

TO: Washington and Lee Community
RE: Political Activity

With election campaign season again approaching, and in light of IRS mandates regarding political activities of tax-exempt organizations like Washington and Lee University, it is timely for us to review the rules regarding political activity that should guide employees and students.

Internal Revenue Code § 501(c)(3) – Tax Exempt Organizations

Internal Revenue Code § 501(c)(3) requires, as a condition for tax-exemption, that organizations “not participate in, or intervene in (including the publishing or distributing of statements), *any* political campaign on behalf of (or in opposition to) any candidate for public office.” This prohibition is absolute, and includes distribution of statements prepared by others that favor or oppose any candidate for public office. In addition to loss of tax-exempt status, the University runs the risk of having excise taxes imposed on both on the University and its responsible managers, as well as the risk of federal or state government lawsuits, audits, and investigations.

Guidelines

1. In order to ensure that participation in political activity by a member of our community is not attributable to the institution, it is imperative that no institutional resources be made available to political candidates or any individuals/organizations involved in a political campaign. These guidelines should be strictly followed:
 - Employees who desire to participate in campaign activities during normal working hours must take vacation time or leave without pay to do so.
 - Employees and students cannot use the University’s letterhead in connection with campaign activities.
 - Employees and students must avoid using the University’s support services or supplies (secretarial, duplicating, messenger, computing, e-mail, campus notices, etc.) in connection with campaign activities. In no case should such use, including access to mailing lists, be provided to a candidate, campaign, political party, or political action committee (PAC) or the like, free of charge. If use of such services is provided in exchange for a fee, it must be provided to all candidates on an equal opportunity basis (and for an equal fee).
 - Hyperlinks from a University web-page to web pages of other organizations must be carefully scrutinized. If the link leads to a page that contains a political endorsement, the University could lose its tax-exempt status. Hyperlinks to the web pages of ALL candidates for a particular office, if listed in a non-biased manner and if part of an overall “voter education” effort, are acceptable.
 - Employees are not prohibited from engaging in off-hours political activity, provided that, if the University is thereby identified (*i.e.* “I’d like to welcome Dr. Jane Doe, Dean of the College, Washington and Lee University), an express statement **MUST** be made by the employee that she is conveying her own personal opinions, not the opinions of the University. University officials are encouraged to avoid making public statements – whether oral or written – where there is a risk that such

statements would be *perceived* as support or endorsement by the University itself. This would include examples such as an op-ed piece in a campus newsletter by a University official, even if the University official himself paid the cost associated with printing that particular piece.

2. Use of Lee Chapel, the Pavilion, and other campus venues for political purposes will pass the IRS test if such use is for academic purposes or if the property is offered for lease or use on equal terms to all candidates/parties.
3. Student political organizations (College Republicans, Young Democrats, etc.) are not prohibited from pursuing their normal activities consistent with the academic nature of their endeavors. However, these student organizations must pay the normal “student organization rates” associated with using institutional facilities, and must identify at any such event – particularly one in which a candidate for political office is present – that the purpose of the event is educational, and does not imply any endorsement of (or opposition to) any candidate by the University. Administrators and faculty should take special care with regard to such activities, in order to avoid the *appearance* of institutional endorsement. Mock convention activities, being educational in nature, are not prohibited.
4. If a public figure who is otherwise running for a political office is invited to speak in a non-candidate capacity, the organizers of the speech should preface the introduction of the speaker in a manner that does not mention his/her candidacy in an upcoming election, and should ensure that the speaker will also not mention his/her candidacy. In short, a “non-partisan atmosphere” should be maintained during the event.

It is important to keep in mind that the test for “participating or intervening” in any election is one that looks at the totality of activities that occur at the University, on University property, and/or using University resources. Finally be aware that “implied endorsement” of a candidate can be just as problematic as explicit endorsement.

If you have any questions concerning these guidelines, or specific activities, or regarding activity among faculty, staff, or students that may come to your attention, please contact the Office of General Counsel.

Thank you.