

Tips on Legislative Advocacy

To lay the foundation for developing an advocacy program, The ABA Office of Governmental Affairs recommends that the community stakeholder group (a) appoint an individual or small group of individuals responsible for coordinating the group's advocacy work; (b) establish a legislative agenda based on the policies of particular concern to the group and designate one or more of those policies for the advocacy project; and (c) develop a lobbying plan designed to advance governmental consideration and ultimately enactment or adoption of the policy. After you have identified the right people to coordinate the advocacy and the issues for your legislative priority, your next step would be to develop a lobbying plan.

Your Goal

Not every campaign or project is aimed at producing legislation. For some, the goal may be to get a hearing where diverse views can be aired and legislators can become better educated. Some are intended to support new legislation, oppose existing legislation, or offer an amendment to a larger bill. Some advocacy is targeted to achieve changes to regulations, which are sometimes simpler to attain. Each of these goals will have a distinct strategy associated with them. You will need to start with the goal clearly in mind.

Statement of the Problem and Recommended Solution

"What is the problem to which this is the solution?" is a question often ignored in unsuccessful efforts. Framing the discussion in terms of a discrete problem and effective solution is the foundation of a successful lobbying plan. Additionally, any issue selected should be couched in terms of advancing the broadest possible legal and public policy principles: due process; fairness; humane treatment; right to counsel; fundamental privacy; or other basic constitutional rights.

Fiscal Impact

Many recommendations call for "new," "full," or "increased" funding for programs. Such a broad statement is often meaningless in the context of advocacy, as it does not help lawmakers understand the priority of the recommendation in the context of every other request they are called on to

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consider. Thus, this does not in itself provide a basis for establishing a lobbying plan. You will need an estimate of how much you will be asking for, as well as whether you are proposing that general revenues be appropriated or have in mind a different source of funding. You not only have to justify why the amount you request is reasonable under the circumstances, but why a lesser amount will not suffice in the current fiscal climate. Additionally, since many programs you likely support come under the same budget allocation in the Appropriations Committees, you must consider whether you risk cannibalizing your own favored programs in one area when you request increased funding in another.

Often the program being advanced is expected to bring about certain savings. For example, additional funding for representation by counsel and for community diversion programs can wind up saving high costs of incarceration (while also being fairer and more humane). Rough calculations of these cost-benefit assessments will be extremely valuable up-front; it is impossible to advocate the most principled objective without being asked: "How much will it cost and where will the money come from?"

Timing

A number of considerations go into determining the right timing for a lobbying effort. When you begin is as important as where you start. For example, it makes little sense to lobby for reauthorization of a program off-cycle or when it is slated to be considered or to press for additional funds after the year's appropriations bills have been approved. Most advocacy efforts will require longer-term commitments—sometimes multiple years—depending on the issue.

Identifying Supporters and Allies

Few bills can be moved through complex processes without major efforts by a broad group of supporters, no matter the importance of the policy or the benefits that might be achieved by enactment. You need to ask yourselves which industries, interests, organizations, agencies, governmental, or other entities are likely to be supportive of the proposal? Support can come in many forms: shared economic interests, professional interests, common policy, or ideology. Is support based upon direct economic interest or other impact, or on policy or ideological grounds? Is there already a coalition or organization in existence that is supporting the issue in a focused, current manner? You may be better off collaborating with that existing effort than attempting to start something new that could undermine deliberations underway or concessions already made.

When a coalition exists, you will need to ask: What are the coalition's strengths and weaknesses, and how would the advocacy effort fit in with the other groups comprising the coalition? If there is no coalition, would it be desirable to create a coordinating organization, and might the stakeholder group serve as that entity? The political strengths and weaknesses of potential allies on an issue should be assessed, as well as how the coalition would function should possible compromises be needed to advance the issue. And what are the goals of the coalition? At what point do your interests diverge from the coalition's? Often, a coalition will pursue a different course midstream than the one to which you aligned yourself; how do you know when it is time to part ways, preserving your own expert voice and focus?

Identifying your Opponents

It is generally easier to defeat a legislative proposal than to obtain enactment. Thus an analysis similar to the one described above should be undertaken with regard to our likely opponents. Which industries, interests, organizations, agencies, government entities, and the like are likely to oppose the proposal? Is their opposition based upon direct economic interest or other impact, or on policy or ideological grounds? Is there already a coalition or organization in existence that is opposing the issue in a focused, current manner? What are its strengths and weaknesses? Could your group seek common ground with any of these groups, and are there opportunities to achieve your goals through compromises that would gain additional substantial supporters or neutralize opposition?

Responses to Opposition Arguments, Activities

What are likely to be the most effective arguments or activities of opponents to the policy, and might there be any way to anticipate and counter or undermine opposition arguments or activities early in the process? Would additional information that might be obtained through surveys, research, collection of empirical data, or other approaches be helpful in advancing the group's interest and countering or responding to opposition arguments?

Relevance of the Judiciary

If the policy affects the courts—potentially, for example, leading to increased litigation, or changes in standards or rules to be used by the courts—then determining if the courts and/or state or local bar have taken a position will be important. Support by individual judges might also be valuable on issues relating to access to justice or due process. Assessment of the impact on and role of the judiciary—both in obtaining enactment of the legislation and in implementing it—should be part of the lobbying plan. If the issue implicates state courts, then you should coordinate efforts with the Conference of Chief Justices and the National Center on State Courts, as well as with state bar organizations. If concern or opposition from the judiciary might be anticipated, this should be confronted and addressed at the outset.

