

FORVIS

WEBINAR

Make Your Voice Heard: Nonprofit Advocacy

February 29, 2024

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Meet the Presenters



Dan Prater

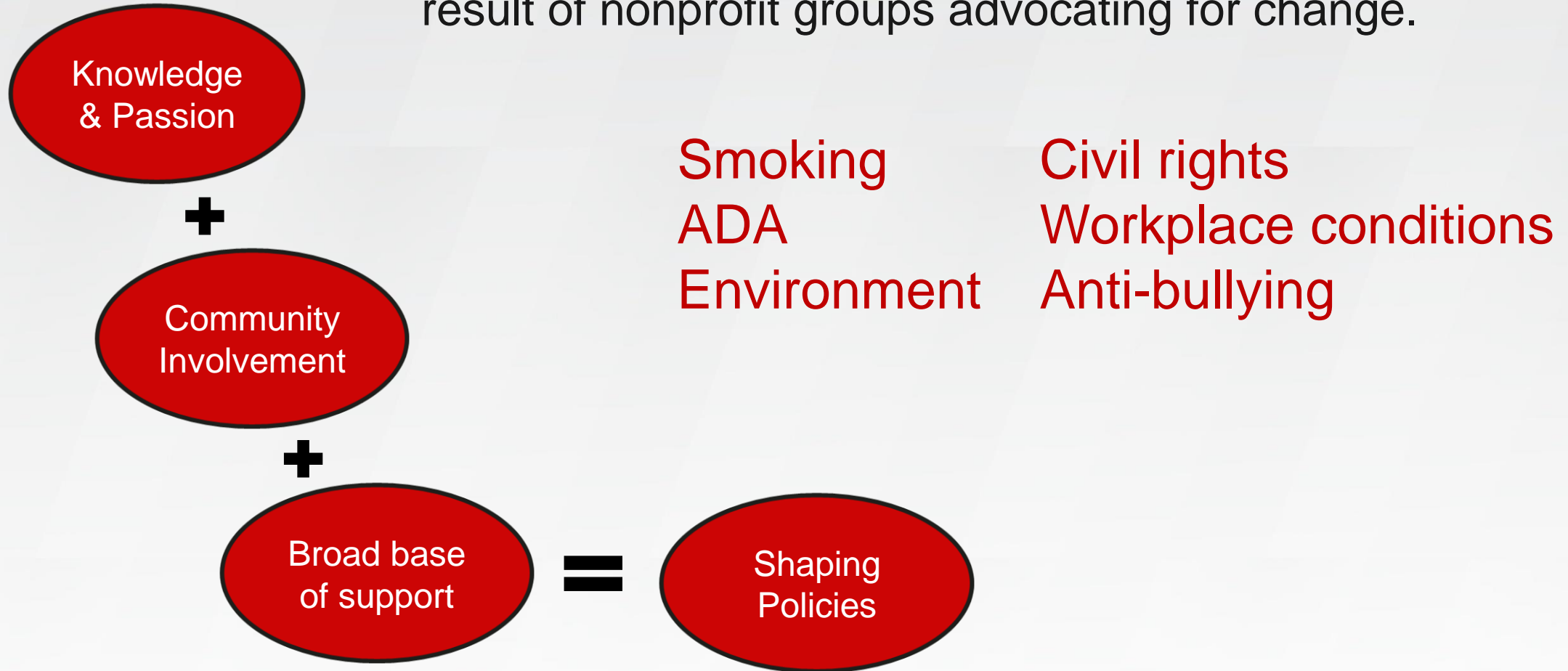
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Many of the great changes in our nation are the result of nonprofit groups advocating for change.



Why Be an Advocate?

1. Helps fulfill your mission.
2. Helps you survive.
3. Helps your community solve (& avoid) problems.
4. Helps give a voice to those you serve (often unheard).
5. Helps public policymakers who need/want citizen input.

Nonprofit Leaders & Board Members ...

- are **community leaders** by virtue of their position in the organization.
- are **subject matter experts**.
- can help **provide access** to opinion shapers & decision makers.
- are **stewards & champions** for the organization's mission.
- can **use their networks** to help build alliances for nonprofit advocacy.
- can be **powerful messengers** in legislative & administrative arenas.

