



Presented by:

Sabrina Adler, JD
Vice President of Law

Public Health Advocacy

The Basics

Research Support:
Vince Young, JD
Attorney

Melani Tiongson, JD
Attorney



Our mission:
Healthy communities for all through
equitable laws & policies

Act for Public Health

Act for Public Health is a collaborative working group that provides resources, technical assistance, and training to help push back against attempts to block public health officials' ability to do their job. This group of public health organizations and experts is applying their decades of experience in public health law and policy work to preserve public health authority and infrastructure wherever challenges arise.

Act for Public Health is an initiative of the Public Health Law Partnership.

A graphic for the 'Act for Public Health' initiative. It features the title 'Act for Public Health' in large, bold, black font at the top. Below the title is the subtitle 'An initiative of the Public Health Law Partnership' in a smaller, italicized font. The graphic is framed by a thick black border. At the bottom, there are six logos of partner organizations: ChangeLab Solutions, The Network for Public Health Law, PUBLIC HEALTH LAW WATCH, PUBLIC HEALTH LAW CENTER at Mitchell Hamline School of Law, Temple University Beasley School of Law, and Center for Public Health Law Research.

Act for Public Health

An initiative of the Public Health Law Partnership

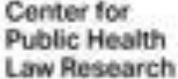
 ChangeLab Solutions

 The Network for Public Health Law

 PUBLIC HEALTH LAW WATCH

 PUBLIC HEALTH LAW CENTER
at Mitchell Hamline School of Law

 Temple University
Beasley School of Law

 Center for Public Health Law Research

<https://www.changelabsolutions.org/act-public-health>

Disclaimer

The information provided in this discussion is for informational purposes only and does not constitute legal advice. ChangeLab Solutions does not enter into attorney-client relationships.

ChangeLab Solutions is a nonpartisan nonprofit organization that educates and informs the public through objective, nonpartisan analysis, study, and research. The primary purpose of this discussion is to address legal and/or policy options to improve public health. There is no intent to reflect a view on specific legislation.

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Overview
of this Session



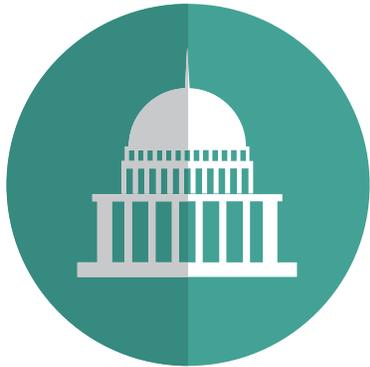
What is Lobbying?



**Exceptions to Lobbying Rules for IRS
501(c)(3) Nonprofits & Federal Grantees**



Key Points and Q&A



What is lobbying?

Philanthropy & Foundations



IRC § 501(c)(3)

Nonprofit Organizations

- The use of funds for lobbying is likely to be restricted by funders through a contract or grant
- Review contracts carefully and consult your legal counsel if needed

Federal Grants



Grants from federal government agencies prohibit grantees from using federal funds for lobbying.

**Lobbying:
Must Include
All 4 Elements**

1. **Communication** with a
2. **Government official or employee** (legislative, or other who takes part in forming legislation)
3. **Reflects a point of view on** (i.e., attempts to influence)
4. **Specific legislation**

2 Types of Lobbying



1. **Direct** lobbying
2. **Grassroots** lobbying



Photo courtesy of Tim Wagner for HEAC

Direct Lobbying

A communication directly with a government official to influence specific legislation



SIGN THE PETITION

To all Members of US Congress:

“ As concerned citizens, we call on you to stand for a free and open Internet and vote against both the Protect IP Act and the Stop Online Piracy Act. The Internet is a crucial tool for people in the US and around the world to exchange ideas and work collectively to build the world we all want. We urge you to show true global leadership and do all you can to protect this basic pillar of our democracy.

Already an Avaaz member?
Enter your email address and hit "Send".

