



Local Cultural Council

PROGRAM GUIDELINES

Due to dynamic nature the COVID-19 pandemic in FY21 the Mass Cultural Council has provided additional guidance for Local Cultural Councils and their applicants/grantees at:

<https://massculturalcouncil.org/covid-19-resources/guidance-for-local-cultural-councils-and-their-grantees-in-response-to-covid-19/>

The guidance provided there may supplement and/or supersede these guidelines. Any changes that are made will be posted there and communicated to Local Cultural Council members by email

Revised September 2020

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Local Cultural Council Program

Purpose of these Guidelines

The purpose of this document is to provide guidance to local and regional cultural councils on the policies and procedures they must use when awarding and distributing revolving account dollars to grant recipients. The guidelines explain procedures LCCs must follow to ensure a thoughtful and fair process for distributing public money. They also seek to enhance programming opportunities and simplify procedures for municipalities and councils. The guidelines are issued by the Mass Cultural Council in accordance with its authority under Massachusetts General Laws, Chapter 10 sections 52-58.

Background: Mass Cultural Council and Local Cultural Councils

In Massachusetts, public funding for the arts, humanities, and sciences is provided through a central state agency, the Mass Cultural Council, and through a network of Local Cultural Councils that serve every city and town in the state. LCCs also receive money to support programs from donations, fundraising events, and their local municipality.

The mission of the Mass Cultural Council is to promote excellence, education, diversity, and inclusion in the arts, humanities, and sciences to foster a rich cultural life for all Massachusetts residents and contribute to the vitality of our communities and economy.

The Mass Cultural Council receives funding from the Massachusetts Legislature and the National Endowment for the Arts, and it distributes these public funds through two channels:

- 1) Direct grants to individuals and organizations, available through statewide competitive grant processes; and
- 2) Distributions to Local Cultural Councils, which then regrant funds to individuals and organizations in their own communities.

The Local Cultural Council (LCC) Program was established in 1982 and was overseen by the Massachusetts Arts Lottery Council until 1990. It then merged with the Massachusetts Council on Arts and Humanities to form the Mass Cultural Council.

LCCs members are appointed by the community's chief appointing authority. They are responsible for making decisions on how to award the money granted to them by the Mass Cultural Council plus funds raised in other ways that will best serve local cultural needs. There are currently 329 LCCs in Massachusetts that form the most extensive system of public support for community cultural programs in the country. Collectively, these councils fund thousands of cultural activities in all 351 cities and towns in the state.

Information about the LCC Program and all other Mass Cultural Council Programs can also be found online at www.massculturalcouncil.org

Local Cultural Council Guidelines

The following are guidelines that Local Cultural Councils (LCCs) must follow. Please note that from time to time the Mass Cultural Council may issue additional guidelines to promote specific programs at the local level. All Local Cultural Councils will be notified if any guidelines are changed.

Local Cultural Council Operations

Purpose of Local and Regional Cultural Councils. The purpose of the local and regional cultural councils is to support public programs that promote excellence, education, diversity, and inclusion in the arts, humanities, and sciences to foster a rich cultural life in communities across the Commonwealth. Local decision-making is an integral element of this system. Local Cultural Councils have the right and responsibility to award grants that address cultural needs specific to their communities, and they can decide how to distribute funds as long as the state policies outlined in these guidelines are followed.

Establishment of a Local and Regional Cultural Council. Every community in the state is eligible to receive funds from the Mass Cultural Council if the appropriate local town or city officials establish a Local Cultural Council and appoint council members who take on the responsibility for distributing funds on behalf of the community.

Cities and towns may also join forces in the establishment of regional councils. A regional cultural council shall be eligible to receive a total allocation equal to the combined individual allocations of the communities participating in the regional cultural council. If two or more towns wish to form a regional council, there must be at least one representative appointed from each community in the consortium. Regional consortia must also be approved by the Mass Cultural Council (Local Cultural Councils may consult the provisions of M.G.L. c. 10, §.58).

Local Cultural Councils consist of at least five, but no more than 22 members appointed by the top appointing official in the community (i.e., the mayor, city manager, board of selectmen, or executive officer). Council members should have a demonstrated interest or record of service to the arts, humanities, or sciences. The chief appointing authority and members of the local appropriating authority, as defined in M.G.L. c. 59, § 21C, cannot serve as council members.

The term of membership for a council member is three years; members can serve a maximum of two consecutive terms, or a total of six years, unless the appointing authority removes a member before the expiration of a term. Members must remain off the council for a one-year interval before serving additional terms. Notwithstanding the expiration of a member's term, under the provisions of M.G.L. c. 10, § 58, a member with an expired term shall continue to "serve until the qualification of such member's successor." This rule is a "safe harbor" provision intended to avoid quorum problems for Councils when waiting for new appointments to be made. Councils and municipalities should not abuse this rule in order to allow members to serve endless or greatly extended terms. Membership and leadership transitions must be handled in a responsible and timely matter at the discretion of the municipality and Local Cultural Council.

Each council must annually elect a chair, secretary, and treasurer. To preserve continuity of operations, the terms of individual council members should be staggered (that is, there should never be 100 percent turnover of

members in a single year, unless the Mass Cultural Council determines otherwise). Local Cultural Councils may also elect to designate former officers or members as non-voting, ex officio council members.

Management of Local Cultural Council Funds. Each Local Cultural Council must keep *all funds* (state funds from the Mass Cultural Council, interest earned and locally raised funds) in the LCC's municipal account. The LCC's municipal account must be a revolving account kept separate and apart from all other monies administered by the city or town treasurer as specified by M.G.L. c. 10, § 58. Councils are entitled to interest on their municipal account and to regular financial reports from the municipality. The funds may be spent as the Local Cultural Council directs, which must be consistent with Mass Cultural Council guidelines, and otherwise in accordance with local procedures for the expenditure of public funds. Separate checkbooks or non-municipal accounts are not permissible.

