

Fiscal and Compliance FAQs

As a League leader, you occasionally face questions about the rules that govern Leagues — what Leagues can do and what they can't. We often receive similar questions at the national office.

In order to shed light on the subject, we asked a lawyer specializing in nonprofits for detailed guidance. We combined the advice he gave us with information from IRS publications and other sources to produce the following series of frequently asked questions and answers (FAQ). We hope you find it to be helpful.

1. My League is hosting an event funded by a grant from the [local, state or national] education fund. Given that tax deductible funds are paying for the event, can we permit speakers to endorse the League and/or ask audience members to join the League? Can we hand out membership brochures? Can we use the list of attendees for membership activities or to raise funds for our League?

Yes, yes and yes. Speakers at League events can and should talk about the League and encourage attendees to join our organization. Volunteers can and should hand out membership brochures at League events. Leagues can use the list of attendees at educational events they host to recruit new members and solicit support. Use every opportunity to recruit new members and supporters, especially at public events.

If your League plans to use education fund monies to pay for an event at which any of the recruitment activities listed in the first paragraph will occur, your League should sign a written grant agreement with the education fund. (The national education fund uses a project approval form for this purpose). The written grant agreement must:

- Restrict the funds to be used for a specific educational event;
- Require the League to return any unspent funds to the education fund.
- Require the League to submit written and financial reports that explain how the funds have been used and the progress made toward achieving the grant's purpose.
- Require the League to maintain adequate records to permit the education fund to test the accuracy of the reports.
- Prohibit the use of grant funds for lobbying or partisan political activities.

The important distinction here is that your League is hosting the event; the education fund is not hosting the event itself. Education funds should almost always sponsor events and projects through Leagues. The League is not well served when education funds directly sponsor events and projects themselves.

Leagues can actively solicit membership and support at events and other projects they sponsor. This is not the case when education funds directly sponsor events or projects.

2. Our education fund is directly hosting an event under its own name. Can speakers promote the League or ask attendees to join the organization? Can we hand out membership brochures? Can we use the list of attendees for membership recruitment or to raise funds to support our League?

If an education fund hosts an event under its own name, activities on behalf of the League should be limited to passively making information available without explicit solicitations. League volunteers can hand out brochures that describe the League to the audience, can announce the availability of these materials from the podium; and even encourage individuals to sign up to receive additional information about the League, but should not explicitly solicit new members or contributions. (The League would have to pay for production of any membership brochures or fundraising materials, of course).

Your League can use the list of attendees for membership development and fundraising, but only if it compensates your education fund for using the list. (In determining the value of attendee lists, you should consider the values at which direct marketers exchange similar lists — direct marketers charge the national League about 9 cents per name for one-time use of prospect lists).

May our state education fund pay for part of the cost of our state convention or council? Education funds can pay for the cost of purely educational sessions at convention or council such as nonpartisan issue panels and similar issue-oriented activities. Education funds may not underwrite League lobbying, membership or governance activities such as the election of the state League board or recruitment activities.

As a general rule, education funds should not pay for training League leaders to lobby or raise funds. Our lawyer has advised us that the IRS may consider training delegates in these activities to be infrastructure or fundraising costs of the League, and, therefore, not permissible education fund activities.

3. What are some “best practices” for education funds sponsoring League events?

Education funds should prepare written documentation to show that it reviewed and approved the League proposal to sponsor the event. In many cases, the education fund board itself will discuss and approve proposals to sponsor events and this will be reflected in the board minutes.

Education funds should sponsor most events through the League, rather than conducting events directly themselves. By granting funds to Leagues to sponsor events, Leagues have greater flexibility to promote League membership and to ask for support at the events.

Education funds and Leagues should execute written grant agreements to document education fund sponsorship of events. Grant agreements must:

- Restrict the funds to be used for a specific educational event;
- Require the League to return any unspent funds to the education fund.
- Require the League to submit written and financial reports that explain how the funds have been used and the progress made toward achieving the grant's purpose.
- Require the League to maintain adequate records to permit the education fund to test the accuracy of the reports.
- Prohibit the use of grant funds for lobbying or partisan political activities.

Education funds should document their review and approval of grant reports submitted by Leagues. In many cases, education fund board minutes will document the review and approval of event reports.

