

Legal Questions Regarding District Days

Two legal questions were raised during our District Days’ conference call with Regional Associations of Grantmakers about particular activities that may occur as part of District Days. Below are the responses to those questions from the Council’s Legal Services and Standards Department.

Meeting with Candidates

Meeting with candidates for public office is permissible for private foundations and public charities. However, caution should be used when considering your messages for such meetings due to the restrictions on lobbying activity for private foundations and the prohibition against partisan political activity by any charity. Partisan political activity is any activity that supports or opposes a candidate for office. Below are a few guidelines as you consider your meetings:

- It is permissible for public charities and private foundation to educate candidates about your organization and your work
- Public charities and private foundations should avoid:
 - Meeting with only one of the candidates running for a particular seat. You should work to educate all candidates for the seat equally.
 - Indicating that your organization supports the candidate in any way. For example, do not indicate that you will vote for the candidate or make a statement such as “it will be great when you are elected” or “you can plan on our support.”
- Private foundations should avoid expressing views on legislation even if the issue would be a “self-defense” issue if the candidate were to be elected. The self-defense exception to the lobbying rules is narrowly tailored and only applies if the person to whom the foundation is speaking is a legislator or legislative staff.

Site Visits

There was also a question on whether a private foundation can discuss self-defense issues, such as charitable reform issues, on a grantee site visit by a legislator. The short answer is yes. However, if a private foundation begins to encourage others—such as the staff of the grantee—to engage in efforts to influence the legislator or if the principal purpose of the visit was to facilitate a lobbying effort, the foundation may have crossed the line into grassroots lobbying; grassroots lobbying is prohibited for private foundations. Keeping the goal of the site visit to educating the legislator about the work of the foundation and grantee will likely keep the private foundation from crossing into the territory of impermissible lobbying activity.

Specific answers to issues such as those discussed above may vary based upon the individual set of facts. For that reason, we recommend that grantmakers work with knowledgeable counsel to address specific questions on these issues. For more information visit www.foundationsonthehill.org or the resources under “Advocacy” at <http://www.cof.org/Action/content.cfm?ItemNumber=511&navItemNumber=2480>.