



Webinar

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Election 2024: Voting & Political Campaign-Related Activities on Campus

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Agenda

- Overview of Pre-Election Landscape & Trends
- What is “Political Campaign-Related Activity” in 2024?
- Q&A
- What is “Political Campaign-Related Activity” in 2024?
(Continued)
- Student Voter Registration & Voting
- On-Campus Voting
- Q&A & Concluding Remarks



Pre-Election Landscape & Trends



Campus Looks Different for the 2024 Election

- Impact of COVID-19 on 2020 Election
 - COVID-related measures reduced on-campus population
 - Online instruction and remote work were prevalent
 - Reduced on-campus political campaign activity
- Campus Dynamics for 2024 Election
 - All key populations are back on campus
 - Includes students, faculties, employees, and visitors

National Political Climate in 2024

Heightened
intensity of
political debate

- Increased polarization between conservative and liberal views
- Shrinking ranks of middle-of-the-road voters

Concerns over
election-related
disruptive
activity

- January 6, 2021 attack at home
- October 7, 2023 attack abroad
- July 13, 2024 Trump assassination attempt
- Voter access and certifying results

4-year swinging
pendulum

- Blue-state legal challenges against Trump initiatives
- Red-state legal challenges against Biden administration initiatives



Increased Activity by Elected Officials

- Heightened Focus on Higher Education
 - Legislative and regulatory actions targeting colleges and universities
 - Increased involvement by elected officials into curriculum and campus operations
 - Varying level of activity across state legislatures

The background is a collage of various symbols related to politics and finance. It includes a blue-tinted image of the Statue of Liberty, a red-tinted image of an American flag, a purple-tinted image of a hand holding a document with a red 'X', a blue-tinted image of a classical building, a red-tinted image of a bar chart, a red-tinted image of a pie chart, and a red-tinted image of a person's silhouette. The text is centered over this collage.

What is “Political Campaign-Related Activity” in 2024?

Internal Revenue Code & Tax-Exempt Organizations

For an organization to be tax-exempt under section 501(c)(3) it cannot **“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.”**

Internal Revenue Code & Tax-Exempt Organizations

- If your institution is not a 501(c)(3), state law restrictions may still apply to the type of activity your institution can legally engage in.
- Particularly for instrumentalities of the state, state ethics laws may apply. See: <https://www.ncsl.org/ethics/staff-and-political-activity-statutes>

Political Campaign- Related Activity & Free Speech Principles

Doesn't the First Amendment grant an individual the right to express his or her political beliefs?