Funds raised locally and deposited into the revolving account, including interest earned can be spent at the discretion of the Local Cultural Council, but only to support the arts, humanities, and interpretive sciences. Unlike state funds distributed to the LCC from the Mass Cultural Council, prior Mass Cultural Council approval for expenditure of locally raised funds and interest earned is not required.

An LCC may not accumulate unspent state funds at the local level. Unspent funds accrue for various reasons, typically because previously approved projects were not completed. Unspent state funds from prior fiscal years must be accounted for, reported to the Mass Cultural Council, and regranted in the next available funding cycle stipulated by the timeline set forth by the Mass Cultural Council.

Council Administrative Funds. LCCs may spend up to five percent of their state allocation each funding cycle for administrative expenses, such as paid staff, postage, stationery, and publicity. Any locally raised money or interest earned from state funds may be used for administrative expenses without being subject to a percentage limit. Local Cultural Council members cannot receive compensation but can receive reimbursement for expenses. Together the LCC and the municipality should determine specific policies and procedures for reimbursing members for expenses.

While LCCs may use administrative funds to purchase refreshments for public events, such as grantee receptions, LCCs cannot use administrative funds to purchase food for standard LCC meetings, such as grant cycle voting meetings.

LCCs should calculate the amount of administrative funds at the beginning of each grant cycle when they calculate the amount available for granting. Any administrative funds from the prior grant cycle, which have not been spent, or are not encumbered for specific pending expenses, should be treated as unencumbered money and should be regranted.

Local Cultural Council Programs. Councils can use up to 15% of their Mass Cultural Council allocation on programs that have been developed by the council that respond to cultural needs in the community that are not being met (see section on Council Programming).

Fundraising from Sources Other than the State. Local or regional councils are encouraged to leverage funds from sources other than the state, including private contributions, local government allocations, program revenues, interest from the LCC's municipal account, and so on. To enhance the opportunity for the donors of such funds to qualify their gift as deductible for federal income, gifts and estate tax purposes, funds received by gift to a Local Cultural Council are considered to be donated to a political subdivision of the Commonwealth exclusively for public purposes as defined in Section 170(c) of the Internal Revenue Code of the United States.

Regardless of the source, all a Local Cultural Council's funds must be used to support programs in the arts, humanities, or sciences in Massachusetts, and should meet the other substantive requirements set forth in the *LCC Guidelines*. Locally raised funds and interest earned must be kept in the LCC's municipal revolving account with the LCC's state funds. Locally raised funds and interest earned should be identified on the books of the city or town as funds derived from sources other than the Mass Cultural Council. Unlike state funds distributed to the LCC from the Mass Cultural Council, prior Mass Cultural Council approval for expenditure of locally raised funds and interest earned is not required.

Local Cultural Council Duties. Each Local Cultural Council has several mandatory duties:

- **Community Input.** Each Local Cultural Council is responsible for ensuring that its grants and programs benefit the community to the greatest extent possible. To this end, each council must conduct annual assessments of cultural needs within its community and can do so by hosting events, programs, or meetings to convene the community. Input can also be gathered through paper or online surveys.
- **Council Priorities.** By October 1, LCCs must update their council profile with their council priorities, and the council's contact information for prospective applicants. A council's priorities should clearly communicate any local application instructions or restrictions. These priorities can help shape the kinds of applications councils receive and possibly accept. Examples include; having a funded project take place within your city/town, providing confirmation of a venue, focusing on a specific demographic of the community, requiring applicants to have a matched fund, and/or addressing a local community concern.

Councils can update their council profiles by logging into www.mass-culture.org. All councils should develop funding priorities, which are informed by input received from community outreach and engagement. These priorities must be made available to prospective applicants on the council profile. Autonomy is encouraged in the establishment of local funding priorities, as long as it is within the parameters of the guidelines established by the Mass Cultural Council.

- **Communicating with the Public.** Local Cultural Councils are responsible for promoting local awareness of their programs; informing the public of the availability of funds, the application deadlines and local priorities; publicizing the names, addresses, and telephone numbers of the Local Cultural Council office or contact person; communicating with grant applicants and recipients; and other duties as the Mass Cultural Council may from time to time elaborate through guidelines, rules or rulings. Councils will be assisted in this work by the Mass Cultural Council, which will maintain a database on Local Cultural Councils, help publicize the statewide local deadline, assist in the distribution of applications and so forth.
- **Reviewing and recommending action on local applications.** See the *Local Cultural Council Grant Cycle* section of the guidelines for additional information.
- **Financial Reporting.** LCCs must meet with their municipal fiscal officer (usually the municipal treasurer, auditor, or accountant) between October 1 and October 31. The municipal fiscal officer must provide the LCC with a completed LCC Account Form, which the municipality receives directly from the Mass Cultural Council. Any differences in the LCC's accounting and the municipality's accounting should be worked out at this time. Both parties sign the document and the LCC retains the signed original for their use.

The deadline for LCCs to input the information from their LCC Account Form and calculate the available amount for granting is **November 16, 2020** (sections 1 & 2 of the Annual Report).

- **Annual Report to Mass Cultural Council.** Once the reconsideration period is up, but no later than the statewide reporting deadline – **March 1, 2021** - all LCCs complete and submit their Annual Report to Mass Cultural Council online at www.mass-culture.org. Failure to meet this deadline may result in the loss of that cycle’s allocation from the Mass Cultural Council.

