)(3) nonprofit organization or it may be housed under the umbrella of a larger nonprofit or fiscal sponsor. A 501(c)(3) nonprofit is a type of organization under the U.S. Internal Revenue Code that receives federal tax breaks.¹⁹ Despite myths to the contrary, nonprofits, whether operating on their own or housed within a larger nonprofit, are allowed to engage in lobbying activities, just with certain limitations.

The first limitation, as mentioned above, concerns campaigns and elections. 501(c)(3) FPCs are prohibited from directly supporting a specific political campaign or candidate.

The other major limitation on 501(c)(3) FPCs concerns the amount of time and money they spend lobbying. The IRS restricts how much time or money a 501(c)(3) can spend on lobbying work via either an "insubstantial part" test or an "expenditure test."

Under the default "insubstantial part" test, nonprofits must measure the proportion of employee and volunteer time that it spends on lobbying to ensure that such activity remains an "insubstantial" portion of their activities. The rule requires that "no substantial part of a charity's activities...be carrying on propaganda or otherwise attempting to influence legislation."²⁰ The IRS does not precisely define what counts as "substantial,"²¹ but keeping lobbying activity under 5% of the FPC's total activity may be used as a general guideline.²²

Due to the vagueness of the "insubstantial part" test, many nonprofits opt instead for the 501(h) expenditure test to track their lobbying activities. This test usually allows greater capacity for lobbying. Under the 501(h) expenditure test, the amount of money a nonprofit is allowed to spend on lobbying is limited in **proportion** to how much money the nonprofit is spending on its non-lobbying tax-exempt activities. For example, if the FPC spends less than \$500,000 on the purpose for which it was granted tax-exempt status, it can spend up to 20% of that amount on lobbying.²³ The IRS chart explaining the 501(h) limitations can be found here: <https://www.irs.gov/charities-non-profits/measuring-lobbying-activity-expenditure-test>.

By employing good practices—including detailed recordkeeping of finances and staff and volunteer time spent lobbying—nonprofit FPCs and those embedded in nonprofits can demonstrate that

they are not exceeding lobbying limitations. This recordkeeping provides greater legal protection if groups are ever questioned about their activities, as well as assurance to members that their status is not threatened by exceeding the limit on lobbying activities. FPCs and their staff should also closely review federal, state, and local lobbying laws to determine whether they must register as lobbyists. By keeping detailed records and adhering to laws regarding lobbyist registration, FPCs can be confident in their ability to lobby lawfully.

501(c)(4) Nonprofit structure

501(c)(4) FPCs are also nonprofits, but donations to these organizations are not tax-exempt. 501(c)(4)s operate to promote the social welfare of all citizens in their community.²⁴ Because lobbying for legislation that furthers the 501(c)(4) FPC's mission is a legitimate way to improve social welfare, these organizations may lobby as a main part of the organization's total activity, thus giving them more flexibility than 501(c)(3)s.²⁵ FPCs that are structured as 501(c)(4)s should still track the amount of time and resources spent lobbying.²⁶

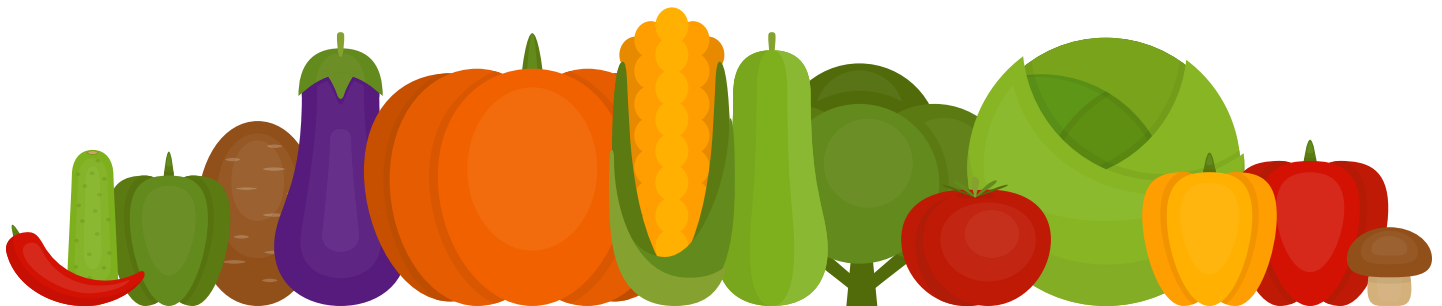
Although 501(c)(4)s may lobby more than 501(c)(3)s, they still may not directly or indirectly intervene in political campaigns. Further, under the Lobbying Disclosure Act of 1995, 501(c)(4) FPCs that engage in lobbying are not eligible to receive federal funds in the form of awards, grants, or loans.²⁷ These FPCs could still receive local or state funds.