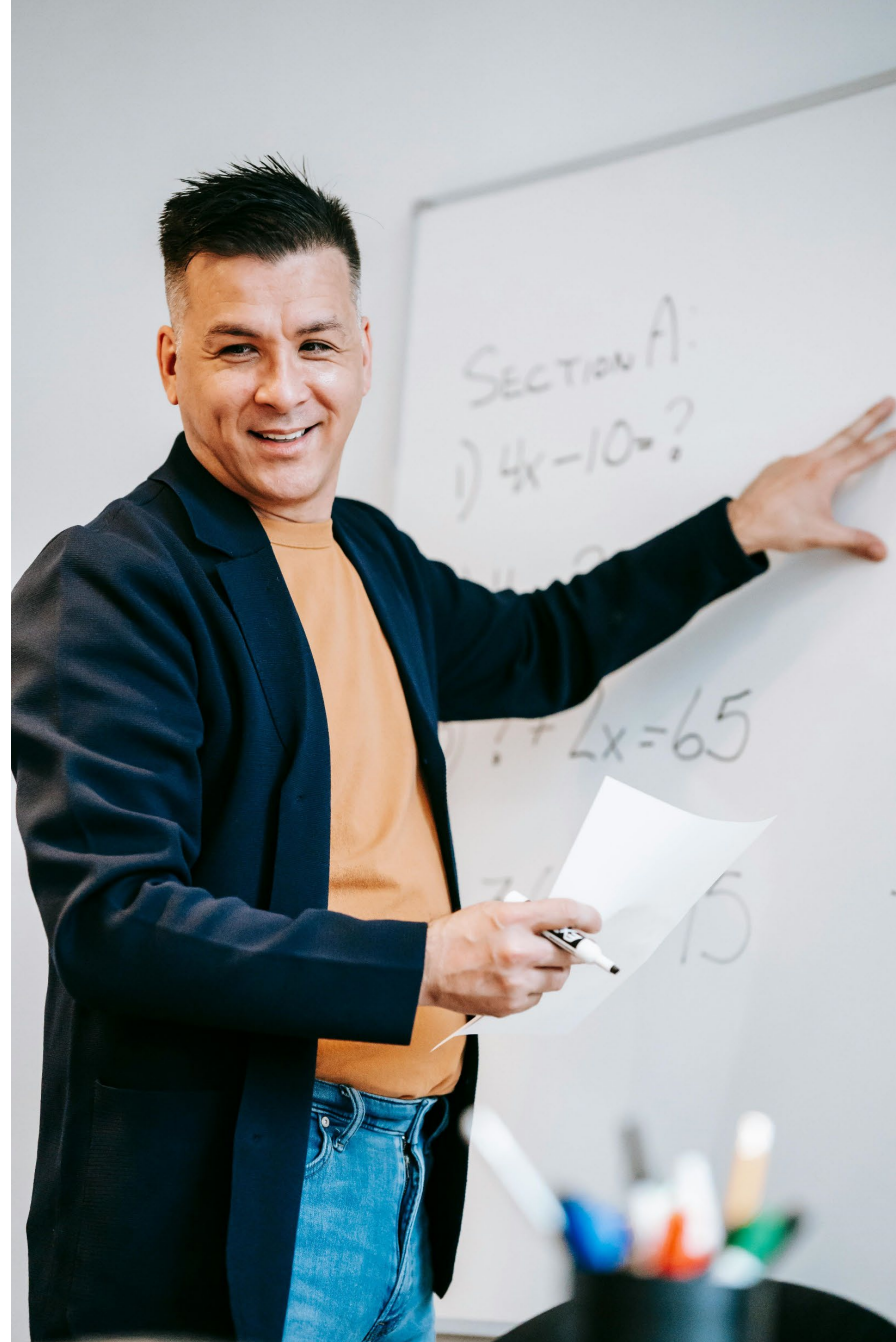
“The ban on political campaign activity does not restrict leaders of organizations from expressing their views on political matters if they are speaking for themselves as individuals. Nor are leaders prohibited from speaking about important issues of public policy. **However, for their organizations to remain tax exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications or at official functions of the organization.**”

[-IRS FAQ](#)

Political Campaign- Related Activity & Free Speech Principles

- Clear policies and guidelines on acceptable and unacceptable activities are therefore important, particularly before a presidential election.
- See:
 - [OSU Political Activities Guidelines](#)
 - [OSU Campus Free Speech Policy](#)

Political Campaign- Related Activity vs. *Cause-* Related Activity



Let's Consider:
Faculty member
wearing Harris-
Walz or Trump-
Vance button in
class lecture