5. Can our education fund pay part of the cost of sending delegates to the state or national convention or council?

Education funds can provide grants to Leagues to pay the costs for delegates to attend educational sessions at convention or council. However, the process involves a fair amount of paperwork. We recommend against underwriting delegate costs with education fund grants. The LWVEF does not approve League requests to fund delegate costs through the national grant service program.

We recommend that education funds not make direct payments to delegates because the delegates represent their Leagues and do not represent the education fund itself. Education fund payments to Leagues should always be supported by written agreements. Agreements to underwrite the cost of attending convention or council must:

- Restrict the funds to be used for educational sessions at convention or council;
- Require the League to return any unspent funds.
- Require the League to submit written and financial reports that explain how the funds have been used.
- Require the League to maintain adequate records to permit the education fund to test the accuracy of the reports.
- Prohibit the use of grant funds for lobbying or partisan political activities.

Joint costs, such as travel, lodging and meals, should be allocated between the League and education fund in proportion to the time spent on each type of activity. Delegates must submit receipts along with an annotated program or diary documenting their attendance at educational sessions to qualify for reimbursement.

6. Are there any circumstances in which education funds can pay for training on lobbying or fundraising?



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Under limited circumstances, education funds may pay for training on lobbying or fundraising if the training is open and advertised to other nonprofit groups or the general public and is attended by significant numbers of non-League members. However, we advise education funds not to enter this gray area and not to underwrite such training. The LWVEF will not approve League requests to fund training on lobbying or fundraising through the national grant service program.

7. Can our education fund pay for part of the cost of our Voter?

Yes. Education funds can make grants to Leagues to underwrite purely educational articles in Voters. Education fund grants should always be based on written grant agreements approved by the education fund and League boards. Refer to the best practices for funding League events (FAQ #3 above) for the requirements for education fund grants.

8. Can our education fund pay for part of the cost of our office space?

Yes. Your education fund can pay for its fair share of the cost of the League's office space. League leaders should prepare a written cost-sharing agreement that specifies how operating costs will be allocated between the two organizations. The education fund and League board minutes should document that each board discussed and approved the agreement before it is executed.

The organization that leases the office space should periodically bill its sister organization for its fair share of the rent. The invoices should document the basis for allocating costs between the League and education fund. For example, Leagues may allocate office space costs based on how many square feet each organization occupies or on how much time volunteers and staff spend working in the office for each organization.

9. Can we include League membership solicitations or membership forms in education fund publications?

Yes, your League can include membership solicitations in publications that the education fund underwrites, so long as your League pays for the fair value of its material. This is true whether the education fund produces the publication itself or makes a grant to your League to pay for the publication.

For example, let's suppose that your local education fund grants \$5,000 to your League to produce and distribute a ten-page voters' guide. One of the pages in the guide consists of a full-page invitation to join the League. Your League should reimburse the education fund for the fair value of the membership piece. You can estimate the value by multiplying the cost to produce and distribute the guide by the percentage of space used for the membership solicitation. (One page of League material divided by ten total pages times \$5,000 total actual cost equals an estimated reimbursement of \$500).

10. Can we include appeals for contributions in publications funded with League, [that is, 501(c)(4)], funds?

Yes. Publications funded with League, i.e., 501(c)(4) funds can include appeals to contribute to the League, to the education fund, or both.

11. Can we include appeals for contributions in education fund [that is, 501(c)(3)] publications?

Publications funded with education fund monies can include appeals to contribute to the education fund. They can also contain appeals to contribute to the League, so long as the League pays for the fair value of the appeals.

12. Our League [or education fund] would like to pay one of our members a small stipend for the work she is undertaking on behalf of the organization. Do we need to report the stipend to the IRS?

Yes. The IRS considers all payments to individuals as compensation for their efforts to be taxable income to the individual that must be reported to the IRS. However, reimbursements for reasonable expenses that are backed up by receipts are not taxable compensation and do not need to be reported to the IRS.

Leagues and education funds must file an IRS Form 1099-MISC for any independent contractor to whom they pay \$600 or more during any calendar year.

13. Can we reimburse League members and other volunteers for their mileage costs?

Yes, Leagues and education funds can reimburse volunteers for mileage. Reimbursements can be based on standard mileage rates or on actual costs.