In 1976:

Congress enacted statutes clarifying beyond all doubt that 501(c)(3) charitable nonprofits may lobby, establishing generous limits, providing clear guidelines, & creating other benefits.

“... organizations may engage in some lobbying”
& “involve themselves in issues of public policy
without the activity being considered as lobbying.”

A 501(c)(3) organization is strictly forbidden from engaging in any political activity **on behalf of or in opposition to a candidate for public office.**

Advocacy vs. Lobbying

- ➔ **Advocacy** is helping people understand your issue & engaging them to become part of your base of support.
- ➔ **Lobbying** involves asking elected officials to take a particular position on specific legislation.
- ➔ **Organizing** is the act of bringing together people & institutions that support your viewpoint & efforts.

Direct lobbying – communication, *i.e.*, calling, writing, or visiting, referring to a specific piece of legislation & expressing a position on it.

Grassroots lobbying – communication with the general public that reflects a view about specific legislation & encourages the public to contact legislators.

Are You Lobbying?	YES	NO
Calling a state representative, encouraging them to vote for or against legislation	YES	
General education to public officials on issues, not Legislation		NO
Emailing the Secretary of State, encouraging them to take a specific stance		NO
Buying ad space in a local newspaper, voicing opposition to legislation & asking the public to contact their legislators in opposition to the bill	YES	
Writing a letter to the editor, urging the public to contact legislators in favor of proposed legislation	YES	
A nonprofit's response to written requests from a legislative body for technical advice		NO
A nonprofit's communications to its members on legislation that does not encourage them to contact public officials		NO
Speaking to legislators (but not the general public) on matters that may affect the organization's own existence, power, tax-exempt status		NO

Private foundations, including family foundations, are not permitted to lobby:

- Direct communication w/ a legislator or staff with intention of influencing legislation & communication with public that includes a call to action or urging them to contact a legislator or staff.

Private foundations can take part in these four activities, which are not considered lobbying:

- 1. Self-defense** – communicating with public officials about legislation that could impact the foundation’s existence, power, or duties.
- 2. Analysis, Research** – to present an objective view of a public policy issue being discussed.
- 3. Technical assistance request from Legislative body**
- 4. General communications with public** – not lobbying as long as they do not refer to specific legislation or include call to action.

IRS Rules for Foundations

- ➔ Private foundations must not earmark (designate) or direct a grant to a public charity for lobbying.
- ➔ Private foundations may make general support grants to charities whether or not the charities are currently lobbying, have lobbied in the past, have made the 501(h) election, or even use the grant for lobbying purposes.
- ➔ Private foundations can give specific project grants to fund projects that include lobbying, so long as an individual foundation's total grants for the same project & year do not exceed the amount the grantee had budgeted for the nonlobbying portion of the project.

Community foundations are permitted to make grants that are specifically earmarked for lobbying.

The Lobby Law developed in 1976 set clear guidelines for 501(c)(3) lobbying.

It requires nonprofits to file Form 5768, known as the “h election” because it refers to Section 501(h). Organizations (other than private foundations, churches, & integrated auxiliaries of churches) can use the following to measure lobbying activity:

**Expenditure
Test**

Organization’s Annual Expenditures	Lobbying Limit
< \$500,000	20% of the exempt purpose expenditures*
>\$500,000 but less than \$1,000,000	\$100,000 plus 15% of the excess of exempt purpose expenditures over \$500,000
>\$1,000,000 but less than \$1,500,000	\$175,000 plus 10% of the excess of exempt purpose expenditures over \$1,000,000
>\$1,500,000 but less than \$17,000,000	\$225,000 plus 5% of the exempt purpose expenditures over \$1,500,000
\$17,000,000 or more	\$1,000,000

*all expenditures the organization makes to further its exempt purposes, including program expenses, administrative expenses, depreciation, lobbying expenses, & most in-house fundraising expenses.



“Insubstantial Part Test”

3 to 5% of an organization’s overall activities can be toward lobbying.

The insubstantial part test is the default test that applies if an organization does not make the 501(h) election.