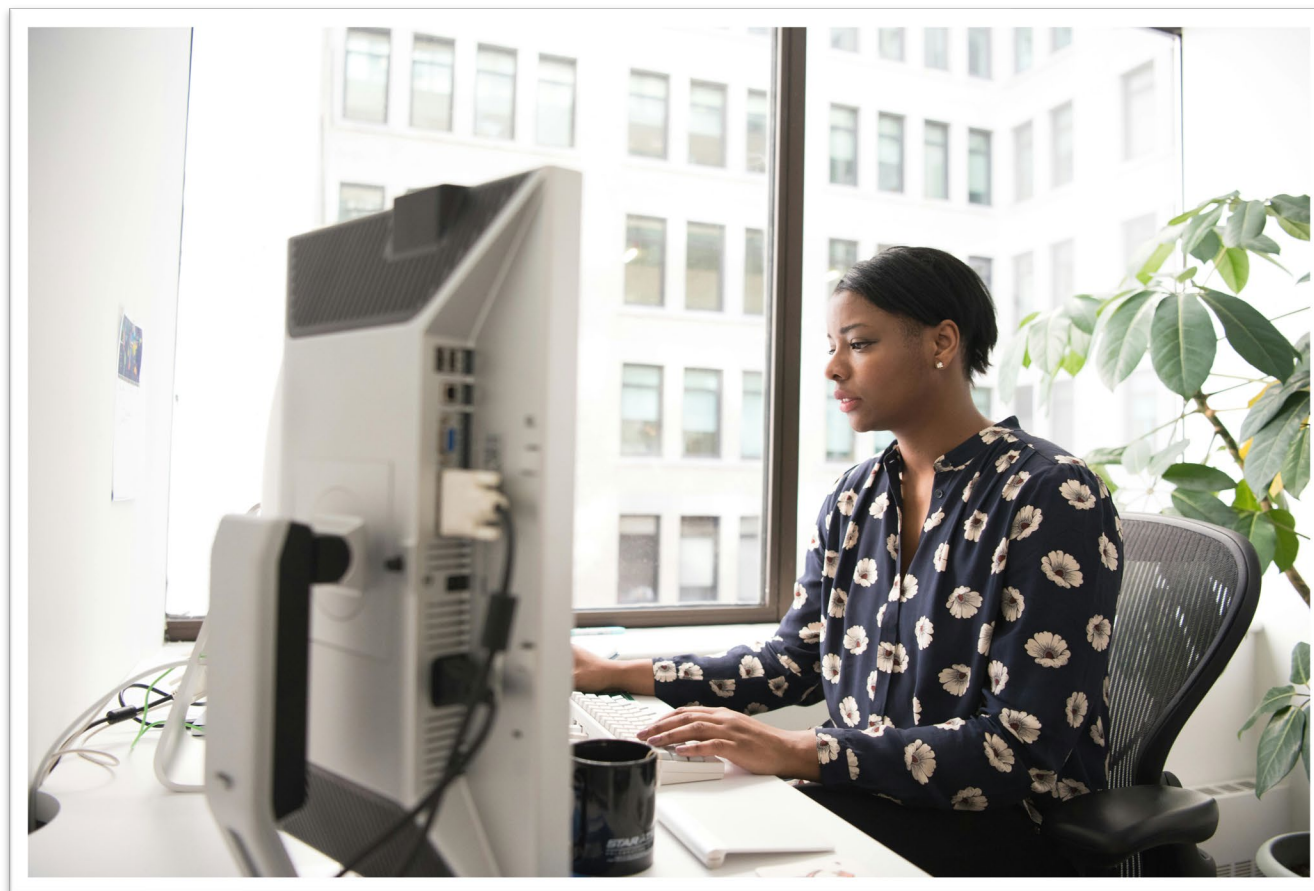
Let's Consider: Faculty member wearing Black Lives Matter button in class lecture

Political Campaign-Related Activity vs. Cause-Related Activity



**Political
Campaign-
Related
Activity vs.
Cause-
Related
Activity**

Let's Consider: Faculty member wearing "Codify Roe" button in their on-campus office



Political Campaign- Related Activity vs. *Cause-* Related Activity

Institutional Activities and Statements

- Institutions generally refrain from supporting specific candidates
- However, institutions sometimes join coalitions or groups with an issue advocacy focus or component
- Example: Regional initiative to tackle gun violence on campus

Political Campaign- Related Activity vs. Cause- Related Activity

Institutional Activities and Statements

Can a section 501(c)(3) organization state its position on public policy issues that candidates for public office are divided on?

“An organization may take positions on public policy issues, including issues that divide candidates in an election for public office **as long as the message does not in any way favor or oppose a candidate**. Be aware that the message does not need to identify the candidate by name to be prohibited political campaign activity. A message that shows a picture of a candidate, refers to a candidate’s political party affiliations, or contains other distinctive features of a candidate’s platform or biography may be prohibited political campaign activity.”

[-IRS FAQ](#)

Political Campaign- Related Activity vs. Cause- Related Activity

Institutional Activities and Statements

What are your institution's policies or procedures on when it will and will not issue statements on behalf of the institution?

