



Guidelines for Hospital Election-Related Activity

Nonprofit hospitals enjoy certain benefits under the law. The most prominent of these benefits is that qualifying nonprofit hospitals are exempt from paying certain taxes. But the law also imposes limitations on activities of nonprofit hospitals, if they wish to maintain their tax-exempt status. One such limitation deals with election-related activities.¹ For many nonprofit hospitals, understanding which election-related activities are permissible and non-permissible can be a matter of great confusion. As a result, some hospitals may simply ignore the law, placing their tax-exempt status in jeopardy. Conversely, they may be reluctant to engage in perfectly legitimate activities rather than risk breaking legal rules. This may make them less effective in accomplishing their health care advocacy goals.

What is the general rule regarding nonprofit hospitals and election-related activity?

A section 501(c) (3) organization is prohibited from using, directly or indirectly, any resources (e.g., funds, facilities, lists, and staff) to influence voter preference or the outcome of any federal, state, or local election. The following activities are clearly prohibited: endorsing or opposing, directly or indirectly, a candidate for public office; direct or indirect financial support to a candidate, a candidate's campaign committee, or a PAC; donations of facilities or staff to a candidate; and mailings or advertisements for campaign purposes.

Are there any special requirements on campaign contributions by registered lobbyists?

Yes. Anyone registered as a state lobbyist who makes personal political contributions to a candidate at the state or municipal level is subject to Pennsylvania's Campaign Finance Reporting Act. This does not apply to contributions made by a lobbyist to a political action committee, such as HAPAC.

Anyone registered as a federal lobbyist and anyone named as a lobbyist by a reporting organization is subject to the federal Lobbying Disclosure Act's requirements regarding reporting of campaign contributions to federal candidates and PACs.

Are hospital employees permitted to participate in election-related activity?

Yes, hospital personnel, acting as individuals, can freely participate in election-related activity, as long as they do so on their personal time. Hospital employees can make voluntary contributions to HAPAC and other entities with their personal funds.

Organizational leaders may not use official organization publications or official functions of the 501(c)(3) organization to express partisan views. In general, organizational leaders must take care to ensure that their activities cannot be viewed as those of the section 501(c)(3) organization.

¹ Election-related activities discussed here do not include lobbying public officials (e.g., to support a particular bill). Lobbying activities that a section 510(c)(3) organization may engage in include voluntary advocacy activities, such as letter writing, emails, phone calls, and faxes to elected officials requesting they support or oppose legislation. However, when holding post card or letter-writing campaigns to lawmakers, you may not use your reduced rate postage afforded to you as a public charity 501(c) (3). You must use regular rate postage.

What are the rules regarding candidates coming to our hospital or health system?

Candidate forums must be nonpartisan. Hospitals may host a candidate forum to which all bona fide candidates are invited that provides fair and impartial treatment without promoting one candidate's interests over another. Hospitals may hold voter registration drives to encourage good citizenship, but they cannot distribute campaign materials or tie the drive to any one candidate or party. Hospitals may not disseminate campaign literature or publicly endorse or oppose a candidate, nor may the candidate use a meeting at the hospital as an opportunity to campaign.

Candidates may not hold campaign events on hospital property, such as a news conference, to discuss a health care platform. Nor may candidates use video footage or photos from a hospital in campaign ads.

Can a hospital participate in voter education and/or voter registration?

Yes. A good resource is HAP's www.PAhospitalsadvocacy.org. This tool provides voter registration information, candidate profiles, and hospital positions on key public policy issues. This website is nonpartisan and can be used by hospital staff and board members.

What guidelines should the hospital follow in planning and conducting activities to ensure that they are permissible activities?

- All efforts must be conducted in a nonpartisan manner.
- All voter education materials and publications should include a disclaimer stating that the information or activity is not intended to reflect an endorsement for, or opposition to, any candidate or political party.
- Generally, identification of candidates (by name, photograph, or any other indicator of identity) should be avoided. If one candidate is mentioned by name, all candidates for the same office should be mentioned.
- Activities cannot be coordinated with a candidate's campaign or with a political party.
- Hospitals should not publicize campaign events.
- Campaign literature should not be distributed or made available on hospital premises.