40 hours per week x 52 weeks = 2,100 hours

- $2,100 \times 3\% = 63$ hours
- $2,100 \times 4\% = 84$ hours
- $2,100 \times 5\% = 105$ hours

Organizations That Are Permitted to Lobby

501(c)(4), (c)(5), & (c)(6) exempt organizations do not have any limitations on the extent of lobbying they may participate in as long as those lobbying activities relate to their exempt purpose.

	501(c)(3)	501(c)(4), (5), (6)
Lobby for/against legislation	Limited	Unlimited
Support/oppose ballot measures	Limited	Unlimited
Make campaign contributions (monetary or in-kind)	NO	YES
Distribute voter guides to the public that compare candidates on issues	NO	Depends on law, OK in some states
Criticize sitting elected officials	NO	YES
Highlight the differences between candidates for public office on a high-profile issue	NO	YES

501c4

ACLU, Rotary Clubs, NRA, NOW, AARP, some associations, DAV, etc.

501c5 Labor unions, Ag

501c6 Chambers, business, real estate boards, professional associations

WHAT TYPES OF ISSUES CAN BE CHANGED?

Legislative Issues

Regulatory Issues

Ballot Measures



When to Do Advocacy

The best time to start an advocacy campaign is:

- When proposals threaten your mission (programs/services)
- When you cannot achieve your goals in any other way
- When you are sure you have (or will have) the capacity
- When you have adequate resources



LEAVES: SOLUTIONS
Who, What, When, Where, How? What actions could change the situation? Remove an old policy? Add new policy?

BRANCHES: BARRIERS
Are there cultural, social, economic, or political barriers hindering the solution?

This will be your advocacy issue

Starting Point

TREE TRUNK: PROBLEM
What is the core issue or situation you are facing?

ROOT: CAUSES
What is the core reason that this problem exists?

Prioritize the Issue

	High	Med	Low
1. The nature of the policy change that is needed is clear			
2. Number of people in our community/region that are or will be affected by the issue (the more people, the more important the issue)			
3. Ability to base our work on lived experiences (learn from those suffering & work in partnership with them)			
4. Level of resources required (current or potential to acquire)			
5. Potential for success			
6. Estimated time required to succeed (shorter is better)			
7. Level of public support for this issue			
8. Level of decision-makers' support for this issue			

Allies



Your board/staff connections, civic groups, friends, family, colleagues.

Care about same things (issue)
Care about your success
Willing to be involved
Have resources to contribute

Opposition



Care about same things (issue)
Has something to lose (directly or indirectly) if you win
May seek to stop you from winning

Understand (anticipate) their tactics
Meet them & discuss differences
Focus on shared interests
Attempt to develop win-win solutions

Engaging Your Board

Should board members be involved in the advocacy process?

- Members can provide input & connections
- Board training & tools are needed
- Boards can provide resources for staff
- Not all members are suited for public advocacy

