

Private Foundations May Advocate

Private Foundations May Engage in Advocacy

Private foundations may participate in many forms of advocacy activities and may fund advocacy. Although private foundations do incur a prohibitive tax on any lobbying expenditure, lobbying is only one type of advocacy and there are many permissible advocacy avenues for private foundations. For example, a private foundation could:

- Influence the adoption of agency regulations that interpret existing laws
- Build relationships with legislators or help grantees build and sustain these relationships
- Convene nonprofits and decision-makers to discuss a broad topic (e.g., how to balance the economy, development, and the preservation of endangered species)
- Educate legislators about a broad range of issues, without referencing a specific legislative proposal
- Meet with legislators to discuss the scope and impact of the foundation's work
- Sign on to an *amicus* brief, file a lawsuit to challenge a law or enforce a law, or fund litigation to challenge the constitutionality of a particular law
- Train grantees on how to lobby
- Influence school board policies or the policies of any other "special purpose body" that has limited jurisdiction (e.g., housing authorities, sewer and water districts, zoning boards, and other similar federal, state, or local body)
- Conduct public education campaigns that do not include [calls to action](#) or mention [specific legislation](#)
- Offer [technical assistance](#) to legislators in response to a written request for oral or written testimony from a legislative body
- Produce a comprehensive, accurate study or analysis of an issue (often referred to as a "[nonpartisan analysis study or research report](#)") that is widely distributed and provides enough information about the issue to allow the reader to draw their own conclusions, even if the report contains specific legislative conclusions
- Attempt to influence any legislation that impacts the private foundation's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions (often referred to as "[self-defense](#)" lobbying)¹

Private Foundations Cannot Engage in or Directly Support Lobbying

Private foundations cannot engage in lobbying or directly support lobbying through earmarked lobbying grants. Under federal tax law, there are two types of lobbying – [direct and grassroots](#). Direct lobbying is a communication with a legislator (federal, state, or local or [similar international body](#)) or her staff, that expresses a view about specific legislation. Grassroots lobbying is a communication with the public that expresses a view about specific legislation and includes one of four [calls to action](#).

¹ The foundation may wish to consult with an attorney to confirm the legislation would actually impact the foundation in this way prior to engage in any attempts to influence the legislation.

Private Foundations May Support Charities That Lobby

Although private foundations are essentially prohibited from funding or engaging in lobbying, private foundations **may still support grantees that lobby**. A private foundation cannot make an earmarked lobbying grant, but it may make [two types of grants](#) – general support and specific project grants – that when done correctly would not be considered a lobbying expenditure by the foundation, even if the grantee uses the funds for lobbying.

Private Foundations May Support Election-Related Activities

Private foundations are 501(c)(3) organizations and are, therefore, absolutely prohibited from engaging in activity that supports or opposes a candidate for public office. Private foundations may, however, support nonpartisan [voter education activity](#), like candidate debates and forums or issue advocacy. Private foundations have special restrictions for funding [voter registration activities](#).

Private Foundations Can Support Nonpublic Charities

Private foundations are permitted to fund the work of nonpublic charities, if the foundation exercises what is called [expenditure responsibility](#).

The information contained in this fact sheet and any attachments is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code. Alliance for Justice publishes plain-language guides on nonprofit advocacy topics, offers educational workshops on the laws governing the advocacy of nonprofits, and provides technical assistance for nonprofits engaging in advocacy. For additional information, please feel free to contact Alliance for Justice at 866-NPLOBBY.

www.bolderadvocacy.org | www.allianceforjustice.org