



# Granting Restrictions

As a private foundation, Maclellan is prohibited by law from funding certain types of activities.

## What are Maclellan's granting restrictions?

- ***Political intervention or partisanship:*** As a private foundation, we are prohibited from funding partisan organizations or those that carry out political intervention. We will not consider requests from organizations that use terminology that can be considered political in nature, such as: “left”, “right”, “conservative”, “liberal” to refer to a political party or group of people.
- ***Voter Registration Drives:*** Maclellan does not provide funding for voter registration drives.
- ***Lobbying:*** Maclellan does not earmark funds for lobbying although a project can contain lobbying components which are financed by other funders. However, we don't fund organizations that almost exclusively lobby or organizations without a clear separation from a related 501(c)(4).
  - If your project contains lobbying, you must clearly delineate in your budget the amount of the proposal that is dedicated to lobbying. Make sure your Project Budget clearly contains a line item or percentage amount the shows which portion or how much of the request is dedicated to lobbying.
  - In your proposal, you must clearly demonstrate that your request from Maclellan does not earmark funds for any lobbying component of your overall project.

## Definition of Terms

### *What is lobbying?*

Direct lobbying refers to attempts to influence a legislative body through communication with a member or employee of a legislative body, or with a government official who participates in formulating legislation. Grass roots lobbying refers to attempts to influence legislation by attempting to affect the opinion of the public with respect to the legislation and encouraging the



audience to take action with respect to the legislation. In either case, the communications must refer to and reflect a view on the legislation.<sup>1</sup>

*What is political intervention and partisanship?*

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner. On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.<sup>2</sup>

Activities that are considered participation or intervention in a political campaign include, but are not limited to:

- Publishing or distributing written or printed statements or making oral statements on behalf of or in opposition to a candidate,
- Paying salaries or expenses of campaign workers and
- Conducting or paying the expenses of conducting a voter registration drive limited to the geographic area covered by the campaign.<sup>3</sup>

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<sup>1</sup> Internal Revenue Service. (Feb 18, 2018). "Direct' and 'Grassroots' Lobbying Defined." <https://www.irs.gov/charities-non-profits/direct-and-grass-roots-lobbying-defined>

<sup>2</sup> Internal Revenue Service. (Sept. 13, 2016). "The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations". <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations>

<sup>3</sup> Internal Revenue Service. (February 13, 2018) "Influencing Elections and Carrying on Voter Registration Drives". <https://www.irs.gov/charities-non-profits/private-foundations/influencing-elections-and-carrying-on-voter-registration-drives>



### *What are voter registration drives?*

Voter registration drives can constitute prohibited political intervention unless they are carried out under all of the following conditions that meet the requirements of IRS 4945(f):<sup>4</sup>

- The organization making the expenditure is described in section 501(c)(3) and is exempt from tax,
- Its activities are nonpartisan, are not confined to one specific election period and are carried on in at least five states,
- The organization spends at least 85 percent of its income directly for the active conduct of the exempt purposes or functions for which it is organized and operated;
- The organization receives at least 85 percent of its support (other than gross investment income) from exempt organizations, the general public, governmental units or any combination of these; it does not receive more than 25 percent of its support (other than gross investment income) from any one exempt organization; and it does not receive more than 50 percent of its support from gross investment income, and
- Contributions to the organization for voter registration drives are not subject to conditions that they may be used only in specified states or other localities of the United States, or that they may be used in only one specific election period.

It is generally recommended that an organization that desires to carry out a voter registration drive obtain prior approval from the IRS by filing form 8940, in order to verify that they are properly complying with the terms of IRS 4945(f).

### **Additional Resources:**

If you would like to learn more in detail about these topics, in addition to consulting with your legal advisor, we recommend that you take advantage of some resources on the web.

- **Bolder Advocacy** (<https://www.bolderadvocacy.org/navigate-the-rules>)
- **Learn Foundation Law** (<http://learnfoundationlaw.org/>)
- **IRS** (<https://www.stayexempt.irs.gov/>)

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<sup>4</sup> Internal Revenue Service. (February 13, 2018) "Influencing Elections and Carrying on Voter Registration Drives". <https://www.irs.gov/charities-non-profits/private-foundations/influencing-elections-and-carrying-on-voter-registration-drives>