Can a nonprofit hospital distribute voter guides that compare candidates' positions?

Yes. However, voter guides present a particular risk for 501(c) (3) organizations. Such guides must be nonpartisan and local counsel advice should be obtained on any specific voter guides.

Can a hospital conduct issue briefings for candidates to encourage the candidates to take a position?

Yes. A section 501(c) (3) organization may conduct issue briefings to inform candidates of its position on issues and to encourage them to adopt a position. Such briefings might be coupled with a tour of the hospital's facilities. The focus of these briefings should be on educating the candidate, rather than on providing the candidate with an opportunity to take his or her message to hospital employees.

Can a hospital hold a meeting or forum to give the candidates an opportunity to discuss their views and answer questions on issues of interest to the hospital?

Yes. A hospital may invite candidates to present their views. In the case of a public event, there are strict rules to follow. As a general rule, the hospital may not expend its funds to provide candidates with a public forum to promote their candidacies. An exception exists for nonpartisan candidate debates sponsored by section 501(c) (3) and 501(c) (4) organizations that neither support nor oppose any candidate or party.

Can a hospital invite one candidate at a time to discuss his or her views with hospital employees?

Yes. However, inviting one candidate at a time to address hospital employees carries a higher risk of being deemed participation or intervention in a political campaign. Further, single candidate visits may include only the organization's employees and their families, members of the press, and other guests who are participating in the event. Unlike candidate debates, these events may not be open to the public. A hospital should understand the risks involved in a single candidate visit and follow the guidelines below to guard against any indication of support for or opposition to any particular candidate.

- All qualified candidates should be invited, and each event should be structured as similarly as possible.
- The events at which the different candidates speak should be as similar as possible, particularly in terms of the number of expected attendees. One event should not be scheduled at a less convenient time of day or of year than another.
- Hospitals should not provide travel expenses to visiting candidates.
- The hospital should explicitly state, in every communication concerning the event and when the candidate is introduced, that the hospital does not support or oppose this or any candidate.
- This forum should address a broad range of issues.
- Any advanced prepared questions should be nonpartisan, and each candidate should be presented with the same questions. The hospital may choose to have the candidates field unscripted questions from members of the audience.
- A moderator should be designated to ensure that the ground rules are observed, to make clear that the views expressed are those of the candidate and not of the sponsoring organization, and to disavow any preference or endorsement by the sponsoring organization.
- Each candidate should be allowed an equal opportunity to speak and answer questions on his or her views.
- If the hospital permits news media to cover the appearance of one candidate, it must permit the media to cover the appearance of any other candidate for that office. Moreover, if the hospital allows any media coverage, it must provide all representatives of the media with equal access to cover each candidate appearance.
- No fundraising may be conducted at the event. The candidates should not be permitted to collect contributions at the event.

It is permissible to invite a candidate to speak at the hospital in a capacity unrelated to his or her candidacy for public office?

Yes. Under both IRS and FEC regulations, a public figure who happens to be a candidate may be invited to speak at a hospital event in another capacity without having to provide equal opportunities to opposing candidates or incurring an impermissible corporate contribution. However, the hospital must exercise care to distinguish this appearance from a campaign event.

What should a hospital do if a candidate asks the hospital to publicly support his or her official activities (e.g., by writing an editorial or letter to the editor)?

If the issue is one that distinguishes candidates (e.g., one supports a policy that another opposes) or the circumstances otherwise make it possible that the hospital's action will be seen as support for the official as a candidate, the hospital should decline the request.

If the above is not the case, the hospital must ensure that whatever is written or published has a bona fide non-electoral purpose. The content of the piece should focus on an issue, not on the officeholder. The issue should be one in which the hospital clearly has an interest, or on which the hospital has taken a public position. Avoid identifying the officeholder as a candidate, or referring to the upcoming election in any way.