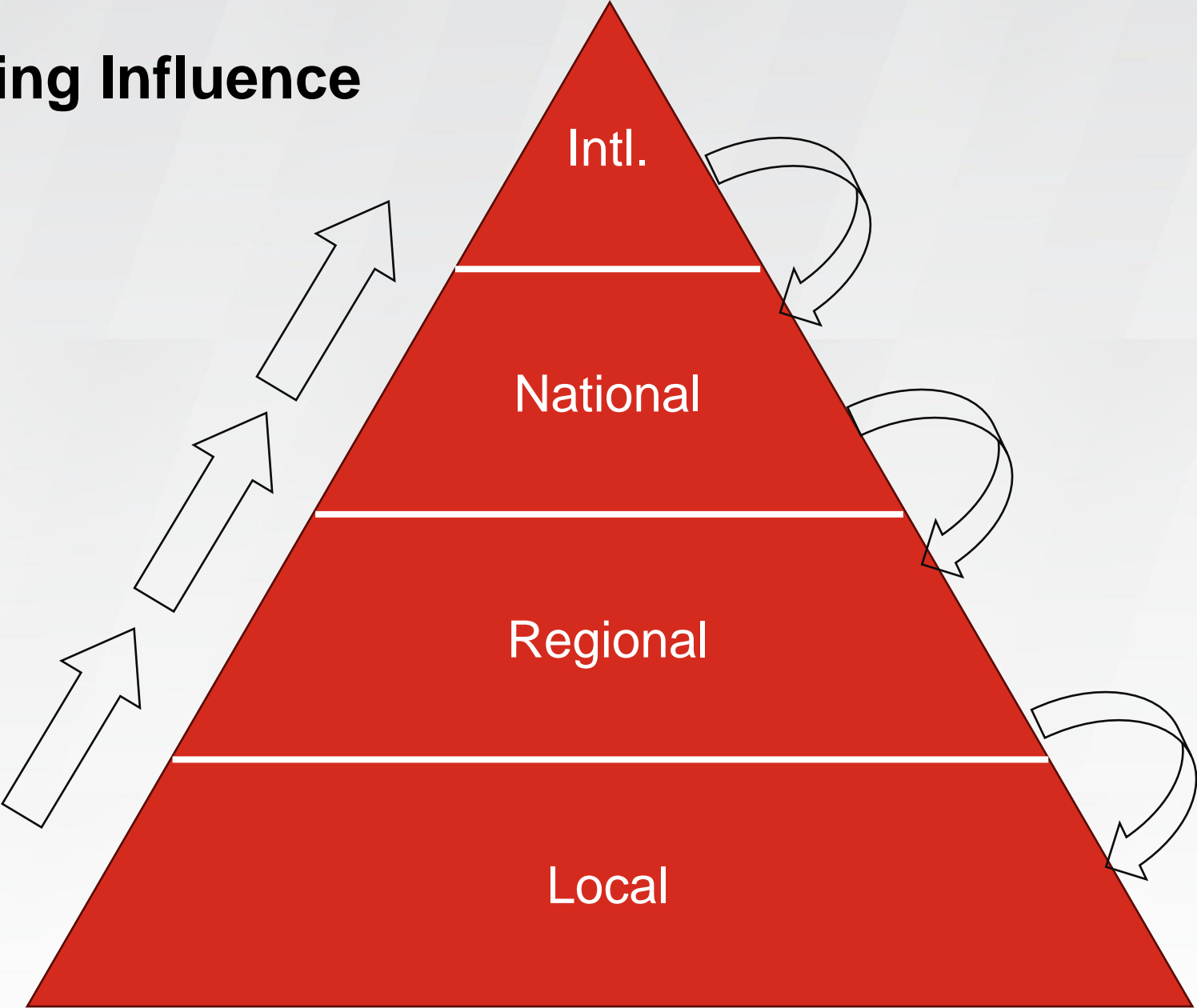
Developing an Advocacy Strategy: Resources

1. Funds (including in-kind contributions) balanced against expenses
2. People now available (both staff & volunteers), & their skill sets
3. People you expect to be available
4. Contacts, *e.g.*, with media resources
5. Facilities, *e.g.*, access to transportation, meeting rooms, etc.
6. Access to information that will be needed

Developing an Advocacy Strategy: Tactics

1. What will be the specific action or step needed?
2. Who will oversee this action?
3. When will the action take place, & for how long?
4. What resources will be required to carry it out?
5. Which allies & constituents should be involved?
6. Which individuals & organizations might oppose or resist?

Understanding Influence



Advocacy Tips

Be factual

- Document your claims
- Collect data
- Verify
- Use data to explain “why”

Emphasize your organization’s value

- Focus on values & principles
- Communicate importance of your programs/services
- Tell success stories (real people)
- Provide consistent progress updates

Five Simple Ways to Advocate

1. Get to know your elected officials (early, build TOMA).
2. Monitor public policy movement at local, state, & federal that could advance or harm your mission. (GovTrack.us)
3. Organize consistent meetings or site visits with your legislators & their staff.
4. Proactively take positions on prominent & relevant issues.
5. Inform & empower your supporters, stakeholders, & those who care about your cause.

No response is, indeed, a profound response.

What message does it send when an organization does not respond to issues that directly relate to their mission?

We are
afraid to
voice an
opinion

We are
unaware
anything is
happening

We don't
care enough
to respond

We are
hiding
something

Communication is non-stop. Do you want to help shape the narrative or are you content letting others shape it?