Reimbursing League Volunteers' Mileage

The IRS has not clarified whether Leagues and other nonprofits that don't have charitable status should use the business standard mileage rate (currently 48.5 cents per mile) or the standard mileage rate for charities of 14 cents per mile to reimburse volunteers.

If your League uses a standard mileage rate to reimburse volunteers, it must require volunteers to submit contemporaneous records documenting the date and time, mileage, place or use, and purpose of their travel. The standard mileage rates are in lieu of all operating expenses (including gasoline and oil). Costs for items such as depreciation or lease payments, insurance, and license



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and registration fees are not deductible, and are not included in the standard mileage rates. Volunteers may be reimbursed separately for parking fees and tolls. Reimbursing Actual Costs Both Leagues and education funds have the option of reimbursing volunteers for the ACTUAL cost of gasoline and oil expenses incurred. This allows Leagues and education funds to provide for increased fuel prices.

The IRS requires that volunteers keep detailed records of their travel and expenses in order to qualify for reimbursement of actual costs. To allocate costs, volunteers should report their total gasoline and oil expenses, the total miles driven, and the miles, time, place or use and purpose of travel on the League's behalf. The League or education fund may reimburse volunteers tax-free the percentage of miles driven on behalf of the League or education fund.

Reimbursing Education Fund Volunteers' Mileage

Education funds have the options of using the charitable standard mileage rate to reimburse volunteers for automobile expenses or reimbursing actual costs. The charitable standard mileage rate, which is 14 cents per mile, can only be changed by an Act of Congress.

Education funds that reimburse volunteers using higher rates than the charitable standard mileage rate can put the volunteers in a precarious tax position. The IRS has subjected some tax payers to penalties and interest for the difference between the reimbursements they received and the charitable standard mileage rate.

14. Should our League incorporate? How would we accomplish this?

Your League is not required to incorporate. However, doing so is usually worth the small investment of time and money. Incorporating can help in the process of applying for nonprofit postal permits, tax identification numbers, etc. Incorporating provides assurance to potential board members that they will not be held liable for the organization's debts. Incorporating helps ensure that the Volunteer Protection Act will protect volunteers from legal claims.

Steps to incorporation include the following:

1. Prepare separate articles of incorporation and bylaws.
2. Determine who will act as the registered agent.
3. Register with your state's secretary of state or attorney general's office.
4. File reports and with the state annually.

15. Are we required to apply to the IRS for a letter stating the tax status of our League?

No. Leagues acquire 501(c)(4) status automatically. According to author Jody Blazek ["Tax Planning and Compliance for Tax-Exempt Organizations," second edition, page 293], "The critical need for (c)(3) organizations to [request a determination letter from the IRS] is absent here, because qualification is a matter of law." If the requirements are met, exempt status is

automatically granted with no action on the League's part. There is no deadline for requesting a determination letter.

As a practical matter, even though exemption is automatic without action on the League's part, many Leagues choose to request a determination letter from the IRS to remove any uncertainty. Some states rely upon the federal determination letter to grant exemption for income, franchise, sales, or other tax purposes. Having the federal letter also makes U.S. Postal Service nonprofit bulk mailing permits easier to obtain.

16. Is our League or education fund eligible to mail at nonprofit rates? How can our League apply for a nonprofit mailing permit?

State and local Leagues and education funds should qualify to mail at nonprofit rates. The United States Postal Service publication 417, "Nonprofit Standard Mail Eligibility" describes the criteria and application process to mail at nonprofit rates, which are from 20% to 40% lower than regular rates.*

To begin the application process, your League must submit a Form 3624 to the post office where it intends to mail. You can obtain a Form 3624 from your local post office.

You should include the following with your application form: copies of your League's articles of incorporation or charter; evidence of its nonprofit status, such as an IRS determination letter (if your League has one) or audited financial statements; and other documents such as a list of activities during the last year, sample publications and board minutes.

Your local post office will review the application for completeness and then forward it to the Nonprofit Service Center in Memphis, Tennessee for evaluation. The Postal Service should send your League an authorization letter in about two weeks.

