

Election Year Advocacy: Candidate Forums

How can 501(c)(3) organizations keep their issues in the minds of voters during an election year?

501(c)(3) organizations are prohibited from supporting or opposing a candidate or a political party, however there are many ways public charities can remain on message and involved during an election year. Here are a few guidelines for hosting events that candidates will attend.

Under federal tax law, 501(c)(3) organizations may host candidate appearances. A candidate appearance is a forum where the candidate has an opportunity to speak to the public. These appearances usually provide an opportunity for candidates to craft their own message. The audience for these appearances can be limited by the organization. For example, an organization may invite candidates to speak at their fundraising events, at a members-only meeting, or at an event that they publicize to the organization's supporters.

There are two reasons you would invite a candidate to your event: either because they are a candidate or because they have some expertise that you want to share with your audience. A different set of rules applies to each situation.

When you invite a candidate because of their candidacy, keep the following guidelines in mind:

Federal Tax Law:

Under Federal Tax Law, 501(c)(3)s may host a candidate forum where the candidate is invited because of their candidacy, however:

- There must be no indication of support or opposition to the candidate at the event.
- There should be no political fundraising.
- You must offer all of the other candidates an opportunity to appear at the event. These appearances do not have to be at the same time; however, there can be *no contextual favoritism*. In other words, don't invite one candidate to your conference to speak at 8 p.m. on Friday and another candidate to speak at 8 a.m. on Sunday.

Federal Election Law:

If the candidate is a candidate for federal office you must also keep in mind restrictions under federal election law. A 501(c)(3) may NOT host a *federal* candidate's appearance that is campaign-related because doing so would provide a beneficial opportunity for the candidate to address the public, equal to an in-kind contribution, which is impermissible for a 501(c)(3). The only exception to this general rule for 501(c)(3) organizations is when the 501(c)(3) is hosting a candidate debate with at least two candidates and the debate is nonpartisan in nature. FEC regulations permit 501(c)(3)s that do not endorse, support or oppose candidates or parties to stage candidate debates as long the debates have at least two candidates present, the event is unbiased, the candidates are given equal opportunity to speak, there is an unbiased moderator and audience, and no bias exists in the preparation and presentation of questions.

When you invite a candidate for reasons not associated with their candidacy, remember the following:

Federal Tax Law:

If individuals are being invited to speak in a capacity outside of their candidacy, there is no requirement for equal opportunity.

- For example, Dr. Senator is the speaker at your organization's annual fundraiser. Dr. Senator is an expert in early childhood development and pioneered supplemental nutrition programs for schools in your community. Dr. Senator is being asked to speak as a preeminent advocate of changing educational standards to enhance childhood learning. Dr. Senator is not being invited due to her position as a Senator even though she is running for re-election. Therefore, there is no need to extend an invitation to other candidates.

Tell the individual that they cannot mention their candidacy. Write a letter to the individual detailing the reason your organization is inviting them. Tell them it is not a candidate event and that they cannot mention their candidacy. The memo should also state that your organization is a nonpartisan 501(c)(3) organization that does not support, or oppose, candidates for office.

Do not time this appearance to coincide with an election. The closer you are to an election the more it looks like you are inviting the individual as a candidate versus for some expertise.

If your annual fundraiser is held in May, do not change the event to October. This is too close to the election and would give the appearance that you are supporting her candidacy.

Federal Election Law:

Under Federal Election Law, if the *federal* candidate forum or event is not political in nature, there is no FEC regulation prohibiting a 501(c)(3) from hosting the event. It is important however for non-political events where a candidate will appear, for the 501(c)(3) organization to ensure that the candidate is aware that it is not a campaign event. The candidate cannot solicit votes or raise money, and no political banners, placards or other signs of their candidacy should be displayed.

***Please consult state election law for rules and restrictions governing 501(c)(3) events involving state candidates.

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