

# OVERVIEW OF GRANTS TO INDIVIDUALS (FOR PUBLIC CHARITIES & PRIVATE FOUNDATIONS)

## Objective

This document provides an overview of the process by which public charities and private foundations can make grants to individuals. While there are various types of grants to individuals, this document focuses on scholarships and fellowships. This document is not intended to constitute legal advice and is not a substitute for obtaining legal advice from a qualified attorney. Furthermore, tax laws change frequently. For the most up to date information please refer to the IRS.gov website or a payroll/tax accountant.

## What are Grants?

Grants are defined as a sum of money given by an organization for a particular purpose. Public charities and private foundations can set up charitable grants for individuals.<sup>1</sup>

| What constitutes a grant  | What does <i>not</i> constitute a grant   |
|---|---|
| <ul style="list-style-type: none"> <li>Scholarships, fellowships, prizes, and awards<sup>2</sup></li> </ul> | <ul style="list-style-type: none"> <li>Wages, salaries or compensation to employees<sup>3</sup></li> <li>Payment for teaching, studies or research that <i>primarily</i> benefits the grantor<sup>4</sup> or is a <i>condition</i> for receiving the “grant”<sup>5</sup></li> </ul> |

### *What are Scholarships?*

Scholarships are generally defined as an amount paid or allowed to a student attending an educational institution for the purpose of study.<sup>6</sup> Scholarships are usually awarded based on merit, financial need, or other qualifying requirements.<sup>7</sup>

### *What are Fellowships?*

Fellowships are generally defined as short-term opportunities lasting from a few months to several years that focus on the professional development of the fellow. Fellowships can be sponsored by a specific organization seeking to expand leadership in their field. The fellowship itself can be designed to support a variety of things, including study in a specific field, research to advance work on a particular issue, development of a new community-based organization or initiative, training to support a fellow’s growth, opportunities to further explore a particular field of work, and more.<sup>8</sup>

## What are the Criteria for Offering Grants?

When awarding grants, both public charities and private foundations must ensure that grants to individuals are “charitable.” Grants are not charitable unless there is a charitable class of potential recipients, which means that the group of persons that can benefit must be either a large enough class or an indefinite class, so that aid to the members of the class benefits the greater community. If the persons potentially aided do not constitute a charitable class, the charity’s tax exemption may be at risk.<sup>9</sup> A grant cannot be created to assist particular, pre-selected individuals.<sup>10</sup> Furthermore, an organization wishing to provide grants to individuals should first determine that its governing instruments (e.g. articles of incorporation and/or bylaws) authorize them to do so.<sup>11</sup>

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Private foundations must obtain IRS approval before awarding a grant.<sup>12</sup> In order to obtain IRS approval, a foundation's grant procedures must meet the following requirements:

1. The criteria for selection of grantees must be reasonably related to the purposes of the grant.
2. Persons selecting grant recipients must not be in a position to derive a private benefit, directly or indirectly, from the selection of grantees.
3. Grants must be created according to a procedure that is reasonably calculated so as to result in performance by grantees of the activities that the grants are intended to finance.
4. The grantor must obtain reports from the grantees to determine whether they have performed the intended activities.
5. A grant to an individual may be renewed if the grantor has no information indicating that the original grant was used for any purposes other than the purpose for which it was awarded, all reports required at the time of renewal have been submitted, and any additional criteria and procedures for renewal are objective and nondiscriminatory.<sup>13</sup>

Approval is given to the requesting foundation based on the evaluation of the foundation's entire system of standards, procedures, and follow-up.<sup>14</sup> Once approval is obtained, it applies to any subsequent grant programs of the foundation if the procedures under which it is conducted do not differ materially from the original request for approval.<sup>15</sup>

Public charities do *not* need IRS approval prior to awarding a grant. However, their grant procedures *generally* meet the same requirements as those of private foundations.<sup>16</sup>

## **What Grantee Information is Required?**

The grantee information collected varies for different types of grants. A general guideline is that only the information necessary and reflective of the grant selection criteria is requested.<sup>17</sup> For example, an organization providing grants to high achieving students must maintain basic information such as the grantees' name, address and grades.<sup>18</sup>

Public charities and private foundations are *not* required to ask for or hold on to information about the immigration/citizenship status, social security number ("SSN"), or work authorization of grantees.<sup>19</sup>

## **About Us**

Founded in 2006, Immigrants Rising transforms individuals and fuels broader changes. With resources and support, undocumented young people are able to get an education, pursue careers, and build a brighter future for themselves and their community. For more information, visit [immigrantsrising.org](http://immigrantsrising.org).

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<sup>1</sup> The New York Community Trust, Grants by Public Charities to Individuals, <https://wscadv.org/wp-content/uploads/2017/08/Grants-to-Individuals.pdf>

<sup>2</sup> IRS, Grant Defined, <https://www.irs.gov/charities-non-profits/private-foundations/grant-defined>

<sup>3</sup> *Id.*

<sup>4</sup> John Barrett, Tax Issues Associated with Reporting Fellowships, <https://postdocs.ucsf.edu/sites/postdocs.ucsf.edu/files/wysiwyg/tax-issues-for-fellowships-2018.pdf>

<sup>5</sup> *Id.*

<sup>6</sup> IRS, Topic No. 421 Scholarships, Fellowship Grants, and Other Grants, <https://www.irs.gov/taxtopics/tc421>

<sup>7</sup> College Scholarships, Understanding Scholarships, Fellowships, Grants, and Loans, <http://www.collegescholarships.org/blog/2015/03/27/differences-between-scholarships-fellowships-grants-loans/>

<sup>8</sup> University of California, Berkeley, Fellowships, <https://career.berkeley.edu/InfoLab/Fellow>

<sup>9</sup> NEO Law Group, Charitable Class, [http://www.nonprofitlawblog.com/charitable\\_clas/](http://www.nonprofitlawblog.com/charitable_clas/)

<sup>10</sup> The New York Community Trust, Grants by Public Charities to Individuals, <https://wscadv.org/wp-content/uploads/2017/08/Grants-to-Individuals.pdf>

<sup>11</sup> Council on Foundations, Scholarships FAQs, <https://www.cof.org/content/scholarships-faqs>

<sup>12</sup> IRS, Advance Approval of Grant-Making Procedures, <https://www.irs.gov/charities-non-profits/private-foundations/advance-approval-of-grant-making-procedures>

<sup>13</sup> The New York Community Trust, Grants by Public Charities to Individuals, <https://wscadv.org/wp-content/uploads/2017/08/Grants-to-Individuals.pdf>

<sup>14</sup> IRS, Advance Approval of Grant-Making Procedures, <https://www.irs.gov/charities-non-profits/private-foundations/advance-approval-of-grant-making-procedures>

<sup>15</sup> *Id.*

<sup>16</sup> The New York Community Trust, Grants by Public Charities to Individuals, <https://wscadv.org/wp-content/uploads/2017/08/Grants-to-Individuals.pdf>

<sup>17</sup> FinAid, Scholarship Design & Management, <http://www.finaid.org/educators/awarddesign.phtml>

<sup>18</sup> Marilyn E. Phelan, Nonprofit Organization's: Law and Taxation § 10:17 (2nd ed. 2017)

<sup>19</sup> *Id.*