

**New Mexico Association of Food Banks**  
**Policy on Public Policy Advocacy**  
**Adopted by Board of Directors on June 21, 2019**

The New Mexico Association of Food Banks (NMAFB) will be a strategic and thoughtful advocate at local, state, and national levels for policies and actions that will reduce food insecurity. NMAFB will use clear guidelines, principles, and processes to consider the need, the desirability, and/or the opportunity for it to advocate various public policies or actions, to determine whether to engage in advocacy in such cases, and, in those cases where it decides to engage in advocacy, to choose the means, message, and extent of its advocacy.

### **What is public policy advocacy?**

Advocacy encompasses a wide range of activities intended to influence decision makers. Advocacy includes traditional activities such as litigation, lobbying, and public education. It also can include capacity building, relationship building, network formation, and leadership development. Of this range of activities, lobbying has an important and specific definition; it refers to activities that are intended to influence the contents or course of specific legislation.

### **Why should the New Mexico Association of Food Banks advocate?**

Public policies and actions—those established and taken by governmental bodies at all levels—can affect food security and insecurity, often profoundly. In order both to maximize the impact NMAFB has in reducing food insecurity and to prevent public policies and actions from nullifying or reducing the effect of its ongoing activities, it needs to affect the formulation and execution of policies that may play a significant role in causing or mitigating food insecurity or in enabling NMAFB to carry out its work. As NMAFB witnesses the impact of public policies on the people it serves, it can be an important bridge between policy makers and their constituents. Effective advocacy can produce results that leverage NMAFB's capacities and thereby enable it to achieve the greatest good for the greatest number of people and their communities. Engaging in public policy advocacy also can have salutary indirect impacts by raising awareness of the extent and effects of food insecurity and related problems, of NMAFB's mission, and of NMAFB's contributions to mitigating these problems as well as its inability to fully mitigate them and the reasons for that inability. Further, advocacy work by NMAFB can help to mobilize NMAFB's constituents. Nonprofit organizations that do not take advantage of their ability to advocate and lobby very likely miss opportunities to significantly improve the lives of the people they seek to serve and assist.

### **Nonprofits and Lobbying**

Lobbying and advocacy are NOT interchangeable. Advocacy encompasses many different kinds of activities designed to promote a cause or idea. Lobbying refers to specific activities intended to influence governmental *legislation*. Nonprofits—whether they are designated by the U.S. Internal Revenue Service (IRS) as 501(c)(3) or 501(c)(4) organizations—are allowed to engage in lobbying activities, although the rules for lobbying are stricter for (c)(3) organizations like NMAFB. The IRS website states that “[i]n general, no organization may qualify for section 501(c)(3) status if a substantial part of its activities is

attempting to influence legislation (commonly known as *lobbying*). A 501(c)(3) organization may engage in some lobbying, but too much lobbying activity risks loss of tax-exempt status.”

## What constitutes lobbying?

The IRS website 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.” The website further states that “[a]n organization will be regarded as attempting to influence legislation [– i.e., lobbying –] if it contacts, or urges the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation, or if the organization advocates the adoption or rejection of legislation.”

It is important to note that being engaged in public policy is not strictly about lobbying. Organizations may “involve themselves in issues of public policy without the activity being considered lobbying. For example, organizations may conduct educational meetings, prepare and distribute educational materials, or otherwise consider public policy issues in an educational manner without jeopardizing their tax-exempt status.” *Some activities are expressly excluded from the definition of lobbying, including:*

- *Providing technical assistance or advice to a government body or committee in response to an unsolicited request*
- *Communications concerning legislation that may affect the organization’s existence, powers, duties, 501(c)(3) status, or deductibility of contributions (referred to as “self defense” activities)*
- *Nonpartisan analysis, study, or research.*

Regulations divide lobbying into two types: direct and grassroots. Direct lobbying is any attempt to influence legislation by communicating with any member or employee of a legislative body or any other government official who may participate in the formulation of legislation. Grassroots lobbying is any attempt to influence legislation by encouraging the public to lobby.

## Advocacy Guidelines

In order to be fully prepared to advocate on behalf of the communities NMAFB serves, it must have clear policies and procedures for—

- how it will identify and approve the issues and other matters with respect to which it will engage in advocacy
- determining the means and strategies for advocacy it will employ in the case of each approved issue or matter with respect to which it will engage in advocacy
- implementing advocacy strategies
- providing consistent, strategic communication, as appropriate, with NMAFB Board of Directors and employees, NMAFB partners, and advocacy partners regarding the issues and other matters with respect to which it is engaging in advocacy
- ensuring any lobbying in which it engages is undertaken with full knowledge of and in complete compliance with the applicable regulations and restrictions for nonprofit organizations that are imposed by law
- ensuring appropriate internal controls are in place to properly and accurately identify, track, control, and report on lobbying activities.

