

Fraternity Foundation Grants

By Ted Lieber and Marvin Friedlander

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Overview

- Purpose** This article explains the types of grants a fraternity or sorority foundation may provide to a fraternity or sorority and its chapter house that will further the exclusively educational purposes of the fraternity or sorority foundation.
- Introduction** Fraternities and sororities are organizations described in IRC 501(c)(7) that provide fraternal, recreational, and social activities for their members who are students that attend a college or university. These organizations operate on a national basis and have established local chapter at colleges and universities. The local fraternity and sorority chapters frequently operate chapter houses at college or university campuses that provide their members with student housing. Some chapter houses are held in title holding companies described in IRC 501(c)(2). Aside from dormitory amenities, chapter houses also provide fraternity or sorority members with a place to engage in social, recreational, and fraternal activities.
- Fraternity and sorority foundations are IRC 501(c)(3) charities that financially support the charitable and educational purposes of fraternities or sororities and their membership. They are typically classified as publicly supported organizations described in IRC 509(a)(1) and IRC 170(b)(1)(A)(vi). These organizations may operate on a national level and provide financial support to local chapters that furthers the national fraternity and sorority foundation's own educational purposes, or each local fraternity or sorority chapter may establish its own fraternity or sorority foundation.
- Financial support provided by fraternity foundations to fraternity or sorority members typically includes scholarships and funding for leadership classes. Fraternity and sorority foundations also financially support improvements to fraternity or sorority chapter houses that are educational, such as a dedicated library. However, fraternity or sorority foundation need to be aware that some grants may serve social, recreational, and private interests of the fraternity or sorority or its members. This article will list grants made by fraternity foundations that are public charities that the IRS believes serve exclusively educational purposes and those that the IRS believes further non-charitable purposes.
- The term "fraternity" will be used throughout the remainder of this article to mean both fraternities and sororities.

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Overview, Continued

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Problems

**What's the
fuss?**

What makes fraternity foundation grant programs problematic is the difficulty in separating support of the education of the student fraternity member from support of the fraternity's recreational, social, and fraternal purposes. It is also difficult to separate the amount of private benefit conferred on the fraternity and the fraternity member since the fraternity chapter house is not available to the general university or college body.

Example

- Rev. Rul. 64-118, 1964-1 (Part 1) C.B.182 provides that an organization does not qualify for exemption under IRC 501(c)(3) as an educational organization where its primary activity is to furnish a chapter house to a fraternity. However, the organization may qualify as a club organized and operated exclusively for pleasure, recreational and other non-profitable purposes under IRC 501(c)(7).
- But, Rev. Rul. 56-403, 1956-2 CB 307 provides that the awarding of scholarships by a foundation solely to undergraduate members of a designated fraternity will not preclude it from exemption under IRC 501(c)(3).

For a discussion of the struggles with these issues over the years, see GCM 39288 (September 20, 1984) and GCM 39612 (March 11, 1987) and the Exempt Organizations CPE for FY 1999 article on Fraternity Foundations, Topic Q.

Types of Grants

- Types of grants** Fraternity foundations have asked whether grants serve exclusively charitable purposes when made for:
- Scholarships to members of a fraternity
 - Leadership training classes for members of a fraternity
 - Study, library, instructional, and computer areas in chapter houses that are either separate from or adjacent to living and/or social areas and operational expenses for these areas
 - Wiring a chapter house to enable members to hook up computers to a mainframe system of a university
 - Individual computers, computer desks, and computer chairs available for member use at a chapter house
 - Long-distance telephone services, laundry facilities, dining areas, sleeping quarters, and dedicated social and recreational areas such as physical fitness equipment and facilities available for member use at a chapter house
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- Provision of scholarships is permissible** Many fraternity foundations provide scholarships to fraternity members for various purposes, such as academic excellence, need, community service, or leadership in the fraternity. Even though the group of eligible recipients is limited, Rev. Rul. 56-403, 1956-2 C.B. 307, provides that the awarding of scholarships by a foundation solely to undergraduate members of a designated fraternity will not preclude it from exemption under IRC 501(c)(3). The limited group does not serve impermissible private interests because it is open-ended with new members becoming eligible continuously. Assuming that scholarships are otherwise awarded on an objective basis consistent with the accomplishment of educational and charitable purposes, this type of grant provided by a fraternity foundation will further IRC 501(c)(3) purposes.
- Fraternity foundations need to maintain records of scholarships that have been awarded. The records should provide the recipient's name, address, purpose of award, manner of selection, and relationship to members, officers, trustees or donors of funds so that the Service can substantiate distributions made to individuals upon request. See Rev. Rul. 56-304, 1956-2 C.B. 306, which describes the records that must be maintained to substantiate a grant to an individual.
 - Scholarships awarded based on scholastic ability, without regard to financial need, further charitable and educational purposes. Rev. Rul. 69-257, 1969-1 C.B. 151.
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Types of Grants, Continued

Leadership education grants are permissible

Many national fraternities sponsor leadership training classes for their members. The leadership classes assist members in managing their local fraternities and in their personal development. Fraternity foundations provide assistance to local chapter members to attend these programs.

- The fraternity leadership programs are similar to the IRC 501(c)(3) organization that offered educational courses to bank employees in a particular urban area. In Rev. Rul. 68-504, 1968-2 C.B. 211, courses were provided to only a limited group of employees (bank employees) in a specific geographic area. However, the organization furthered educational purposes by providing courses that improved the individual's capabilities even though the training helped the banks operate in a more efficient manner.

Similarly, a fraternity foundation that provides grants for leadership training would further educational purposes, even though the group receiving the training is limited to fraternity members. Each member would be receiving training in skills that would improve his or her individual capabilities in the future, even though there is some benefit to the fraternity. Therefore, this type of grant provided by a fraternity foundation will further IRC 501(c)(3) purposes, assuming that leadership grants are otherwise awarded on an objective basis consistent with the accomplishment of educational and charitable purposes.

