

## Lobbying Guidance

Unlike 501(c)(3) public charities, private foundations, like The Rockefeller Foundation, are strictly prohibited from engaging in or earmarking funds for "lobbying" activities, as defined in the U.S. Internal Revenue Code.<sup>1</sup>

Below is a brief overview of lobbying and the restrictions.

### **What is "lobbying"?**

An attempt to influence legislation through:

- Direct lobbying communication with any member or employee of a legislative body or any other governmental official or employee who may participate in the formulation of legislation, where a point of view is expressed on specific legislation; or
- Grassroots lobbying communications to members of the public, where a point of view is expressed on specific legislation and there is a "call to action" encouraging the recipient of the communication to take action with respect to the legislation.

"Legislation" is any specific legislative proposal, whether or not it has been introduced in a legislative body, in the U.S. or outside, at all levels of government.

- Statutes (not regulations)
- Treaties (at the time the Administration begins to negotiate)
- Legislative confirmations of executive appointments
- Budget appropriations
- Ballot initiatives and referenda
- Drafts without bill numbers (e.g., proposals not yet introduced)
- Something that can easily be turned into legislation (e.g., suggesting to a legislative body that the country adopt a law of another country)

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<sup>1</sup> Specifically, U.S. Internal Revenue Code section 4945(d)(1) and the regulations thereunder.

### ***What isn't lobbying?***

The regulations also name certain exceptions to the definition of lobbying, including (but not limited to):

- Non-partisan study and analysis, which there is a sufficiently full and fair exposition of the facts to enable the forming of independent opinions and there is broad non-partisan distribution (i.e., to parties on both sides of the issue). The analysis may take a position on legislation, but it may not contain a “call to action.”
- Examination or discussion of broad social, economic, and similar policy issues, which may not address the merits of a specific legislative proposal or have a “call to action.”
- Technical advice, which requires a proper written invitation from an entire legislative body.

The following are not specifically listed as exceptions because they fall outside the definition of lobbying:

- Speaking with or educating policymakers, but not taking a position on specific legislation.
- Speaking with or educating the general public, and not taking a position on specific legislation and/or not including a “call to action.”
- Advocacy that is regulatory, not legislative, in nature. For example, advocating with a government agency about the implementation of legislation that has already been passed.
- Participation in litigation to encourage policy change.
- Communication with government officials about jointly funded projects, although caution may be warranted where there may need to be a budget appropriation in the form of legislation to carry out the project under discussion.

*This document is intended as guidance for applying for a grant to The Rockefeller Foundation, and not as legal advice.*

*Grantees and prospective grantees are encouraged to consult their own legal counsel as appropriate.*