

California Lawyers Foundation

Informational Toolkit for the California Lawyers Association

The California Lawyers Foundation (the “Foundation”) was formed in April 2019 by the California Lawyers Association (the “Association”) to serve as the charitable arm of the Association. This toolkit was developed to help the California Lawyers Association, its sections, and committees, properly interact with the Foundation.

Background and Key Principles:

The Foundation is a tax-exempt organization under Internal Revenue Code (“IRC”) Section 501(c)(3). The Association is recognized as a tax-exempt trade/professional association under IRC Section 501(c)(6).

As the charitable arm of the Association, the Foundation may conduct charitable programs, projects and activities (including continuing legal education (CLE)) that further the Foundation’s and the Association’s common mission of promoting excellence, diversity, and inclusion in the legal profession and fairness in the administration of justice and the rule of law.

To protect the 501(c)(3) tax-exempt status of the Foundation, respect its separate corporate existence, not run afoul of IRS, California Franchise Tax Board and California Attorney General charitable trust rules and guidance, and comply with the rules set forth by the California Fair Political Practices Commission (FPPC), the following general principles must be observed when the Association or any of its constituent parts—such as sections or committees—interacts with the Foundation:

- Decisions with respect to the Foundation must be made by the Foundation’s board and officers. The traditional corporate formalities must be observed with respect to the Foundation to ensure that it acts independently and that the risk of “piercing the corporate veil” does not arise.
- All activities of the Foundation must be charitable¹ in nature and consistent with the charitable purposes of the Foundation as set forth in its governing documents (i.e., Articles of Incorporation and Bylaws) and its application for recognition of exemption under IRC Section 501(c)(3) (IRS Form 1023). Any payments made by the Foundation must have a direct nexus to the Foundation’s charitable work. In making decisions about the activities of the Foundation, its board and officers must consider the IRS principles prohibiting private inurement or private benefit—essentially, payments or other benefits to individuals unrelated to the Foundation’s charitable work or unreasonable in amount based on the services provided to the Foundation by the individual.
- The FPPC prohibits using the Foundation as a mere “pass-through” vehicle for Association payments to reimburse the travel expenses of public officials who serve as speakers or panelists

¹ For I.R.S. purposes, the term “charitable” encompasses “educational” and for ease of reference, is used throughout.

at, or who otherwise attend, educational activities of the Foundation. The Foundation may use its own funds, of course. These activities may include co-sponsored CLE activities, provided the Foundation agrees to co-sponsor, the scope of the activities falls within the parameters of the Foundation's mission and the Foundation is recognized for its co-sponsorship

- To ensure that there is proper documentation of decisions regarding Foundation activities, the Foundation will develop a form for the purpose of assessing activities and documenting their relationship to the Foundation and its work.

Bearing these principles in mind, here are some frequently asked question regarding the Foundation. Please also review the Foundation Co-Sponsorship of Projects, Activities or Educational Programs Policy, the Gift Acceptance Policy and the Co-Sponsorship Request Form (included in this Toolkit as Appendix A, B and C.)

I would like the Foundation to co-sponsor a symposium, panel or keynote speech that my CLA committee or section is organizing, and we would like the Foundation to reimburse certain speakers. Is that possible? How do I do it?

- A.** One of the Foundation's primary activities will be to conduct/co-sponsor CLE and other programs and we anticipate that the Foundation will routinely work with Association committees and sections on such activities. To request the Foundation's involvement in any educational event/activity being organized by your committee or section, please complete a Co-Sponsorship Request Form and submit it to the Foundation no later than eight weeks prior to the planned event or activity. Absent unusual circumstances, the Foundation anticipates confirming participation, and the level of participation, within four weeks of receipt for routine requests. As a note of caution, this sort of activity may be constrained by resource availability, depending on the amount of financial assistance requested and the volume of requests from sections and committees.

What information do I need to supply on the Co-Sponsorship Request Form?

- A.** The request form asks the following about the program, project or activity:

What is being proposed?

How is the event or activity consistent with the Foundation's mission?

Who is ultimately responsible for the event or activity? (organization, entity within organization)

Who is the point of contact if there are questions about the application?

When and where will the event or activity take place?

Is funding requested and if so, the amount of the request plus a copy of the budget for the program, project or activity. If the proposal covers an ongoing activity, what period of time is the funding requested from the Foundation expected to cover?

Will the Foundation co-sponsor an educational program if no speaker reimbursement is requested?

- A. Yes, provided that the Foundation deems it in its interest and within its charitable mission to do so, co-sponsorship without a financial contribution from the Foundation is possible. To request the Foundation's co-sponsorship in any educational event/activity being organized by your committee or section, please complete the Co-Sponsorship Request Form.

Will the Foundation co-sponsor other activities or project beyond educational programs if no funding is requested?

- A. As noted above, provided the Foundation deems it in the interest and within its charitable mission to do so, co-sponsorship without a financial contribution from the Foundation is possible. The same Co-Sponsorship Request Form is required.