Email **SEND ▶**

First time here? Please fill out the form below.

Name

Email

Country Post code

Cell/phone

[Avaaz.org](#) will protect your privacy and keep you posted about this and similar campaigns.

SEND ▶

Grassroots Lobbying

A communication encouraging the public to "take action" to influence specific legislation



Exceptions to Lobbying Rules



Coalition building

among governments, nonprofits,
the private sector, and
community members to discuss
problems and share ideas
generally



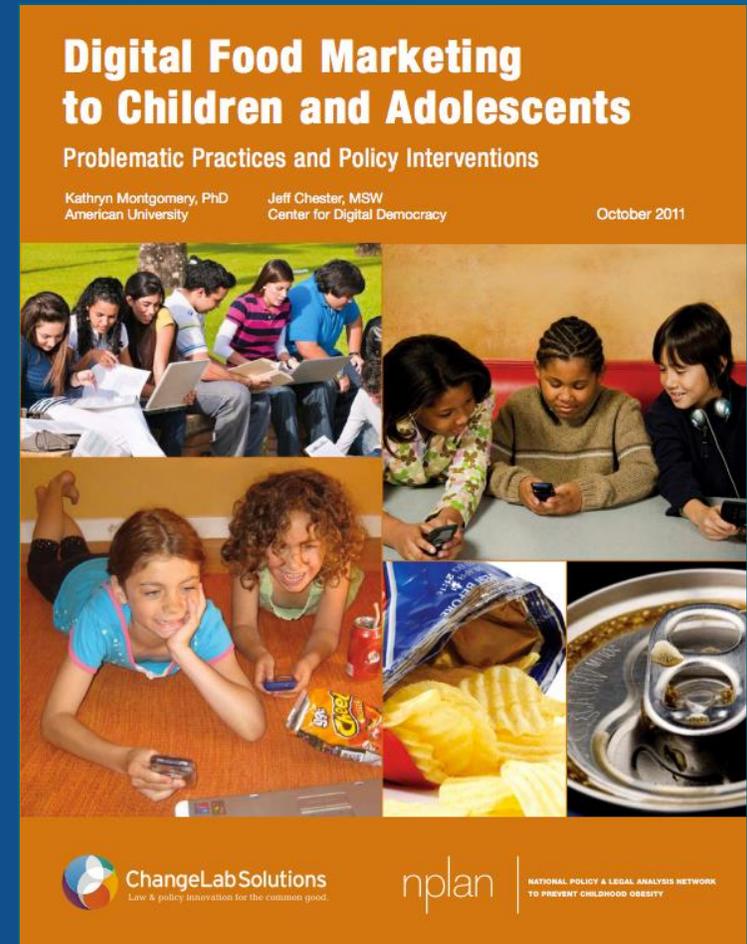
Photo: Creative Commons Flickr: Michigan Municipal League

