



Election Dos and Don'ts for Private Foundations

Many foundations lead public awareness campaigns in the months leading up to a major election. The goal of these campaigns is to make sure the public engages in a rigorous debate on the issue at hand and pushes it onto the candidates' agenda as one of the top priorities. It is important to point out that these foundations do not support or oppose any particular candidate nor do they take positions on legislation. The focus remains on the issue.

Private foundations must follow essentially the same rules as public charities for election activities:

Things you CAN do as a private foundation:

- ✓ Support voter registration drives with certain restrictions (see below);
- ✓ Support nonpartisan get-out-the-vote (GOTV) efforts;
- ✓ Educate the public on issues and encourage participation in the political process;
- ✓ Educate all candidates and political parties on your issues;
- ✓ Conduct or participate in a nonpartisan candidate forum;
- ✓ Make presentations on your organization's issue to platform communities, campaign staff, candidates, media, and the general public;
- ✓ Provide general support to public charities that conduct lobbying on ballot measures and other issues, subject to certain restrictions.

Things you CANNOT do as a private foundation:

- ✗ Endorse or oppose a candidate – implicit or explicit;
- ✗ Coordinate activities with a candidate;
- ✗ Contribute money, time, or facilities to a candidate;
- ✗ Set up, fund, or manage a Political Action Committee (PAC);
- ✗ Special rules apply for voter registration efforts. (see below)

Voter Registration Rules for Private Foundations

Private foundations may earmark funds for nonpartisan voter registration drives and a public charity may accept the funding only if the nonprofit's program meets certain requirements under section 4945(f) of the Internal Revenue Code.

IRC 4945(f) requires that:

- The sponsoring organization of the voter registration drive is a 501(c)(3) public charity.
- The voter registration drive is nonpartisan, is carried out *in at least five different states*, and spans more than one election cycle.
- The foundation does not place conditions on the grant specifying that it be used in a particular location (political subdivision) or during a specific election cycle. Any decisions as to sites must be made by the 501(c)(3) public charity.
- A minimum of 85% of the sponsoring organization's income is spent directly on the activities for which it was organized and operated.
- A minimum of 85% of the sponsoring organization's support, other than gross investment income, is contributed by exempt organizations, the general public, or government units. Moreover, one exempt organization cannot provide more than 25% of the sponsor's support.

It is important to know that the section 4945(f) rules do not apply to unrestricted general support grants from private foundations, at least so long as the amount of the grant does not exceed the organization's total expenditure for projects other than voter registration.

This document provides general guidance only and should not be relied upon as legal advice.