

SILK, ADLER & COLVIN
A LAW CORPORATION

THOMAS SILK
BETSY BUCHALTER ADLER
GREGORY L. COLVIN
ROSEMARY E. FEI
ROBERT WEXLER
ERIK DRYBURGH

235 MONTGOMERY STREET
RUSS BUILDING, SUITE 1220
SAN FRANCISCO, CA 94104
TEL: (415) 421-7555
FAX: (415) 421-0712
WRITER'S E-MAIL: RFEI@SILKLAW.COM

PRIVATE FOUNDATION FUNDING OF ADVOCACY

Rosemary E. Fei
February 2003

Most private foundations know that they are prohibited from funding legislative lobbying activities. Here's a list of advocacy work that private foundations CAN fund (or in some cases even undertake directly). (This list is simplified. Consult a competent attorney before proceeding.)

- Communications to anyone that do not refer to specific legislation, including:
 - ◇ Communications about an issue on which no legislation exists (yet) (but remember that anyone's proposal for legislation is specific legislation)
 - ◇ Communications which discuss an issue on which there is pending legislation, but without referring directly or indirectly to the legislation
- Communications to anyone urging administrative or judicial changes in laws, rather than legislative changes
- Communications to anyone which refer to specific, pending legislation, but do not reflect any view (presenting unbiased factual information and letting the audience decide)
- Communications through mass media, or otherwise directed at the general public, referring to specific legislation being considered by a legislative body (i.e., not a ballot measure), that presents a view of the legislation, but stops short of directly or indirectly urging the audience to contact their legislators (but may ask for financial or volunteer support for the organization)
- Communications with anyone that qualify under the tax regulations as dissemination of "nonpartisan analysis, study, and research," even if they reflect a view on legislation. (This requires a full and fair exposition of the issue and the arguments on both sides that is distributed to persons supporting and opposing the legislation.)

- Certain communications to a legislative body, giving the organization's view on legislation at the specific request of the legislative body
- Communications with legislators (but not necessarily the public) to promote or oppose legislation affecting the legal existence, rights, or responsibilities of the organization (but not merely the organization's funding or programs)
- Communications with government officials concerning legislation relating to projects being jointly funded by the grantor and the government.
- General support for public charities whose positions and advocacy on legislation the funder agrees with (but grants may not be earmarked in any way)
- Support for specific projects of public charities that include a legislative lobbying component, so long as amount of grant does not exceed non-lobbying budget of project.