Sharing best practices & success stories
with the public or government officials

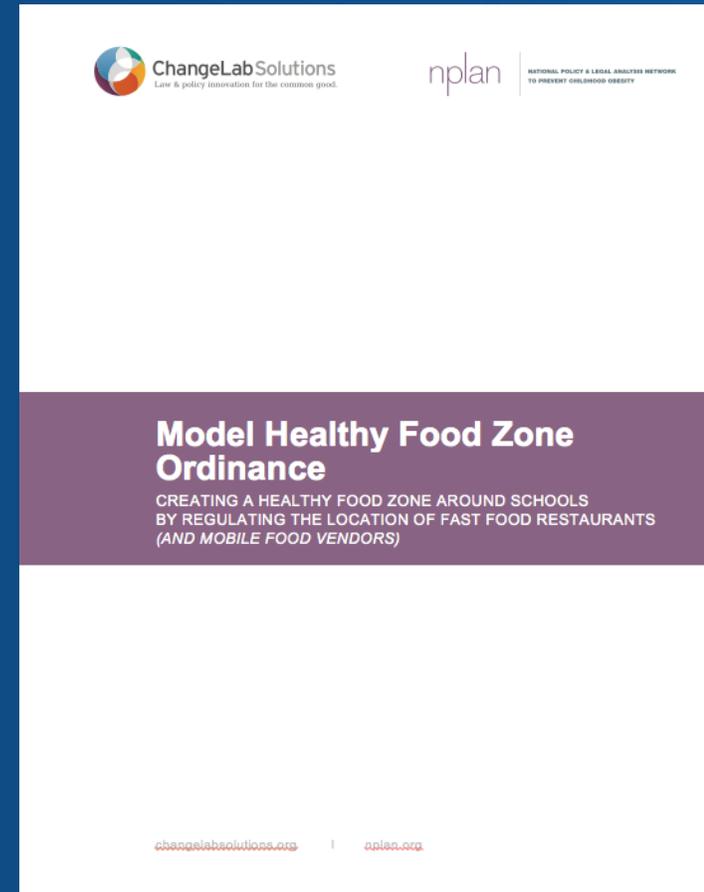
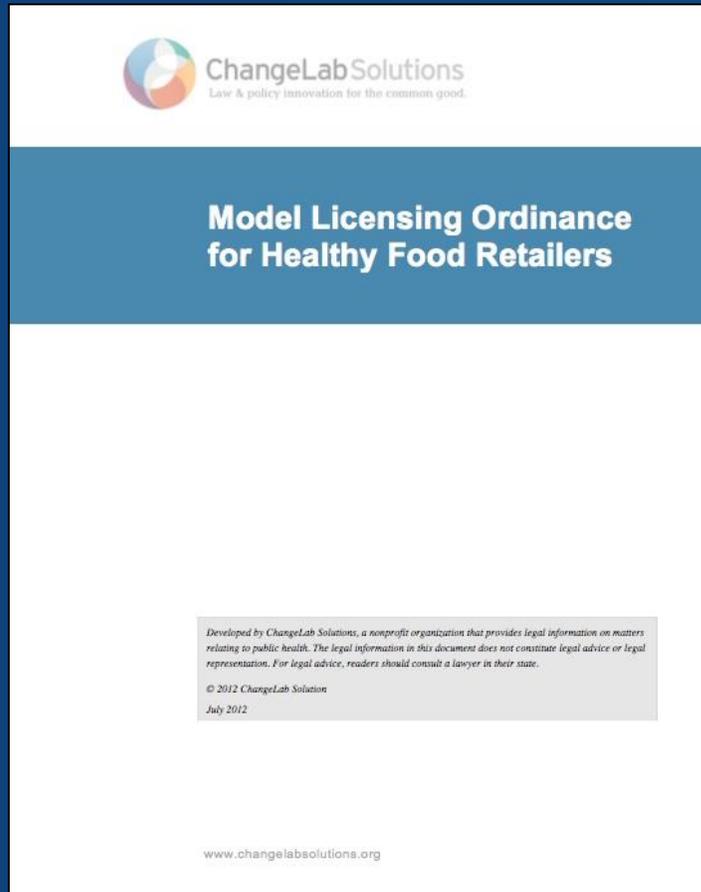
Non-Partisan Analysis, Study, and Research

Non-Partisan Generally Means:

1. Independent, balanced and objective;
2. Fair to both sides of an issue (contains a full and fair exposition of the pertinent facts);
3. Allows a reader to draw own independent opinion or conclusion though author may include their own opinion or conclusion;
4. Conclusion is based on evidence and facts, not on unsupported opinion;
5. Broadly distributed to the public, and not directed to only one side of an issue.