Assuring Compliance with Local Cultural Council Duties. The fundamental operations of LCCs are reviewed and approved by the Mass Cultural Council on an annual basis before funds are released. Mass Cultural Council staff will check the following before releasing funds:

1. That the Annual Report to the Mass Cultural Council was submitted by the reporting deadline March 1, 2021.
2. That all new funds from the current year were granted.

When the Mass Cultural Council finds a Local Cultural Council has not adequately complied with its duties as specified in the *LCC Guidelines*, the Mass Cultural Council may suspend all or part of its funding for that council. The Mass Cultural Council may also specify corrective actions that the LCC must take before it can begin to receive funds again. If an LCC fails to take corrective actions specified by the Mass Cultural Council, within a time frame specified by the Mass Cultural Council, the Mass Cultural Council may redistribute any funds allocated to that Local Cultural Council.

If an LCC appears unable to comply not only with its duties but also with corrective actions specified by the Mass Cultural Council, then the Mass Cultural Council may determine that a partial or complete change in the membership of the Local Cultural Council may be in order to enable the community to begin receiving its funds again. In these extraordinary cases, the Mass Cultural Council may authorize the local appointing authority to remove a member or members from the LCC and appoint a new member or members.

State Reviews. The Mass Cultural Council conducts periodic performance reviews of LCCs. In particular, Mass Cultural Council may review the applications received, approved or denied, and their supporting documentation, payment requests submitted by grantees, and how well the LCC is following the procedures outlined in the *LCC Program Guidelines*. The Mass Cultural Council may employ third-party experts to conduct these periodic reviews.

Local Cultural Council Grant Cycle

Application Instructions

Applicants submit their applications directly to the specific Local Cultural Council to whom they are applying using the online application. Councils may choose to accept paper applications if they are postmarked by the application deadline. If a council chooses to accept paper applications, they must notify applicants by posting it in their council priorities by October 1. Applicants who submit their application online are not required to mail additional hard copies to the council; however, applicants who mail paper applications must follow the council’s instructions as posted in their council priorities. Before submitting an application, applicants should read the LCC’s priorities for additional application instructions. Council priorities can be found on Local Cultural Council profiles at www.mass-culture.org.

Local Cultural Councils intending to use their state funds for Council-Initiated Programs should refer to “Additional Requirements for Council-Initiated Programs.”

LCC Grant Payments. Grantees can receive funds from an LCC in two different ways, through Reimbursement or Direct Grant.

1. Reimbursement

The reimbursement method reimburses the grantee for funds they have expended on the project. Once the project is complete, the grantee submits paperwork for reimbursement to the LCC that approved their grant. For more information about when reimbursements take place see “Grant Cycle Timeline” below.

2. Direct Grant

The direct grant process allows for grants to be awarded upfront in a one-time payment to grantees. Participating councils must follow the payment process outlined in the [FY21 Direct Grant Guidelines](#). LCCs that would like to make direct grant payments **must notify the Mass Cultural Council no later than October 1.**

Eligibility

Application deadline. All applicants must submit completed applications by the statewide deadline, November 16, 2020. **Late applications cannot be accepted.**

Types of grants. A Local Cultural Council may approve grants for a broad range of projects and programs, such as **operating support**, ticket subsidy programs, field trips, artist residencies, public art, fellowships, community events/programs, site specific projects or other activities, based on local priorities and needs. Each Local Cultural Council should determine its own local eligibility requirements based on a community input process. These should be incorporated into their council priorities and published to the council profile.

Program eligibility. Applicants may apply for grants for programs that take place during an 18-month window of eligibility from July 1, preceding the application deadline in October, through December 31 of the following year. This means that applicants may apply for projects that have already happened or which happen prior to LCCs’ grant announcements, with the knowledge that funding is not guaranteed. Local Cultural Councils are authorized to establish a smaller window of eligibility; if they do so, they must publish the eligible dates in their council priorities.

Applicant eligibility. Applicants must reside or be located in Massachusetts. Local Cultural Councils may accept applications from anyone included in the list below.

- **Individuals.** Individual applicants must show that a public benefit results from the project for which they are applying. A public presentation of an individual’s work may provide the needed public benefit.

Individual members of Local Cultural Councils may apply for funding from a Local Cultural Council but must observe all conflict of interest laws and regulations in the granting process. Local Cultural Councils may also

establish their own rules regarding applications from council members as long as these are consistent with the state's conflict of interest laws (see Appendix B).

- **Incorporated private nonprofit organizations.**
- **Unincorporated associations that can establish a nonprofit objective.** A group of individuals coming together with a common purpose (e.g., local community band, theater group) that do not have nonprofit status.
- **Public schools, libraries, other municipal agencies, and the Local Cultural Council itself.**
- **Religious organizations.** Religious organizations or groups with a religious affiliation are eligible to apply for funding of cultural programming that is available to the general public. LCCs can only approve applications that are primarily cultural in their intent and do not have the effect of advancing religion.

Criteria

The first three rules listed below must be followed in the review of all funding decisions by Local Cultural Councils. All three rules are equally important. Additionally, councils have the option of developing local review criteria and may decide how to weigh their importance:

1. Arts, Humanities, and Sciences
2. Public Benefit
3. Non-Discrimination
4. Local Criteria

Arts, Humanities, and Science. Local Cultural Council funds may only be used to support programs in the arts, humanities, and sciences in Massachusetts. This definition includes the study, pursuit, performance, exhibition, and appreciation of cultural activities in the broadest sense.

How does Mass Cultural Council define the arts, humanities, and/or sciences?