Case Study: Greater Cincinnati Regional Food Policy Council

The Greater Cincinnati Regional Food Policy Council (GCRFPC) is a nonprofit 501(c)(3) that is housed within an environmental advocacy nonprofit. While lobbying laws permit 501(c)(3)s to lobby, GCRFPC engages only in advocacy work because the Council's bylaws prohibit lobbying.

GCRFPC's advocacy work has allowed the group to educate legislators and engage with city administrators. In particular, GCRFPC has focused much of its work on changing urban agriculture zoning laws in Cincinnati. GCRFPC became involved in the issue when a city politician was considering drafting an ordinance to increase the amount of urban agriculture in Cincinnati. GCRFPC reached out to the legislator to educate him on current urban agriculture activities and needs. GCRFPC also gave the legislator a few options of feasible new urban agriculture policies.

When the city planning and zoning department was tasked with crafting related legislation, GCRFPC participated on a committee to examine current agriculture zoning laws in Cincinnati and compare them to the laws in other cities. The proposal will be sent to City Council and will be discussed during a series of public hearings before it is adopted. GCRFPC members are able to attend the hearings as individuals acting in their own capacity, rather than as representatives of GCRFPC, and express their personal views. In observance of its bylaws, GCRFPC as an organization will not take a position on the ordinance. Through advocacy, GCRFPC has been able to shape urban agriculture policy in its city.



Structure 2: Government-embedded FPCs

Government-sanctioned FPCs or FPCs embedded in government can be enacted by legislation, funded by government, are a committee or board of the local government, or have a dedicated government staff position. For example, a state-level government-sanctioned FPC may have members who are state legislators. With this structure, the FPC as a whole is not designed to “lobby” on specific legislation. Government-embedded FPCs cannot use their funding for lobbying and may be prohibited from advocacy work more generally.

Rather, for a government-embedded FPC, its direct communications with legislators are usually categorized as “advising,” i.e., coming up with specific suggestions about which policy issues legislators should focus on and potentially support. It may not use grassroots lobbying techniques to take public stances on legislation. It can, however, give other groups a platform for their advocacy by creating spaces for them to share their opinions and calls to action.

Case Study: D.C. Food Policy Council

The D.C. Food Policy Council (DCFPC) is a coalition of stakeholders and government representatives that was established through the D.C. Food Policy Council and Director Establishment Act of 2014. It seeks to bring different members of the D.C. local community together to improve access to food, create equity within the food system, and build a healthier food economy. DCFPC includes members who are paid through a city budget, as well as members appointed directly by the mayor. The DCFPC is extremely limited in terms of lobbying due to its funding and status as an official government board.

While many of the FPC members have desired to provide a letter of support or unified testimony on behalf of the FPC when specific legislation is under discussion, they are unable to do so because of how the mayor’s office has set forth its rules and regulations.²⁸ That said, many FPC members are employees of nonprofits or other organizations, and thus may be able to lobby—only as individuals or as part of another entity instead of as representatives of the FPC.

The FPC as an entity has, however, created community action guides in which they analyze potential positive and negative impacts of specific legislation and explain how to get involved with the political process in general. The DCFPC demonstrates how government-embedded FPCs are able to use their platform to provide nonpartisan analysis of current and pending legislation in order to encourage action by individuals and organizations outside of the FPC.

Case Study: Philadelphia Food Policy Advisory Council

The Philadelphia Food Policy Advisory Council (FPAC) is embedded within the municipal government and cannot engage in any sort of advocacy or lobbying. That said, individual members and their organizations may choose to do so, just without associating the FPAC name to their campaign. As an advisory board, FPAC works within the city government, leveraging its relationships with councilpersons, policymakers, the mayor, and other significant players to implement various food policies.

The FPAC works with advocates within and outside of their membership to gather perspectives that they can share with legislators. Because of its direct connection with city legislators, the FPAC can increase awareness of community-identified issues and stances among government decision-makers.



The FPAC is also exploring the possibility of working with the lobbyists contracted on a part-time basis by the Philadelphia city government to advocate for state and federal policies. These advocates lobby for or against specific state and federal legislation selected by the city. For example, the FPAC is working to raise attention around SNAP so that Philadelphia's interests can be represented at federal meetings and hearings about the program.

For FPAC, being embedded in the city government means not being able to lobby the city—rather, its structure has allowed the group access to relationships with important stakeholders inside and outside of government.

Structure 3: Grassroots FPCs

Grassroots coalitions, or unincorporated FPCs, are groups of people who share common goals and concerns, and are typically created through agreements, rather than through the formal creation of a nonprofit organization, government entity, or university-embedded coalition. Because these grassroots coalitions are unincorporated, legal bodies do not formally recognize them. Therefore, grassroots FPCs have flexibility in how they can influence government policy. These FPCs can take any political position and may lobby without restriction, though individual members may face restrictions based on their employment. They are not legally obliged to report their lobbying activities or expenditures.