Broadly Sharing Evidence-Based Policy Approaches



Examples

- Model ordinance for mandatory indoor masking
- Toolkits on improving government procurement of at-home COVID-19 testing kits along with model contracts
- Results of policy scans that summarize school district policies on hybrid schooling

Other Allowable Activities

- Educating the public about personal health behaviors
- Communicating to the public about health risks, their consequences, including possible policy or legislative solutions
- Talking with legislators and staff about policy and issues, including site visits to help them gain a deeper understanding of public health issues
- Working with private sector organizations on voluntary institutional changes that do not constitute public policy
- Responding to a written request from a legislative committee about evidence of program or policy effectiveness regarding a specific piece of legislation

Exceptions to Lobbying Rules Under IRC 501(c)(3)

Even if all 4 lobbying elements are present, the following communications are **NOT** lobbying:

- Responses to a written invitation to testify about a bill (even if discussing pros and cons) or to provide technical assistance

Additionally, prohibitions on lobbying with philanthropic funds only apply to legislation and **do not** apply to:

- Regulations
- Administrative actions
- Often the decisions or actions of non-legislative bodies like planning commissions or school boards



© Planning Commissioner Journal

Invitation to Testify or Provide Technical Assistance

At the request of a government or legislative body, you may give a technical or factual presentation of information to government decision-makers regarding specific legislation or a legislative proposal. You may provide your opinion or recommendation if the invitation requests it.

Sample request

A written TA Request only needs to reflect the 3 requirements of the IRS.

1. Written on behalf of the government or legislative body (or a subdivision);
2. Request for information AND recommendations;
3. Response will be available to ALL members of the legislative or gov't body.

Keith Nagayama
State Senator
District 19
Metropolis – Southwest and Downtown

123 State Capitol
13579 A Street
Capitol City, New State 02589

May 14, 2014

VIA FIRST CLASS MAIL AND EMAIL (taprovider@publichealthexpert.org)

Susannah Vance Gopalan
Staff Attorney
Public Health Organization
8642 Main Avenue
New Town, New State 98765

Re: Request for Technical Assistance

Dear Ms. Gopalan,

On behalf of the Transportation and Housing Division of the New State Senate Finance Committee, I request that you provide our committee with information regarding mechanisms other states have used for funding healthy housing options. Based on your expertise in this area, and the Public Health Organization's experience with these issues in other states, please provide the Transportation and Housing Division with your recommendations regarding which, if any, of these mechanisms would work in New State. As chair of the Senate Transportation and Housing Division, I will ensure your information and recommendations are made available to all members of the committee.

Thank you for your assistance.

Very Truly Yours,

Keith Nagayama

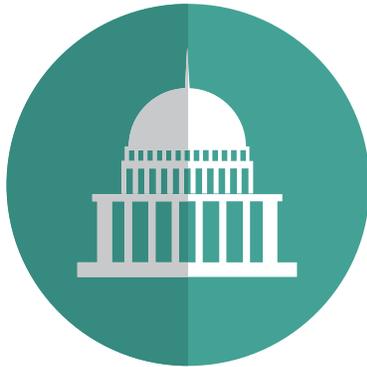
Keith Nagayama
State Senator, District 19
Chair of the Transportation and Housing Division of the New State Senate Finance Committee



**Exceptions to
Lobbying Rules for
Government
Employees Receiving
Federal Funding**

Normal and recognized executive-legislative relationships

Participation in policymaking and administrative processes within the executive branch of same level of government



Normal and recognized executive-legislative relationships =

- A health department **typically** provides an annual state of the health report to elected officials with recommendations for legislative action.
- State legislative liaisons **typically** consult local health agencies about pending legislation.



Participation in policy or admin processes =

Government officials may communicate with anyone within the same government about policy or legislation

For Example

- A state health agency liaison may discuss legislation with the governor's office.
- A county planner may discuss updates to the zoning code with the county public health department.
- A city public health department employee may discuss specific legislation with a city manager.

Questions to Ask Yourself

- Does funding include a restriction on lobbying?
- What advocacy can I engage in that doesn't constitute lobbying?
- Which laws or rules do I need to follow for my lobbying activities?
- Are there any state or local laws that prevent me from lobbying?

Yikes!

I Got It Wrong!