- **Arts** refer to the creation of work in the crafts and performing, visual, media, folk, design, literary, and inter-disciplinary arts. In addition, they also include the presentation and preservation of, and education about works in these disciplines.
- **Humanities** are types of learning that deal with human values and aspirations, human thought and culture, language, and creativity. Examples include, but are not limited to, history, social studies, philosophy, criticism, and literature.
- **Science** is limited to its cultural, interpretive, and educational expression and refers to types of learning that deal with nature, science, and technology in ways that explain how they relate to people's lives. Some organizations that conduct this type of activity include aquariums, botanical gardens, nature centers, natural history museums, planetariums, and science centers.

Public Benefit. Local Cultural Council funds must be used to support activities that contribute to the cultural vitality of the community as a whole, rather than benefiting any private individual or group. However, this does

not mean that a large crowd of people needs to participate in order to satisfy the public benefit requirement. Whenever possible, activities funded by Local Cultural Councils should be available to the general public or community by exhibit, performance, demonstration, reading, or other means. Programs do not need to be in-person to provide public benefit. Virtual and remote programming are also effective ways to make programming available to the public while supporting efforts to maintain and promote public health.

In looking at the requirement of applicants to offer public benefit to a community, LCCs should look towards responses from their community input process to better inform their council priorities. A council's priorities should clearly communicate any local application instructions or restrictions. These priorities can help shape the kinds of applications councils receive and possibly accept.

Non-Discrimination. In accordance with state law, Local Cultural Councils may not discriminate against applicants and/or programs on the basis of age, ability, ethnicity, race, religion, sexual orientation, gender identity or expression, nationality, geographic origin; or immigration, military, or socio-economic status. Nor may Local Cultural Councils fund projects that discriminate on the basis of these attributes.

The Americans with Disabilities Act (ADA) requires that persons with disabilities have access to public programs or services on an equal basis with the rest of the general public. Furthermore, federal law mandates that any programs or service that receives federal or state funding must be accessible to persons with disabilities and here must by reasonable accommodation made to provide an accessible environment. Therefore, all events and programs funded by the LCCs must consider access for persons with disabilities, including the facility or event location as well as the content of the program. To ensure equitable access, an applicant's first step is a candid assessment and identification of barriers (physical, virtual, cultural, communication) followed by a bold and innovative plan for improvement.

If an applicant puts forward a proposal for a project with strong potential for public benefit, but the Local Cultural Council has concerns about access for persons with disabilities, the council may choose to award a conditional approval (see page 12). This would allow the applicant the opportunity address the concerns and improve access as a condition of receiving the grant. For further information on ensuring accessible programming, please refer to the Accessibility page for LCCs at www.mass-culture.org/accessibility.aspx.

Local Criteria. Local Cultural Councils are authorized to develop additional criteria and may give different weight to their criteria in order to reflect local concerns and community cultural needs. Council priorities must be posted to the LCC's Council Profile (http://www.mass-culture.org/lcc_public.aspx) by September 1 each year to hold weight in granting decisions.

Because Local Cultural Council funding is not intended to be used as the sole source of funding for projects of a continuing nature, Local Cultural Councils are encouraged to formulate council priorities regarding matching funding or funding limits over time to ensure that funding remains broadly available to the widest range of community cultural needs.

Because of the impact COVID-19 has had and continues to have on the cultural sector, in FY21 LCCs are strongly encouraged to review their Local Criteria to ensure that they are responsive to the ongoing crisis and uncertainty artists and organizations face and best support the current needs of their community. Based on community input and community need Local Cultural Councils could consider:

- Shifting from project-based support to operating support to allow organizations more responsive, flexible support.
- Loosening local requirements for a set date and set venue at the time of application given the uncertainty applicants face in planning at this time.
- Encouraging applicants to apply for costs associated with moving to virtual programming.
- Describing what your council will be looking for in online/virtual programming to ensure it benefits your community.
- Prioritizing funding for communities most severely impacted by COVID-19 including BIPOC (black, indigenous, and people of color) communities, individuals with disabilities, and low-income communities, and individual artists.
- Developing criteria and a process for awarding COVID-19 relief grants to organizations and/or individuals.

Grant Restrictions

Refreshments. Grant funds received from a Local Cultural Council may not be used to purchase food or beverages.

Scholarships. Although individual students are not eligible to apply for scholarships, an organization may apply to an LCC to sponsor a scholarship provided the Local Cultural Council feels the scholarship program provides sufficient public benefit and meets all other state and local criteria.

Council Programming

Local Cultural Councils are encouraged to develop their own programs and activities to respond to cultural needs that are not otherwise being addressed in the community or that support the council's local priorities. An LCC may spend up to 15% of its state allocation each funding cycle to support programs initiated by the Local Cultural Council itself. Councils are strongly encouraged to use their community input process to ask for specific suggestions for projects or to elicit feedback on proposed projects. [See additional guidelines to Council Programs affected by COVID-19](#)

The dollars approved for council programs come directly from that Local Cultural Council's annual allocation. Councils that choose to set aside these funds for their Council Programs must enter the agreed upon application into the Annual Report in the *Application* section.

Restrictions

- Council Program funds cannot be spent on administrative expenses, such as paid administrative staff or standard council publicity efforts. A council may use up to five percent of its allocation annually for administrative expenses (see Council Administrative Funds on page 3).
- Funds raised locally from Local Cultural Council programs must be deposited to the LCC's municipal account.
- Council Program funds cannot be set aside "just in case." They must be spent prior to the next grant cycle on programs specifically organized by the council. Unspent money must be treated as unencumbered funds and must be granted out the following grant cycle according to the Mass Cultural Council timeline and process.