Some chapter house improvements are permissible

In determining whether grants made by a fraternity foundation for chapter house improvements further its charitable purposes (consistent with the scholarship holding of Rev. Rul. 56-403, 1956-2 C.B. 307) or significantly serve the social, recreational, or private interests of the fraternity or its membership (consistent with the chapter house holding of Rev. Rul. 64-118, 1964-1 (Part 1) C.B. 182), all relevant facts and circumstances must be analyzed to determine:

- Whether a grant supports a program that replicates practices of the particular university or college where the chapter house is located in providing for the education of the general student population, and
 - Whether any recreational, social, or private purposes are incidental relative to the educational purposes accomplished.
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Types of Grants, Continued

Dedicated study areas, wiring, individual computers, computer desks and computer chairs are permissible

Grants by fraternity foundations to build or improve dedicated library, study, computer, or instructional areas within a fraternity chapter house are considered to primarily further educational purposes because they primarily serve the educational needs of the students. Library, study, computer or instructional areas may be totally separate from or adjacent to sleeping or recreational areas. Any social, recreational, or private purpose is incidental to the educational purposes furthered. These types of grants provided by a fraternity foundation will further IRC 501(c)(3) purposes if the benefit is similar to those specifically provided by colleges and universities for the education of their general student body where the fraternity is located.

- Included within this permitted category are grants to cover annual operating expenses (insurance, utilities and similar items) allocated to dedicated library, study, computer, or instructional areas. Other examples of annual operating expenses include fire alarms, smoke detectors, and internal sprinkler systems for dedicated areas.

Grants made by fraternity foundations for Internet wiring in a chapter house that is similar to what is provided by the specific college or university where the chapter house is located is considered to further educational purposes. This type of grant provided by a fraternity foundation will further IRC 501(c)(3) purposes.

- If the specific university where the fraternity is located does not provide Internet wiring for its general student body, then the foundation's grant would not further IRC 501(c)(3) purposes. The rationale is that if dormitories are not wired for Internet use and a fraternity will be wired, then the students of that specific chapter house will receive a significant private benefit because it may be considered a benefit of membership.

Grants for computers, computer desks and chairs in a chapter house that are similar to what is provided by that specific college or university for the general student body where the house is located are considered to further educational purposes. Many colleges and universities offer computers, computer desks, and chairs for student use in dormitories or libraries. This type of grant provided by a fraternity foundation will further IRC 501(c)(3) purposes. However, members should not own these items unless the university or college provides ownership without charge to the general student body.

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Types of Grants, Continued

Long-distance telephone services, laundry facilities, dining areas, sleeping quarters, dedicated social and recreational areas and mixed use areas are NOT permissible

Regardless of whether the college or university at which the chapter house is located provides grants to its general student body for long-distance telephone services, laundry facilities, dining areas, sleeping quarters, or dedicated social or recreational areas (such as physical fitness facilities or equipment), grants made by fraternity foundations for these purposes are not merely incidental to furthering educational purposes. There is a direct nexus between providing these facilities, services, or goods and the social and recreational aspects of a fraternity. Social and recreational purposes of a fraternity are outside the scope of IRC 501(c)(3).

- Areas where there are either social or recreational and educational uses would also further a recreational purpose outside the scope of IRC 501(c)(3). Areas considered mixed-use areas would be common hallways or rooms that are used interchangeably for social or recreational and educational purposes.
 - However, a facility or item dedicated for educational purposes will not be considered devoted to a mixed use where there is minor social or recreational use, such as a reception occasionally held in a study or library area.
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Record Keeping

**Record
keeping**

A fraternity foundation that makes grants to individuals must keep records of such distributions.

- The records should provide the recipient's name, address, and purpose of any grant award; manner of selection; and relationship to members, officers, trustees, or donors of funds.
 - When grants are made by a fraternity foundation to a fraternity or to its chapter house, records need to show that the funds will be used for charitable and educational purposes.
 - When grants are made, foundations need to maintain records to show that funds are expended for exempt purposes. If funds are distributed to other organizations, records need to show that the organization receiving the distribution is exempt under IRC 501(c)(3). If the organization is not exempt under IRC 501(c)(3), then there should be evidence that the funds will be used for charitable and educational purposes.
 - In the event that grants are made to individuals, then organizations need to keep records of such distributions. The records should provide the recipient's name, address, purpose of any grant; manner of selection; and relationship to members, officers, trustees, or donors of funds, so distributions made to individuals can be substantiated upon request by the Service.
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What does the future look like?

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Many of the questions the IRS received from fraternity foundations relate to technological changes that could not have been foreseen at the time the authorities were considered, for example, Internet wiring and computers that rendered traditional libraries obsolete. Other questions relate to design changes in student housing that favor shared or individual study areas adjacent to living quarters with ready access to computers.

We can probably expect even more innovations by fraternities as technology changes and educational approaches evolve. Fraternity foundations that want to raise and distribute funds for educational programs aimed at fraternity members directly or through chapter house improvements need to determine whether their grants serve exclusively educational purposes. The principles and examples set out in this article will provide a guide for analyzing how new programs fit under existing law.

Conclusion

Conclusion

When processing an application or examining a fraternity foundation, EO agents should:

- Factually develop the types of grants that are being proposed,
 - If scholarships and leadership classes are being funded, ensure that these programs further recognized educational purposes based upon prior Service position,
 - Analyze any grants for chapter house improvements to a fraternity house and determine whether the grants fit into one of the acceptable categories discussed above, and
 - Ensure that the foundation maintains adequate records to substantiate its grants.
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