** Postal regulations allow educational, philanthropic and fraternal organizations to mail at nonprofit rates. According to postal regulations, educational organizations include those whose primary purpose is to "instruct the public on subjects beneficial to the community. An organization may be educational even though it advocates a particular position or point of view, as long as the organization presents a sufficiently full and fair exposition of the pertinent facts to permit the formation of an independent opinion or conclusion... Examples of educational organizations include ...organizations whose activities consist of presenting public discussion groups, forums, panels, lectures, or similar programs, including broadcasts of such activities on radio or television." The Postal Service's description of philanthropic organizations states that "If an organization, in carrying out its primary purpose, advocates social or civic changes or presents ideas on controversial issues to influence public opinion and sentiment to accept its views, that does not necessarily make it ineligible for Nonprofit Standard Mail rates."*

17. Should our League consider forming its own education fund?



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It's usually better for a League to use the LWVEF national grant service program or an existing state grant service program to raise and spend tax deductible funds rather than form its own separate education fund.

By using the national or state grant service program, local Leagues avoid the onerous tasks of forming and registering a second organization, applying for recognition of charitable status from the IRS, filing reports and fees with the state and filing returns with the IRS.

National and state grant service programs operate in a similar manner to local education funds. Leagues deposit the tax-deductible contributions they raise into their ear-marked accounts, apply for and receive approval for their educational projects, and then withdraw the funds to reimburse expenses. Please contact your state League or Francine Harley at the national office to obtain additional information about available grant service programs. The national Education Fund does not charge state or local Leagues for using its grant service program.

18. Our state or local League already has its own separate education fund. Should our education fund make the 501(h) election?

Yes. The 501(h) election protects your education fund's charitable status. IRS regulations define lobbying very narrowly for organizations that make the 501(h) election. By making the election, your education fund will have greater latitude to educate the public on pending legislation without incurring lobbying costs. Organizations that make the 501(h) election can legally engage in a small amount of lobbying. However, we recommend that education funds refrain from lobbying. (Lobbying activities should be conducted through Leagues).

There really isn't a good reason not to make the 501(h) election. (Besides, the election can be reversed in future years).

19. Does our League or education fund need to file an annual report with the IRS?

Leagues and education funds must file Form 990 ("Return of Organization Exempt from Income Tax") or Form 990-EZ with the IRS if gross receipts (i.e., total receipts before deducting expenses) averaged over \$25,000 during the last three tax years.

Leagues and education funds can use the shorter Form 990-EZ as long as their gross receipts were less than \$100,000 and their total assets at the end of the year were less than \$250,000.

If you have any doubts as to whether your League or education fund are required to file Form 990, you should consult the instructions for Form 990 and/or your tax advisor. Form 990, Form 990-EZ and instructions are available from the IRS in Adobe Acrobat

20. Does our League or education fund need to file an unrelated business income tax return with the IRS?

Your League or education fund is required to file IRS Form 990-T (“Exempt Organization Business Income Tax Return”) only if it has gross income (i.e., gross receipts minus the cost of goods sold) of \$1,000 or more during the year from an unrelated business. Unrelated business excludes the following:

- Bona fide contributions and member dues;
- Any fundraising activity in which substantially all the work is performed by volunteers;
- The selling of merchandise which was received as gifts or contributions;
- Activities that contribute importantly to the to the purpose of the organization (in addition to providing funds);
- The distribution of low-cost fund-raising premiums (the IRS defines low cost in 2005 as \$8.30 or less);
- Activities that are not regularly carried on.

If you have any doubts as to whether your League or education fund are required to file Form 990-T, you should consult the instructions for Form 990-T and/or your tax advisor. Form 990-T and instructions are available from the IRS in Adobe Acrobat format.

21. Are Leagues and education funds exempt from sales taxes?

Leagues and education funds are not automatically exempt from state and local taxes such as sales taxes.

All states except Alaska, Delaware, Montana, New Hampshire and Oregon levy sales taxes. Localities sometimes levy their own sales tax.

Some states offer exemptions to nonprofit organizations. Your League or education fund may be able to apply to the state and local taxing authorities for exemptions. States and localities that offer exemptions often require nonprofits to submit an IRS determination letter to verify their nonprofit status. (Your League may or may not have applied for and received an IRS determination letter in the past).

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