- Council Program funds cannot be used to fund late or ineligible grant applications. These funds are intended for use in programming and activities lead by the council itself.
- Each member of the council must carefully follow the conflict of interest procedures outlined in Appendix B of this document. This information is not intended as legal advice, and only serves as general guidance on how to comply with the conflict of interest law. Conflict of interest law includes the prohibition of using one's LCC position to obtain benefits for oneself or others. This means that council programs cannot create foreseeable opportunities for compensated work that council members then take advantage of. Examples include:
 - If a council is putting on a festival, an LCC member who is a musician cannot then become a paid performer for that festival.
 - If a council creates a program that requires the support of a paid staff person, a council member cannot then assume that position once it is created.

In addition to oneself, each LCC member must be careful if family members, an organization a member is affiliated, or business partners have a potential financial interest in council programming. If a conflict of interest situation arises for any Local Cultural Council member, he or she should obtain legal advice prior to engaging in any conduct which might violate the conflict of interest law. The Ethics Commission’s Legal Division is available to provide free, confidential legal advice to any LCC member during business hours every weekday at (617) 371-9500.

Accessing the funds

All funds for Council Programming, no matter the source, must be kept in the council’s municipal revolving account and can be accessed as:

- Direct advance payments to third party vendors for goods or services.
- Reimbursement to council members for expenses related to the project.

The expenditure of these funds may be subject to state procurement laws as they apply to municipalities (such as requiring bids from multiple vendors, requiring payments upon completion of service, etc.). Councils undertaking their own programming should work closely with their municipalities to establish specific processes for expending and tracking funds and ensuring compliance with procurement laws.

LCC Final Report

In order for the Mass Cultural Council to understand the impact these funds and the council activities have on communities, LCCs who use state funds to support their programs must complete a final report by January 15 of the following year. Final reports should be emailed to the LCC’s Mass Cultural Council staff contact.

Grant Review

Technical Disapprovals. LCCs that accept paper applications should not use “technical disapprovals” (typographic errors, unsigned applications, etc.) as the sole basis for disapproving applications. Meeting the statewide application deadline is a requirement, not a “technicality,” and LCCs cannot accept late applications.

Applicant Interviews. Some councils find it useful to conduct applicant interviews as part of the grant review process. This can be an effective way to learn more about grant applicants, but councils must take extra

precautions to ensure that the interview process is consistent and fair. While interviews are allowed, they must not be required of applicants, and the Mass Cultural Council discourages LCCs from holding interviews unless it is absolutely necessary to reach a granting decision. Councils cannot disapprove an application for the sole reason that the applicant was unable to attend an interview.

Open Meeting Law. Massachusetts law states that all meetings of local government bodies, including those held by LCCs, must be open to the public. A quorum of LCC members is required in order to vote at the grant cycle voting meeting. A quorum is a simple majority of the members of the council – for example, a quorum of five members is three and a quorum of six members is four. Telephone voting, email voting, or proxy voting is not allowed. For additional requirements and guidelines on open meeting law, see Appendix A. See the LCC Guidance document on mass-culture.org for [updates on the Open Meeting Law rules](#).

Conflict of Interest Law. In cases where there is a conflict of interest the member should abstain from both the discussion and vote. For additional requirements and guidelines on conflict of interest law, see Appendix B.

Public Records Law. All records of the actions of Local Cultural Councils are considered public information and are subject to the state’s public records law. LCCs must be available to respond to requests to view these materials “without unreasonable delay.” The public records law establishes a maximum delay of 10 days from the day of the request. For additional requirements and guidelines on conflict of interest law, see Appendix C.

Reconsideration

An applicant may request reconsideration of an LCC decision on their application, if the applicant can demonstrate that the LCC failed to follow published Mass Cultural Council guidelines and Local Cultural Council Priorities. Dissatisfaction with the denial of an application or with the amount of an award does not constitute grounds for reconsideration.

Disapproval letters must provide applicants with clear reasons for denial based on published state guidelines or council priorities, and information on the reconsideration process. “Insufficient funds” does not provide applicants with adequate rationale for disapproval.

Reconsideration requests must be made in writing (email or hard copy) and responded to in the same manner. The request must be sent to the Mass Cultural Council at our mailing address or lcc@art.state.ma.us within 15 days of the notification date on the disapproval letter (postmark date on envelope or timestamp on email). Business days, weekends, and holidays count toward the 15-day limit. The applicant should also send a copy of the request to the LCC. The request should include:

- The council’s disapproval letter to the applicant.
- The applicant’s reason for requesting reconsideration stating how the LCC failed to follow published state guidelines or council priorities.

Within 15 days of receiving a reconsideration request, the Mass Cultural Council will determine if the applicant has grounds for reconsideration and will notify both the applicant and council of its decision.

If the Mass Cultural Council determines that the applicant has grounds for reconsideration, the Local Cultural Council must convene a quorum of members and review the application, as if for the first time. Following all

published state guidelines and council priorities, the Local Cultural Council must decide whether to approve or deny the grant request and must notify the applicant of the final determination.

A decision on any requests for reconsideration should be made before LCCs finalize funding decisions and complete the Annual Report to the Mass Cultural Council. Only after the Annual Report to the Mass Cultural Council has been completed can successful applicants be notified of their approval.

Grant Provisions

Conditional Approvals. LCCs may place conditions on approved applications (i.e., the applicant must hold the proposed program during the town festival, or the performing group must provide free tickets to senior citizens). Conditions may also require submission of specific documentation related to receipt of grant funds or with final reports. LCCs must communicate any conditions to the applicant in writing (grant award letter, email or hard copy) and note them in the minutes for that meeting. If the applicant does not agree to the condition, they can choose not to accept the grant.

Grant Extensions and Modifications. Grant recipients have one year from the date of their approval notification to request reimbursement. Grant recipients need the LCC's written permission (email or hard copy) to make changes to their projects. At their discretion, LCCs can approve reasonable extensions and modifications for projects. The modification should not significantly alter the original purpose of the approved application.