Policy Brief

- Executive summary
- Introduction with background information
- Policy-relevant recommendations
- Photos &/or graphs



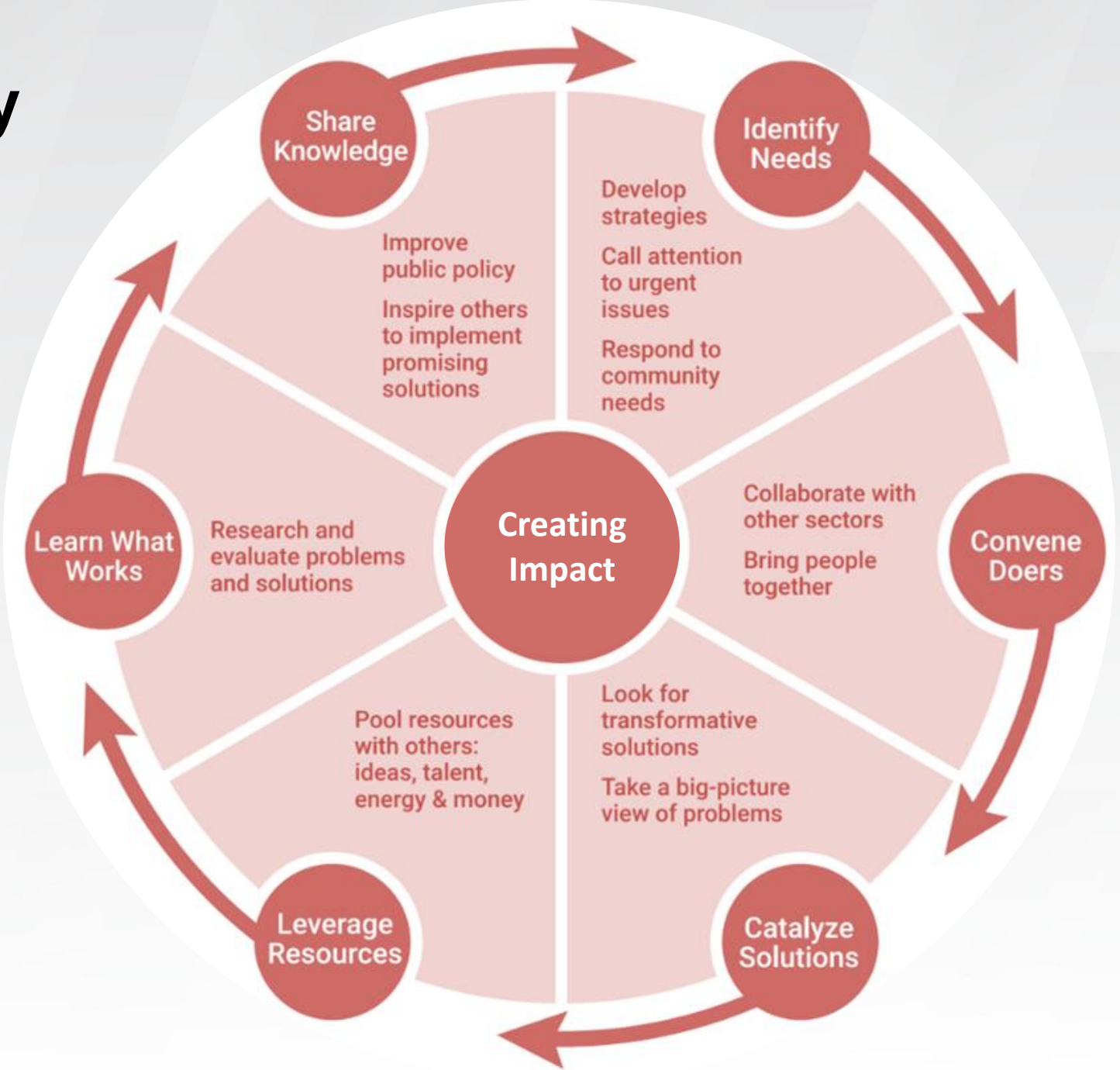
Keep it short

Provide actionable recommendations

Create urgency

Frame it so your lawmaker will understand its relevance

Advocacy Cycle



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