## **Advocacy Criteria**

NMAFB may engage in advocacy, including lobbying (so long as the lobbying complies fully with applicable lobbying regulations and restrictions), with respect to policies, issues, legislation, or actions—whether being taken or contemplated by governmental officials, organizations, or persons—that reasonably can be anticipated to affect—

- NMAFB’s ability to conduct operations effectively and efficiently in pursuit of its mission and its goals and objectives
- the food security or insecurity of NMAFB’s clients or program participants
- general food security or insecurity in New Mexico
- NMAFB’s status as a 501(c)(3) nonprofit organization or its organizational viability as an instrument for mitigating food insecurity of New Mexico residents

## **Process for Determining Advocacy Positions and Agendas**

The NMAFB will—

- research and evaluate issues and other matters included in “Advocacy Criteria” and will consult with NMAFB’s advocacy partners concerning their views and positions on those issues and matters
- formulate the position or stance it believes should be advocated and the best strategy for advocacy regarding each such issue or matter
- recommend to the Board of Directors for its consideration and approval the position or stance and the advocacy strategy the Committee believes are most appropriate.

## **Participation with Advocacy Partners**

NMAFB’s hunger-relief network is comprised of five food banks and more than 500 partner agencies including emergency food pantries, hot meal programs, homeless shelters, youth programs, group homes, senior centers, children’s homes, day care centers, and shelters for battered families. NMAFB also engages with various membership organizations such as chambers of commerce, health councils, and advocacy coalitions.

It is important that NMAFB actively engage in conversations with trade associations, unions, social welfare organizations, community and business associations, and other organizations on issues important to food insecurity, public health, and the welfare of the citizens of New Mexico. This dialogue with other stakeholders promotes and helps to protect NMAFB’s work to create healthy, hunger-free communities in New Mexico. On some issues, NMAFB’s views may be different from those of some of these other organizations. Whenever it proves impossible to reach a common perspective and approach to advocacy on a particular issue or matter with one or more other organizations, NMAFB will not engage in advocacy activities that are in any way in conflict with NMAFB’s mission, goals and objectives, or established policies. In such cases, NMAFB either will advocate independently or engage in advocacy only with those other organizations whose approach and objectives are consonant with NMAFB’s.

## **Lobbying Expenditures and Registration**

NMAFB may engage in limited lobbying to advance its mission. NMAFB will strictly adhere to the

limitations on lobbying expenditures imposed under law by the IRS. Lobbying expenditures are reported annually to the IRS on Form 990. NMAFB has elected to have its lobbying expenditures and activities defined and determined under section 501(h) of the Internal Revenue Code. This provides a “brighter line” specifying the permissible level of lobbying expenditures than the alternative, the “substantial part” test, for both overall lobbying and specifically for grass-roots lobbying—and thus makes it easier for NMAFB to ensure it always is compliant with the IRS limitations.

For both direct and grassroots lobbying, the costs of researching, preparing, planning, drafting, reviewing, copying, publishing, and mailing materials, as well as compensation for employees’ time spent in these pursuits, must be included in lobbying expenditures.

To ensure compliance with the requirements of section 501(h), anticipated lobbying expenditures must be included in each annual NMAFB budget approved by the Board of Directors, and then such expenditures must be authorized in advance by the President. The President and NMAFB’s CPA are responsible for accurately recording the staff time expended in lobbying activities and other expenditures for lobbying. These will be charged to a lobbying project code that will indicate whether the lobbying is “direct” (aimed at government officials) or “grass-roots” (aimed at persuading members of the community/general public to engage in lobbying).

NMAFB strictly prohibits use of government funds for lobbying, including use of government funds to hire consultants or make grants. NMAFB will use foundation grant funds for lobbying only if explicitly permitted in the funders’ guidelines. If a NMAFB project receives funding from more than one source, the project can include lobbying so long as the lobbying expenditures are funded by one or more sources that explicitly permit lobbying.

## **The New Mexico Association of Food Banks is a Nonpartisan Organization**

Political activity is not the same as either advocacy or lobbying. NMAFB does not engage in political activity. It does not support one candidate for a public office over another candidate, and it does not support any political parties or their activities. NMAFB will work with all political parties and office holders from those parties in its advocacy and lobbying efforts. If it asks one candidate for an office to speak at an event or conference, it will extend an invitation to all candidates for that office.