Project extensions and modifications must be requested in writing (email or hard copy) and responded to in the same manner. In order to review an extension or other modification to an approved grant the LCC must convene a quorum of LCC members and vote. The LCC must inform the applicant of their decision in writing and ensure that the vote is reflected in the meeting minutes. [See additional guidance on Modifications & Extensions for programs affected by Covid-19.](#)

Credit and Publicity Requirements. All grant recipients are required to acknowledge the financial support of the LCC that approved their grant and the Mass Cultural Council in published materials and announcements about their project. More information about the credit policy for LCC grant recipients can be found on the Mass Cultural Council website (www.massculturalcouncil.org).

Grant Payment

- 1. Reimbursement Process.** All grant recipients have one year from the date of their approval notification to request reimbursement. In order to request reimbursement, the recipient must complete a reimbursement form, which is provided by the council. Reimbursements may be made either directly to the applicant or to third party vendors who have provided goods, materials or services to the applicant. In either case, the LCC must retain a copy of the documentation provided by the applicant as part of the council's records. Applicants in the Reimbursement to Grant program are encouraged to submit the required paperwork within 2 weeks of receiving notice of their approval.

If the local council is satisfied that the project has been completed as promised, a minimum of two council members sign the form and forward it to the municipal treasurer, who will authorize the release of funds

to the grantee. Progress payments may be made at the discretion of the LCC but should be proportionate to the percentage of the project that has been completed.

If the council is not satisfied that the project was completed as promised, the council must contact the grantee with their concerns and allow the grantee the opportunity to respond. Two council members and the grantee may work out a compromise solution, which should be finalized in writing (email or hard copy). If a compromise cannot be agreed upon, the council must convene a quorum of LCC members to vote on the request and/or any compromise solution put forward by the grantee or council. The results should be reflected in the meeting minutes, and the grantee should be given final notification in writing (email or hard copy) as to the outcome of the vote.

LCCs should process reimbursements as they arrive to ensure timely payment of grantees. Councils should take no longer than four weeks to forward approved reimbursement requests to the municipal treasurer.

- 2. Direct Grant Process.** All grant recipients have one year from the date of their approval notification to request their funds. It is suggested however, that the grantee submit the paperwork for direct payment within 2 weeks of receiving notification. Grants awarded by LCCs under these requirements must follow the payment process outlined in the [FY20 Direct Grant Guidelines](#). All other LCCs and their applicants should continue to adhere to the following, standard reimbursement process.

To approve the direct grant, two council members must sign off on the forms and forward them to the municipality for processing, who will release the funds to the grantee.

If the council is not satisfied that the project was completed as promised or not completed at all, the council must contact the grantee with their concerns and allow the grantee the opportunity to respond. Two council members and the grantee may work out a solution, which should be finalized in writing (email or hard copy). If a compromise cannot be reached, the council must convene a quorum of members to vote on the acceptance of the program and on the reimbursement to the council for funds expended by the grantee. Results should be reflected in the meeting minutes, and the grantee should be given final notification in writing (email or hard copy) as the outcome of the vote.

Grant Cycle Timeline

The LCCs taking part in direct grant payments must follow the grant cycle timeline outlined in the [FY21 Direct Grant Guidelines](#). All other LCCs and their applicants should continue to adhere to the following, standard grant cycle timeline:

September

- LCCs that want to participate in the direct grant option must submit their intent to the Mass Cultural Council by October 1
- LCCs publicize the grant program locally.
- Mass Cultural Council notifies LCCs of their allocation amounts.
- Councils meet with Municipal Fiscal Officer to determine new grant amount for fiscal year.

October

- LCCs post council priorities on their council profiles by October 1.
- LCCs update their contact information.
- FY20 Grant Cycle opens October 1.
- Councils meet with Municipal Fiscal Officer to determine new grant amount for fiscal year.

November

- Grant applications due to LCCs by November 16
- LCC Account Form due to Mass Cultural Council by November 16 (Section 1 of Annual Report).
- LCCs determine the total amount available for granting by November 16 (Section 2 of Annual Report).

November- January

- LCCs receive panel books from Mass Cultural Council.
- LCCs conduct their grant cycle voting meetings.
- LCCs send disapproval notifications immediately following voting meeting.
- LCCs handle any reconsideration requests.
- LCCs enter grant decisions and grant cycle voting meeting into the online office.

February

- LCCs submit annual report to Mass Cultural Council by March 1, 2021.
- Council Program final reports due March 1, 2021.
- Mass Cultural Council transfers funds to LCCs once Annual Report is completed.
- LCCs send approval notifications and publicize grant awards once Annual Report is completed.
- LCCs begin processing reimbursement requests or grants.

Spring

- LCCs process reimbursement requests.
- LCCs ensure grant recipients acknowledge Mass Cultural Council and LCC funding.
- LCCs hold grant receptions and invite Mass Cultural Council program staff and elected officials.
- LCCs conduct their community input process.
- LCCs update priorities based on community input.
- LCCs present the programs and individuals they have funded to the municipality.

Appendix A - Open Meeting Requirements

Under Massachusetts law, meetings of a local “government body,” including an LCC, must be open to the public (M.G.L.c.30A, 18-25). The Massachusetts Attorney General has all interpretation and enforcement authority over open meeting law. More information about open meeting law can be found at www.mass.gov.

The open meeting law applies to every meeting of a quorum of a government body if any public business over which the government body has jurisdiction is discussed or considered. Because violation of the open meeting law can result in the invalidation of the action taken, the following summary is designed to help a Local Cultural Council comply with the open meeting law.