While grassroots coalitions are less constrained by lobbying laws, they may experience limitations in their lobbying and advocacy capacity due to funding. Grassroots coalition groups cannot offer tax-exemption for donations from foundations or other donors, and thus may encounter more difficulty with finding funding opportunities. For example, 90% of grassroots FPCs reported in the 2018 FPC Census that they receive less than \$10,000 in annual funding.

Structure 4: University-embedded FPCs

FPCs that are embedded within a university or university Extension office also face some lobbying restrictions. Due to their partial government funding, many public universities cannot take partisan political stances or make statements about specific legislation, outside of the scope of research and educational advocacy. Similar to government-embedded councils, FPCs that are embedded in public universities can provide opportunities to share information and spaces for discussing policy issues. FPCs embedded in private universities will likely need to follow general 501(c)(3) rules in addition to university policies regarding advocacy and lobbying.

Case Study: Minnesota Food Charter Network and the University

The Minnesota Food Charter Network coordinates more than 70 coalitions, networks, organizations, and funders in the state, all working towards the 99 strategies listed in the Minnesota Food Charter to advance healthy, safe, and affordable food for all people. The network is officially housed at the University of Minnesota under the Healthy Food, Healthy Lives Institute and has a few members on staff to run its activities.

The University's role as the Network's fiscal sponsor, chosen because of its "neutral" position, has limited the Network's ability to lobby. The Network, however, has engaged in educational advocacy work with the public. Being closely tied to the University also gives the Network a strong relationship with the University's Extension office, providing opportunities to apply for federal research grants and for university faculty to work on grant funding submissions. The Network also uses its connections to Extension members around the state to communicate about how policies might impact their communities.

Tension exists within the Network between members of organizations that share similar lobbying limitations and others that may be able to lobby. Some member organizations desire to use the Minnesota Food Charter Network name in lobbying efforts, but because of the Network’s ties to the University, member organizations cannot take a political stance on behalf of the Network.

REVIEW

FPC CATEGORY:	STRUCTURE:	KEY TAKEAWAYS:
Nonprofit	Incorporated as (or housed within another organization that is incorporated as) a 501(c)(3) or 501(c)(4) nonprofit organization under the IRS	<ul style="list-style-type: none"> Cannot participate in political campaigns or directly support a political candidate Must record and report time and money spent on lobbying 501(c)(3)s must limit lobbying to an “insubstantial” portion of their activities
Governmental	Embedded in government	<ul style="list-style-type: none"> Likely cannot directly lobby, but may be able to “advise” government officials Cannot take public stance for or against specific legislation
Grassroots	Unincorporated group	<ul style="list-style-type: none"> Can take any desired political stance Do not have to report amount of time or money spent on lobbying
University-embedded	Embedded within a university or university Extension office	<ul style="list-style-type: none"> Cannot take public stance for or against specific legislation Private universities may allow lobbying

CONCLUSION

In summary, both lobbying and advocacy can help an FPC reach its goal of improving the food system. Many FPCs are fully able to use lobbying strategies by following applicable state and federal lobbying laws. Many FPCs also realize that their capacity for lobbying is far greater than previously thought.

Prior to taking action, the first step is always to determine whether the proposed activity is lobbying or advocacy. As a general rule of thumb, lobbying is a subset of advocacy that involves influencing legislators about a specific piece of legislation. If the action an FPC wants to take is advocacy, it can proceed without worrying about lobbying laws. If the action is lobbying, the FPC should consider structure limitations, membership, funding, and applicable federal and state laws before engaging in the activity and track the amount of time/resources spent on it. If an FPC is unable to lobby due to these considerations, it may still be possible for individual members to lobby in their own capacity. Once an FPC has taken all of the above considerations into account, it is time to act!

ENDNOTES

- ¹ *Advocacy*, BLACK'S LAW DICTIONARY (10th ed. 2014).
- ² *Lobby*, BLACK'S LAW DICTIONARY (10th ed. 2014).
- ³ See, e.g., 25 U.S.C. § 501(c)(3), available at <https://www.law.cornell.edu/uscode/text/26/501>
- ⁴ Internal Revenue Service, *Lobbying* (Jan. 3, 2018), <https://www.irs.gov/charities-non-profits/lobbying>.
- ⁵ D.C. Pro Bono Bar Center, *A Nonprofit's Guide to Lobbying and Political Activity*, 3 (Feb. 2016), <https://www.lawhelp.org/files/7C92C43F-9283-A7E0-5931-E57134E903FB/attachments/149CD4BC-3EC6-48D0-8233-B7D0C5C25427/lobbying-guide-final.pdf>.
- ⁶ INTERNAL REVENUE SERVICE: "DIRECT" AND "GRASS ROOTS" LOBBYING DEFINED (Aug. 20, 2018), <https://www.irs.gov/charities-non-profits/direct-and-grass-roots-lobbying-defined>.
- ⁷ INTERNAL REVENUE SERVICE: "DIRECT" AND "GRASS ROOTS" LOBBYING DEFINED (Aug. 20, 2018), <https://www.irs.gov/charities-non-profits/direct-and-grass-roots-lobbying-defined>.
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