



To: Jewish Community Relations Council Directors and Professionals
From: David Bernstein, President and CEO
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Date: April 12, 2016
Subject: Election Engagement Resources

Background

This has been, to say the least, a highly contentious election season. It has generated for the community relations field complicated dilemmas. Faced with publicly expressed bigotry, what can and can't we do and say? When should we speak up and when we remain silent? How should we connect with our friends and allies?

Here is some general parameters how on how you might move forward as the election continues to unfold.

Before putting together the playbook, it's essential to know the rules of the game. This memo is designed to provide a general overview of the rules that govern election year advocacy for public charities – also known as 501(c)(3) organizations – and share additional general resources. It is not a formal legal opinion and should not be relied upon as legal advice. If you have questions or concerns beyond what is included or how it relates to your particular circumstance, it is best to consult with your legal counsel.

Legislative Activity

Legislative activity is permitted, but is subject to certain limitations in relation to the organization's overall activities. Legislative activities include attempting to influence legislation either through direct contacts with legislators and their staffs or attempting to influence the public with respect to legislation, referenda, etc. Truly educational activities, designed solely to educate the public on policy issues, are generally not considered for purposes of these limits.

Electoral Activity

Electoral activity - on behalf of or in opposition to any candidate for public office – however, is strictly prohibited. The following are several aspects of this electoral activity ban to consider:

- Organizations may not rate, endorse, or oppose candidates for public office or engage in any activity that could be interpreted as intervening or participating in an electoral campaign.

- Invitations to elected officials should be handled with great care during a campaign season. Candidate forums are permitted so long as every candidate has an **equal opportunity** to appear. Forums must be held in a way that does not suggest support or opposition to any candidate or party. Care must be taken to ensure that all legally qualified candidates are given a similar opportunity. Questions must cover a broad range of topics and cannot evidence any editorial bias. Forums can take many forms, including a debate with all the candidates, sequential events, or events with campaign representatives. If one or more candidate declines to participate, the organization may still proceed with the event so long as every candidate had an equal opportunity to participate. If you provide a forum for just one individual, very sensitive issues are raised. We suggest that you consult with your legal counsel if you have any concerns about how to handle such invitations.
- Special consideration must be used when making any statements about candidates for public office. While organizations that would normally speak out on an issue may continue to do so, they must be careful to avoid any reference to the candidacy or election. San Francisco JCRC has developed this useful [set of questions](#) to help guide deliberation on whether or not to issue a statement. These questions are broadly applicable and can be an important guide when working on sensitive issues. Similarly, the JCPA has developed this [communications matrix](#) that we use to identify the right communications tools and audiences. It may also be a useful resource.
- Organizations may not provide meeting space, lists, equipment, advertising space or any other resources to a party or candidate unless they have affirmatively offered the same resources at the same terms to all other qualified candidates. It is not adequate to say that other campaigns could have availed themselves had they inquired.
- Candidate questionnaires and voting records have elicited close scrutiny by the IRS and should be handled with care. Organizations considering distributing a questionnaire or voting record should consult with legal counsel.
- Lay leaders may engage in campaign related activity, but should use caution and avoid doing so in their organizational capacity, even if for “identification purposes only.” Prominent leaders, whose affiliation may be well known without identification, should exercise great restraint.
- Professionals employed by 501(c)(3) organizations may also engage in campaign related activity. However, those in senior and/or visible public roles should generally avoid doing so, since it may be difficult to establish, if necessary, that they are acting as individuals and not on behalf of their agencies.
- Nonpartisan activity such as voter registration and get out the vote efforts are permissible as long as they are not designed to favor any party or candidate.

To the extent possible, our organizations should be consistent in their approach. Some organizations have found it helpful to [adopt policies](#) with regard to political activity, including rules for candidate forums, and whether and under what conditions certain lay and professional leaders may engage in campaign activity.

In one chart

Below is a chart with the simple rules of the road. Each of these includes a link [to additional information](#):

Activity		Activity	
Continue public policy advocacy		Endorse or Oppose a candidate	
Advocate on behalf of a nonpartisan ballot measure		Coordinate with candidate or their campaign	
Conduct voter registration and get-out-the-vote drives		Distribute information favoring one candidate or political party	
Plan and host nonpartisan public information sessions about the political process		Invite candidates as part of political fundraising events	
Share organizational issue priorities and positions with platform committees, campaign staff, candidates, media, and general public		Contribute to a candidate or their campaign (money, time, facilities, supplies, etc.)	
Plan and host nonpartisan candidate forums		Establish, fund, or manage a 527 or Political Action Committee (PAC)	
Rent facilities to candidates (if available to all candidates)		Evaluate a candidate's positions	
Prepare candidate questionnaires and multi-issue voter guides		Restrict facilities or mailing lists to specific candidates or political parties	
Organize and conduct voter protection activities		Linking website to anything that explicitly or implicitly favors or opposes a candidate	
Lay Leaders participate in personal capacity in elections and support candidates		Increase criticism of sitting officials who are candidates as the election approaches	
		Making positive or critical reference to someone as a candidate for elected office	
		Employees engage in activities to support a political candidate during work time	

For additional information and examples, [please visit this IRS webpage](#).