A notice of any meeting of a Local Cultural Council must be filed with the city or town clerk at least 48 hours prior to the meeting, not counting Saturdays, Sundays, and legal holidays. Example: a Monday night meeting must be

posted before Thursday night. Notices must (1) include a list of topics the chair reasonably anticipates will be discussed, i.e., agenda, and (2) be posted in or on a municipal building to be visible to public at all hours.

Minutes must contain the date, place, time, and matters discussed and shall include summaries of matters discussed, list of documents used, all decisions made/votes taken.

Emails are expressly included in the definition of “deliberation,” which is prohibited outside of meetings; but distribution of agendas, scheduling information, or reports to be discussed at the next meeting is permitted. While the law specifically refers to “email” as constituting deliberation, similar types of electronic communication, such as blogging, electronic chatrooms, and social networking sites also fall within the scope of the definition of “deliberation” if a quorum of the public body is involved.

Meetings may be recorded on audio or video tape. The person desiring to record a meeting must notify the chair, however, and the chair must inform everyone in the room of the recording.

No person may address a public meeting of an LCC without permission of the presiding council member, and all persons shall, at the request of the presiding officer, be silent.

Appendix B - Conflict of Interest Requirements

The purpose of the conflict of interest law, Massachusetts General Laws Chapter 268A, is to ensure that public employees’ private financial interests and personal relationships do not conflict with their public obligations. Local Cultural Council members are considered special municipal employees for purposes of the conflict of interest law. All public employees, including Local Cultural Council members must also avoid conduct which creates an appearance of conflict of interest, or conduct which creates a reasonable impression that they will act with bias.

This information is not intended as legal advice, and only serves as general guidance on how to comply with the conflict of interest law. If a conflict of interest situation arises for any Local Cultural Council member, they should obtain legal advice prior to engaging in any conduct which might violate the conflict of interest law. The Ethics Commission’s Legal Division is available to provide free, confidential legal advice to any LCC member during business hours every weekday at (617) 371-9500. As special municipal employees, LCC members are required to complete the Conflict of Interest Law Online Training program at <https://www.mass.gov/how-to/online-training-conflict-of-interest-law-training-for-state-county-and-municipal-employees>

The conflict of interest law regulates the following situations that may arise:

- An LCC member applying for a grant.
- An LCC member applying for a grant on behalf of someone else.
- An LCC member, their immediate family, or organization they are affiliated with has a financial interest in a grant.
- An affiliate of an LCC member or non-immediate family member has a financial interest in a grant.
- Restrictions for former members.
- An LCC is faced with an application from a former member.
- Using one’s LCC position to obtain benefits for oneself or others.

- Holding another municipal position in addition to the LCC position, including second positions that are part-time and unpaid.
- Giving, requesting, or receiving “gifts” related to LCC work.
- Acting in a manner that suggests one can be improperly influenced.
- Abstentions affecting the quorum

Possible Conflict of Interest Scenarios:

Some of the scenarios below indicate that an LCC member must abstain from participating in the review of an application due to a conflict of interest. If the application is awarded a grant, council members who abstained from reviewing the application should also abstain from participating in the review of project modifications or extension requests and should not review or approve payments to the grantee.

An LCC member applying for a grant. When an LCC member applies for a grant from the cultural council on which they serve, there are three important steps to avoid a conflict of interest:

1. The LCC member cannot participate in the council’s consideration of their own application for a grant. The member should make a verbal disclosure at the voting meeting which will be recorded in the minutes, and then leave the room during the discussion and voting of her grant application. In order to protect the LCC from accusations of biased decision-making it is important to record who abstained from which grant decisions in the meeting minutes.
2. It is possible that their financial interest could be affected by participating in discussion and awarding other grants that are in competition with their grant for a limited pool of funds. To avoid this possibility, the LCC member should abstain from those applications unless, prior to participating in the matter, the LCC member makes a written disclosure to their appointing authority and receives an exemption allowing them to participate in the review of the other grants. Exemption form: <https://www.mass.gov/files/documents/2016/08/vq/disc-20c-special-munic-contract-new.doc>
3. When LCC members are faced with an application from a fellow LCC member, all members who are voting on the grant from the current LCC member should file written disclosures with their appointing authority prior to taking action on the grant request. This will dispel any appearance of a conflict of interest.
Disclosure form: <https://www.mass.gov/service-details/municipal-employee-disclosure-forms>

An LCC member applying for a grant on behalf of someone else. An LCC member **may not** apply for a grant on someone else’s behalf from the cultural council on which they serve – regardless of whether or not they are paid to do so. This prohibition includes signing a grant application, representing, or advocating for the application before the LCC.

LCC members may offer standard guidance to applicants (i.e. can answer questions about the guidelines, help with filling out the budget, etc.) but they may not complete or present an application for funding in the capacity of an advocate or agent for that application.

An LCC member, their immediate family, or organization they are affiliated with has a financial interest in a grant. If an LCC member, their immediate family (immediate family includes the member’s spouse/partner and

both sets of parents, children, brothers, and sisters) or an organization they are affiliated with has a financial interest in a grant, the LCC member must **either**:

- Abstain from participating in the review of the grant application. The member should leave the room during the discussion and voting. In order to protect the LCC from accusations of biased decision-making, it is important to record who abstained from which grant decisions in the meeting minutes. The MCC recommends this course of action.
- **Or**, prior to participating in the matter, the LCC member can make a written disclosure to the appointing authority and request an exemption allowing them to participate. They can participate only if the exemption is approved. A verbal disclosure should also be made at the voting meeting and recorded in the minutes.