Our committee or section would like to invite members of the judiciary to serve as advisors to our section executive committee or committee and reimburse them for travel to our meetings via the Foundation. Is that possible?

- A. That is possible so long as they are advising on the development and delivery of clearly and specifically identified educational programming or other charitable activities, such as civic education of the public, *that will be co-sponsored with the Foundation*. We recognize that details of such activities may not be completely nailed down prior to the advisors' participation in a planning meeting but they should be documented concurrently via the Co-Sponsorship Request Form shortly after the judges' participation in the planning.

What about reimbursing judges or government employees merely for serving on a section executive committee?

- A. The Foundation will not provide reimbursement to section executive committee members for expenses incurred in connection with general participation in section executive committee business. A bona fide, direct link to the charitable activities of the Foundation must exist in order for reimbursement to be considered.

Our section regularly raises money from law firms and individuals to support scholarships or diversity fellowship programs. Can we ask donors to give such funds directly to the Foundation?

- A. The Foundation plans to coordinate and fund scholarships or fellowships for law students as part of its charitable activities.

There are a few steps to accomplish this. First, the section must complete a Co-Sponsorship Request Form, before any outreach or solicitation begins, describing the fellowship or scholarship so the Foundation can ensure the scope has a direct nexus to its work.

Second, if approved, any solicitation must be designated for the specific section fellowship or scholarship program. The Foundation is required by law to respect any restrictions set forth by a donor and to use the funds solely for the designated purpose. To ensure that the Foundation can comply, it is vitally important that any such restrictions be clearly communicated to the Foundation. This may be accomplished by asking donors to submit a letter accompanying the

donation describing its clear purpose. If the donor does not designate the purpose of the donation, it will be considered undesignated and up to the Foundation to determine its use.

What will a donor receive after making a contribution?

- A. All donors will receive a confirmation letter from the Foundation thanking the donor for their contribution and stating the designation if the donation was made for a designated purpose (i.e. a specific diversity fellowship program). The letter will also note that no goods or services have been received in return for the contribution and that they should retain the letter for their tax purposes.

Related to fellowships or scholarships, are there any tax liabilities for a recipient?

- A. It should be noted that there is a potential tax liability for recipients. Scholarships (and fellowships) are generally tax-free provided certain conditions are satisfied. For example, it is generally acceptable to use scholarship or fellowship funding to cover school related expenses rather than room and board. The fellowship or scholarship funding is not intended to be used for general purposes or to act in place of a salary. If an applicant is selected to receive a scholarship or fellowship, there may be circumstances where they will need to pay taxes. The Foundation will provide an information sheet that accompanies the check to any recipient to alert them of the potential tax liability.

What is the section's role re: scholarships or fellowships when the Foundation has agreed to Co-Sponsor and is collecting funds? How do we manage the division of labor in a joint project?

- A. The key with any collaboration is communication between the CLA Section and the Foundation to delineate roles and responsibilities. Generally, the Section will develop outreach materials, solicit project donations to be made to the Foundation, solicit, and review applications, select recipients, draft a joint notification and share this information with the Foundation. Once reviewed and approved, the Foundation will issue the check with a FAQ for the recipient after the Section will handle notification.

Can a CLA Section make a contribution to the Foundation and designate the contribution for section activities?

- A. In accordance with the Foundation's Gift Acceptance policy, an entity may make a designated contribution to the Foundation provided the gift has a direct nexus to the Foundation's charitable work. However, only the Foundation can approve the use of those funds to ensure that the restricted purpose is acceptable to the Foundation (i.e., within the Foundation's mission and ability to implement.). The section should discuss with the Foundation any possible gift to understand the opportunities and limitations.

Will contributions to the Foundation be tax-deductible to the donor?

- A. As noted in the "Background and key principles" section above, the Foundation is a 501(c)(3) tax-exempt organization. Generally, contributions will be tax-deductible by the donor, but this is dependent on the donor's individual tax situation.

A potential donor has asked if the Foundation can accept non-cash gifts. For example, can the Foundation accept stock or artwork?

- A. At this time, the Foundation will only accept gifts of cash, cash equivalents (e.g., credit card payments) and marketable securities.

Who, specifically, at the Foundation will make decisions regarding its activities?

- A. Ultimately, the Foundation's Board of Directors is responsible for its activities and for safeguarding its tax-exempt status. The Board, however, has delegated to the CEO/Executive Director or their designee certain activities that can be approved without action of the Board.

What about co-sponsorships with third parties completely unrelated to the Foundation or to the Association?

- A. The Foundation will consider such requests on a case-by-case basis using the basic principles described above.

What's the timing for all this? When will the Foundation commence active operations?

- A. For activities between the Foundation and the Association or any of its component parts, the Foundation began to co-sponsor educational events as of October 2019 and can continue to do so long as funds are available to do so.

If your question was not answered by these FAQs, or the policies contained in Appendix A or B, please reach out to Ona Dosumno at Ona.DosuEllen Miller at Ellen.Miller@calawyers.org