Did I Break the Law?

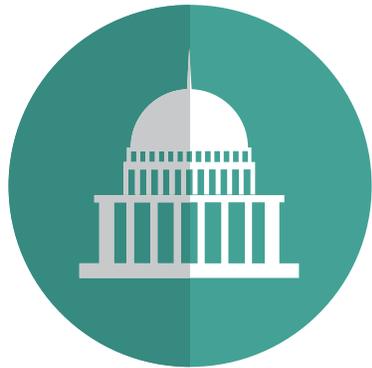
- Bill your time to a funding code that allows lobbying.
 - ✓ **Government:** General funds
 - ✓ **Nonprofits:** Unrestricted funds
- Get a proper cost accounting system in place.
- Talk to your legal counsel to understand the rules.

What can you do?



- **Engage:** Get people excited about their vision for change
- **Assess:** What's the problem? What solutions are there?
- **Propose:** Draft a strong policy that expresses the vision
- **Advocate:** Identify and meet with decision makers
- **Implement:** Stay focused even after a policy gets adopted





Key Points and Q&A

Key Points

- Lobbying is allowed, unless there are specific restrictions
- Restrictions on lobbying vary based on funding, contract language, and federal/state/local laws
- There are many allowable advocacy activities regardless of lobbying restrictions
- Carefully separate personal and professional lives
- **It is important to consult your legal counsel**

Advocacy Resources

Webinar/background materials from ChangeLab Solutions

<http://changelabsolutions.org/publications/webinar-complying-anti-lobbying-rules>

Feldesman Tucker (private law firm specializing in federal contracts)

<https://www.feldesmantucker.com/>

A Guide to the Hatch Act for Federal Employees

<https://osc.gov/Documents/Outreach%20and%20Training/Handouts/A%20Guide%20to%20the%20Hatch%20Act%20for%20Federal%20Employees.pdf>

National Council of State Legislatures' Chart on Laws that Limit Public Funds to Lobby

<http://www.ncsl.org/research/ethics/50-state-chart-limits-on-public-funds-to-lobby.aspx>