Exemption form: <https://www.mass.gov/files/documents/2016/08/vq/disc-20c-special-munic-contract-new.doc>

Examples include:

- A member of an LCC's immediate family applies to the LCC they serve on or will accept compensation to perform in a program funded by the LCC.
- An organization submits a grant for an event at which an LCC member will be a paid performer.
- An LCC member is a teacher at a school and another teacher from the same school is applying to their LCC for a grant. Or an LCC member volunteers at the library and the library applies to their LCC for a grant.
- An LCC member who owns a company patronized by LCC grant applicants, where grant money is likely to be used to make purchases from their company.

An affiliate of an LCC member or non-immediate family member has a financial interest in a grant. If an affiliate of an LCC member or relative beyond a member's immediate family (i.e. cousin, aunt, nephew, etc.) applies for or will benefit financially from a grant, the LCC member must **either**:

- Abstain from participating in the review of the grant application. The member should leave the room during the discussion and voting. In order to protect the LCC from accusations of biased decision making, it is important to record who abstained from which grant decisions in the meeting minutes. The MCC recommends this course of action.
- **Or**, prior to participating in the matter, the LCC member can make a written disclosure to the appointing authority and request an exemption allowing them to participate. They can participate only if the exemption is approved. A verbal disclosure should also be made at the voting meeting and recorded in the minutes.

Disclosure form: <https://www.mass.gov/service-details/municipal-employee-disclosure-forms>

Examples include:

- A member of an LCC's non-immediate family applies to the LCC or will accept compensation to perform in a program sponsored by the LCC.
- A close friend or associate of an LCC member applies to the LCC for a grant or will accept compensation to perform in a program sponsored by the LCC.

Restrictions for former members. A former LCC member may never act on another party's behalf on any matter in which they participated while an LCC member. For example, if an LCC member reviewed and approved an application for an arts festival and then after leaving the LCC becomes a volunteer for the festival, that former member cannot submit a request for an extension or project modification to the LCC on behalf of the festival for the grant that they reviewed while on the council.

An LCC is faced with an application from a former member. When LCC members are faced with an application from a former LCC member, they can award a grant to the former LCC member providing that they act on the merits of the application and not because of their relationship with their former colleague. All LCC members who worked with the former LCC member should file written disclosures with their appointing authority to dispel any appearance of a conflict of interest prior to taking action on the grant request.

Disclosure form: <https://www.mass.gov/service-details/municipal-employee-disclosure-forms>

Using one's LCC position to obtain benefits for oneself or others. An LCC member may not award a grant to an applicant if at the same time they are negotiating for employment with the applicant. LCC members also cannot exploit grant applications to create foreseeable future opportunities for compensated work, and then take advantage of those opportunities. Examples include:

- An LCC member who votes to approve a grant that would create a position compensated by the grant money at an organization can't then assume that position once it is created.
- An LCC member who is a musician cannot approve a grant for a group to put on a music festival and then become a paid performer for that festival.

Holding another municipal position in addition to the LCC position, including second positions that are part-time and unpaid. LCC members are considered special municipal employees for purposes of the conflict of interest law. A special municipal employee who is a full-time, part-time, or unpaid employee of the municipality in another capacity must at a minimum file a disclosure with the city or town clerk, and may be required to receive an exemption from the board of aldermen, city council, or board of selectmen to serve on the Local Cultural Council.

Exemption form: <https://www.mass.gov/files/documents/2016/08/vq/disc-20c-special-munic-contract-new.doc>

Giving, requesting, or receiving "gifts" related to LCC work. It is illegal to request or accept anything of "substantial value" (more than \$50) from anyone with whom you have or are likely to have official dealings (absent some family or social relationship which would explain the gift) even if the motivation for the gift is to express gratitude for a job well done or to foster goodwill. Items of "substantial value" range from cash, additional compensation, and tips, to free tickets and passes to entertainment events. In addition, free or discounted services such as construction or accounting work are considered gifts.

Acting in a manner that suggests one can be improperly influenced. The conflict of interest law prohibits all public employees from seeking or receiving bribes, gifts, promises, or anything else of value in return for an official favor or a promise of action or inaction. In addition, the law prohibits public employees from accepting anything of value in exchange for committing any fraud on a state, county or municipal agency (or allowing anyone else to commit such a fraud).

A public employee violates this section if the employee acts with “corrupt intent.” As a general rule, whenever there is an agreement that a public official will receive something of value from a private party for certain official action (or inaction), that agreement is sufficient evidence that the public employee is acting with corrupt intent.

Abstentions affecting the quorum. It may occur that an LCC has more than one member who has a conflict and are therefore abstaining on a particular grant application. If such disqualification reduces the number of members who can participate to below a quorum (a simple majority of the members of the council) please call your staff contact at the MCC to determine how to proceed.

Appendix C – Public Records Law

Minutes of all meetings, disclosure forms, and any other records of LCCs must be maintained in a public place. A copy of the pdf panel book containing the council’s applications must also be maintained in a public place. Councils should seek guidance from their city or town clerk as to whether this should be an electronic or hard copy. Approval and denial letters should be archived in the same manner. At least six years’ worth of records must be kept in a secure space identified by the city or town clerk. Records more than six years old should be archived using the same procedures employed by the local government. City or town clerks can reference Massachusetts Statewide Records Retention Schedule (L13 24) for additional information.

To facilitate access to the current year’s records, the chair may keep those records in their home; however, the city or town clerk should be apprised of their location. Information on members should be entered directly into the LCC Online Office at www.mass-culture.org. The town clerk’s office should also be provided with up-to-date council contact information so potential applicants can find LCC contacts and get assistance when needed.

All records of the actions of Local Cultural Councils are considered public information and are subject to the state’s public records law. LCCs must be available to respond to requests to view these materials “without unreasonable delay.” The public records law establishes a maximum delay of 10 days from the day of the request.

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