

Section 501(c)3 Organizations and Political Campaign Activities

In order to maintain tax-exempt status under Section 501(c)(3) of the Internal Revenue Code, private colleges and universities must not engage in prohibited political campaign or lobbying activity, including intervening in a political campaign. These prohibitions cover a broad range of activities, including that private colleges may not “endorse” any college committee or student group that has as one of its purposes the support of a particular candidate: endorsing means granting official status to the group, funneling student fee money to the group, accepting money on behalf of such a group, or allowing the college to in some way function as a conduit for the group. Additionally, 501(c)(3) organizations may not participate or intervene in a political campaign on behalf of (or in opposition to) a candidate for public office. If the IRS finds a Section 501(c)(3) organization engaged in prohibited campaign activity, the organization could lose its tax-exempt status; also, it could be subject to an excise tax on the amount of money spent on that activity.

The IRS advisory (IR-2000-47), titled “Charities May Not Engage in Political Campaign Activities,” is instructive as it addresses endorsement of candidates, donations to campaigns, fund raising, distribution of statements, and involvement in any other activity that may be beneficial or detrimental to any candidate.

Consequently, college-hosted debates and public forums are permitted consistent with the institution’s legitimate, purely educational purpose if they do not endorse, support, or oppose a political candidate or party, and if the college complies with Federal Election Committee rules on sponsoring debates or forums. (*See* 11 C.F.R. §§ 110.13(a) and 114.4.)

The American Council on Education (“ACE”), Division of Government & Public Affairs, published a memorandum in November of 2007 outlining the “do’s” and “don’ts” for institutions of higher education regarding political campaign activities so that they will be in compliance with the law and not jeopardize their tax-exempt status. With respect to College-sponsored public forums, the following guidelines must be met:

1. All legally qualified candidates for a particular public office (or for the nomination of a particular party) are invited;
2. All participating candidates are given equal treatment, i.e., access and opportunity to speak;
3. The format and content of the forum are presented in a neutral manner; it is not structured to promote or advance one candidate over another; and
4. No political fundraising occurs in conjunction with the forum.

IRS election-year guidelines recommend that the topics cover a broad range of issues germane to the office sought and of interest to the public. Ideally, questions should be prepared by sponsoring members of the College community and/or by an independent, nonpartisan panel. The moderator’s role should be limited to ensuring that the debate ground rules are followed. The College must make reasonable efforts to ensure that the appearances constitute speeches, question and answer

sessions, or similar communications in an academic setting, and must make reasonable efforts to ensure that the appearances are not conducted as campaign rallies or events.

The College should make it clear by explicit statement¹ that we do not officially endorse, support or oppose a particular candidate, party, or political action committee (“PAC”), or any one or more of the views expressed during the forum or debate. This disclaimer also should be explicitly stated during announcements, introductions, and/or both opening and closing remarks by the moderator. Additionally, the wording of promotional materials and notices of the debate to both the PC community and the general public, including print material, broadcasts, and linked website notices and hyperlinks to web pages, must be carefully articulated so as to communicate a message of neutrality and nonpartisanship. Any promotional materials must be reviewed by a College official designated for that purpose.

College faculty, administrators and/or students acting in an official capacity (hosts, moderators, panelists, campus guides, and any other persons associated with the event), with the College’s approval, also should maintain neutrality and nonpartisanship in all matters and at all times regarding the event. They should not make public statements, oral or written, in connection with this event, because these statements may be perceived as support or endorsement of a particular candidate, political party, or PAC, which reasonably may be imputed to the College. Arguably, this would include wearing pins or apparel, or carrying/posting signs or symbols, with a message of endorsement of a particular candidate, party, or position on an issue. Similarly, official College publications or websites should not contain endorsement of or views on a particular candidate.

Student groups such as “College Republicans” or “College Democrats” are generic in nature and do not exist to support a particular candidate. Nonetheless, at the beginning of an event hosting political candidates, after the event is fully convened, the sponsoring student group should effectively communicate the College’s disclaimer.

Candidates are permitted to participate in certain types of campus events that are not considered to be part of or related to a “political campaign.”

Other relevant College policies and procedures may be applicable; no policy or procedures may be waived or overridden without the express permission of the appropriate College official.

¹ Disclaimer: “This event is sponsored by _____. The use of Providence College’s facilities for this event does not constitute any endorsement of views or candidates by Providence College, and the College does not endorse particular candidates or organizations in connection with any campaign for public office.”