National Council of Nonprofits – Everyday Advocacy

<https://www.councilofnonprofits.org/everyday-advocacy>

Alliance for Justice: Bolder Advocacy Resource Library

<https://bolderadvocacy.org/resource-library/>

Public Health Authority Resources

Public Health Authority Litigation Tracking

<https://www.publichealthlawwatch.org/actforpublichealth/litigationtracking>

Public Health Authority Resources from The Network for Public Health Law

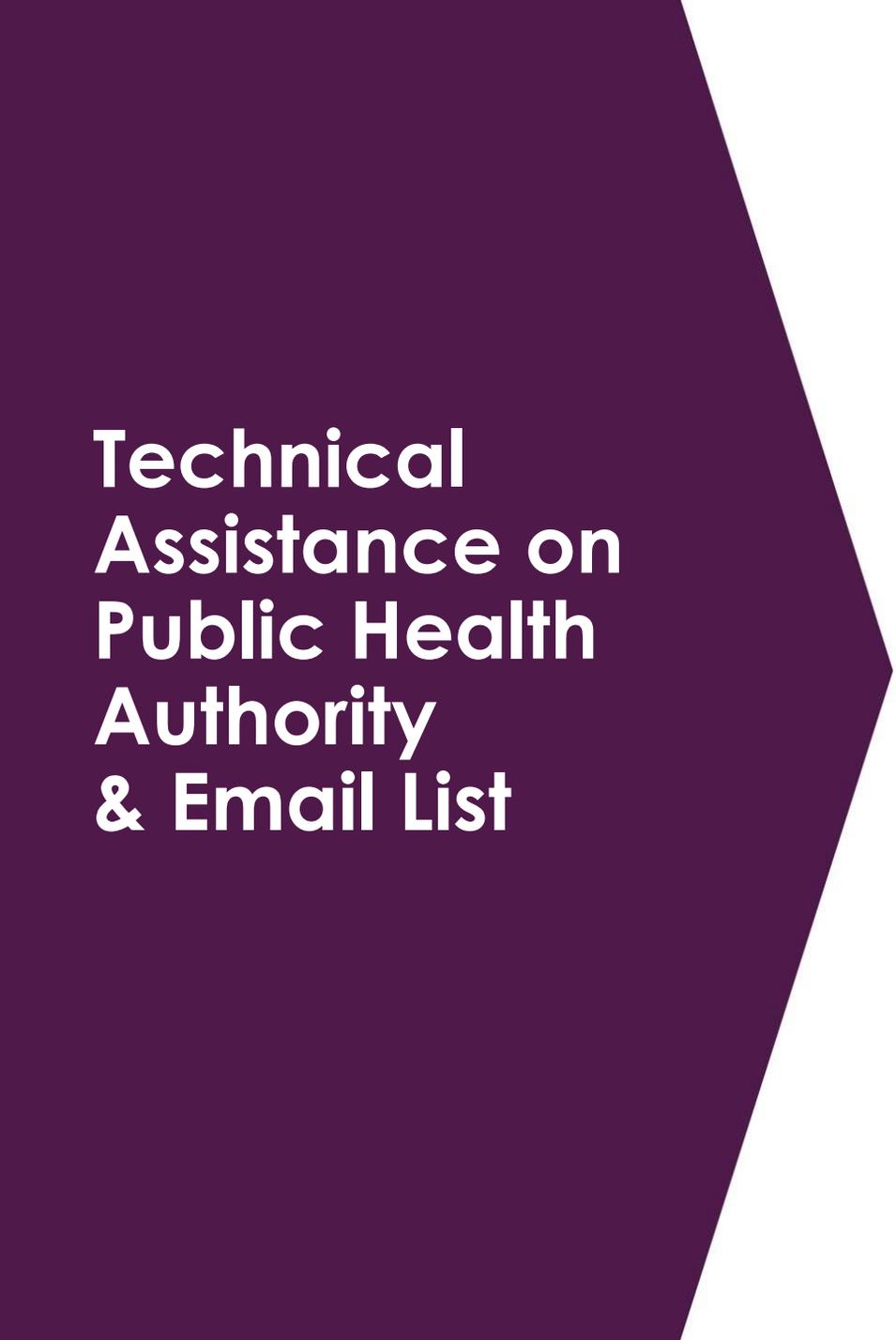
<https://www.networkforphl.org/resources/topics/public-health-authority/>

Public Health Authority Resources from ChangeLab Solutions

<https://www.changelabsolutions.org/public-health-authority>

Public Health Authority Resources from Public Health & Equity Resource Navigator

<https://phern.communitycommons.org/topic/public-health-authority/>



**Technical
Assistance on
Public Health
Authority
& Email List**

<https://actforpublichealth.org/connect-with-us/>



Questions?



ChangeLab Solutions

Thank you!

Post-training survey will follow.

www.changelabsolutions.org

Twitter: @ChangeLabWorks

Sabrina Adler, JD

Vice President of Law

sadler@changelabsolutions.org



Political Activity on Traditional & Social Media

Hatch Act: “Political Activity”

“Any activity directed at the success or failure of a political party or partisan political group, or candidate for political office.”

5 CFR § 734.101

See Office of Special Counsel website:

<https://osc.gov/Services/Pages/HatchAct.aspx>

Hatch Act: Political Activity via Traditional and Social Media

Federal employees may not use their official capacity to engage in political activities.

Political activity is OK in a private capacity without identifying official titles or positions.

Careful!! Can be ambiguous!

Ambiguity: Be Careful!

It's OK to have your work affiliation someplace on a Facebook page or Twitter account, but **not** associated with the political activity.

Include disclaimers on posts with personal views. Do not allow content to be viewed as work related.

More information: *A Guide to the Hatch Act for Federal Employees*