Academic and Think-Tank Positions

Academics and participants in think tanks often are important sources of data that can be used to support (or oppose) policy proposals. You should understand the literature on the subject of the policy, identify its strengths and weaknesses, prepare responses to opposing materials, and see whether gaps can be filled before final legislative action.

Mapping the Political Landscape

With the groundwork completed through the assessments suggested in the above sections, it is time to plot a legislative strategy to advance a policy proposal that calls for action. It is always useful to engage allies in this process, both to ensure that planning is informed by diverse perspectives and to prevent competing efforts that might dissipate energies and prove counterproductive.

Knowing how the political landscape relates to the issue is essential. What is the legislative history of the issue; where were the impediments to enactment in the past? Which committees have jurisdiction; how can overlapping or competing jurisdictional claims be addressed? Who have been the past leaders, supporters, opponents? Only with a firm grip on history can we hope to develop a successful road forward.

A key step in launching a new issue is to identify potential key supporters, most importantly lead sponsors for the measure – focusing first on majority party members of the relevant committees, but always looking to secure bipartisan support. Voting records, speeches, relevant past positions, and discussions with staff all provide a foundation for selecting leaders for the issue. Other supporters must be identified and a legislative package developed with the participation of supporters. In some cases the plan will be to have free-standing legislation introduced and moved as a separate bill or part of a package. In some cases, it will be introduced and then only later added as a rider at the opportune time. In other cases, it will be developed but not introduced, and can later be added as an amendment when a relevant bill starts to move. Assessments relating to timing, issue leadership, opponents, costs, and the like will all inform these decisions.

State-Oriented Advocacy

All politics is local, and it is obviously not practical to develop lobbying plans for 50 states given that each state presents unique challenges. Hence, at the state level it is even more important to seek the guidance and harness the advocacy assistance of state and local bar allies. State and many local bars are the respected legal authority on issues for state legislatures, and their guidance will often be sought by state policymakers. Sometimes, without advance coordination with the state bar, proposals have failed because of opposition by the state bar that might have been avoided by advance coordination. The ABA can make introductions or clear the way for your state-level advocacy. Rather than presenting obstacles, the state bars introduce us to the right people for advice and involvement, assist in developing a state-specific strategy, and often coordinate and initiate state-based advocacy as well.

Direct Lobbying, Grassroots Activities, Media and Communications

Advancing an issue will require some combination of direct lobbying, possible grassroots and media-related efforts, and coordinated efforts by your allies. It is critical to develop the appropriate messages, determine timing, and synchronize lobbying efforts. Constituent-based grassroots advocacy is widely considered to be one of the most effective advocacy strategies. Legislators and

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their staffs consistently indicate that hearing from a constituent influenced their decision-making more than any other advocacy strategy. Grassroots advocacy is most effective when it is part of a structured, coordinated, and unified effort.

Using ABA Policy in State and Local Advocacy Efforts

The ABA House of Delegates establishes Association policy. This policy-making body is comprised of approximately 550 delegates who represent various groups within the ABA and legal profession as a whole. ABA policy statements have successfully been used as the foundation for legislative advocacy campaigns on the federal, state and local levels with advocates highlighting the policy as the statement of the organized bar.

The Commission on Homelessness & Poverty has developed a comprehensive body of policy positions that have been approved by the ABA House of Delegates; these policy statements are available online at http://www.americanbar.org/groups/public_services/homelessness_poverty/ABAPolicyPositions.html, and the Commission is equipped to provide free technical assistance to advocates. A searchable database of all policy resolutions adopted by the ABA may be accessed at http://www.americanbar.org/advocacy/governmental_legislative_work/priorities_policy.html.

While ABA policy statements are useful tools for developing local initiatives, engaging the support of state and local bar associations is an effective mechanism for galvanizing political support. Advocacy by state and local bar leaders—in their roles as local community leaders, lawyers and constituents—are an integral part of successful lobbying efforts. Local ABA members (who are typically active in state and local bar activities) as well as the Commission can also play a role in facilitating coordination and making introductions to state and local bar leaders.

Taking Action!

Tips on Telephoning a Legislator

A telephone call is one of the most widely used methods of communicating with a legislator's office. To find the phone number for your state legislator, visit the [Find Your Legislator section of the ABA website](#). Remember that a staff member, not the legislator, takes telephone calls. Ask to speak with the staff member who handles the issue about which you wish to comment. After identifying yourself as a constituent, tell the staff member you would like to leave a brief message, such as: "Please tell Senator/Representative (last name) that I support/oppose (issue or bill number)." You may also want to state the reasons for your support or opposition to the bill. Ask for your Senator's or Representative's position on the issue or bill. You may also request a written response to your call. Always be polite and courteous.

Tips on E-mailing or Writing to a Legislator

An e-mail or letter is one of the more widely used methods of communicating with a legislator's office. Writing a letter gives you, as a constituent, the opportunity to express and defend your position on an issue. It is very important to include your street address in the correspondence as this is the only way a legislator has of knowing that you are a constituent. In some instances, e-mails without street addresses may not receive a response. Your message will be most effective if you follow a few simple guidelines:

- State your purpose for writing in the first line or first paragraph of the message. If your message pertains to a specific piece of legislation, identify it accordingly.
- Be courteous, to the point, and include key information, using examples to support your position.
- Address only one issue in each message and, if possible, keep the letter to one page.
- Be sure to include your street address.