1. Ohio State's Philosophy on Institutional and Leadership Statements: <https://omc.osu.edu/key-issues/philosophy-institutional-leadership-statements>
2. Johns Hopkins University Letter from the President and Deans: <https://president.jhu.edu/messages/2024/08/15/on-institutional-statements-from-the-university/>
3. Princeton University Policy on Institutional Statements and Expressions of Care for Non-academic Units: <https://institutionalstatements.policy.princeton.edu/>

Political Campaign- Related Activity vs. *Cause-* Related Activity

Ballot Initiatives

- High-profile initiatives on the ballot in many states this election cycle.
- Many initiatives, even if purportedly non-partisan, are closely aligned with one political ideology or party.
- If speakers on both sides decline to attend, can the institution hold an event discussing the forum?
- Even if these events are neutral and educational, they may be viewed skeptically by local and state elected officials.



Questions?

The background is a collage of various symbols related to politics and finance. It includes a stylized building, the Statue of Liberty, a hand holding a pen over a document with a cross, an American flag, a pie chart, and a person's silhouette. The colors are primarily blue, red, and white.

Let's Continue Exploring “Political Campaign-Related Activity” in 2024

Campus Voter Education and Registration Activities

- Important to understand the scope of voter and registration activities occurring or scheduled to occur on campus.
- This allows you, as counsel, to assess the reasonableness, and compliance with law and policy, before these activities attract outside attention.

Campus Voter Education and Registration Activities

Higher Education Act, Section 487(a)(23)

Requires institutions to “make a good faith effort to distribute a mail voter registration form, requested and received from the State, to each student enrolled in a degree or certificate program and physically in attendance at the institution, and to make such forms widely available to students at the institution.”

See *also* U.S. Department of Education Resources: 2024-2025 Student Aid Handbook, “[Voter Registration](#)” Vol 2., Ch. 6.

Dear Colleague Letter, [Requirements for Distribution of Voter Registration Forms](#) (Apr. 21, 2022).

Campus Voter Education and Registration Activities

IRS Guidance

“Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including **presenting public forums and publishing voter education guides**) conducted in a non-partisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people to participate in the electoral process, such as **voter registration and get-out-the-vote drives**, would not be prohibited political campaign activity **if conducted in a non-partisan manner**.

On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.”

[-IRS FAQ](#)

Campus Voter Education and Registration Activities

Use of Federal Work Study Funds

“FWS funds may be used for employment by a Federal, State, local, or Tribal public agency for civic engagement work that is not associated with a particular interest or group, consistent with 34 CFR § 675.22(b)(5). This work can include supporting **broad-based get-out-the-vote activities, voter registration, providing voter assistance at a polling place or through a voter hotline, or serving as a poll worker.**”

U.S. Department of Education, Dear Colleague Letter, [Use of Federal Work-Study Funds for Voter Registration](#) (Feb. 26, 2024).

Activity by Faculty – Use of Institutional Email

- *Consider:* Faculty members engage in email exchange on institutional email system with departmental colleagues highlighting policies of candidate Y related to their academic discipline.
- *Now consider:* Faculty member sends email on institutional email system to departmental colleagues mentioning fundraiser they are hosting in their home for candidate Y.

Activity by Faculty – Academic Research on Election Disinformation

Is academic work on election disinformation “political-campaign related activity?” Does it “stifle speech?” This is an emerging issue.

“The [Oregon] Democratic secretary of state, LaVonne Griffin-Valade, faced a steep cut to her annual budget for anti-disinformation measures, to \$150,000 this year from \$500,000 in 2022. That has forced her team to reuse old public service announcements and reduce their advertising spending by 35 percent compared with the midterms. Every day, her office fields hundreds of (often antagonistic) messages about the voting system, according to Ben Morris, her chief of staff.

When his team was building its playbook against conspiracy theories, **academic research on disinformation was “incredibly important” as a resource, Mr. Morris said. In recent months, however, work on the subject by American universities and think tanks has been chilled by a right-wing campaign that cast it as a shadowy plot to stifle speech.**”

See Tiffany Hsu, “[Elections Officials Battle a Deluge of Disinformation](#)” N.Y. Times (Aug. 12, 2024).



Campus Policies for Campaign Visits

Be aware of:

- Campus facilities use policies and agreements for how space may and may not be used
- Campus policies for when departments/units can and cannot sponsor campaign visits
 - Example: Educational panel featuring current elected official (who happens to be up for re-election) sponsored by a department
 - Example: Official campaign visit hosted by a department

Candidates Hosted by Student Organizations

- Student organizations may have special privileges (e.g., ability to rent space for free) and may seek to host candidates on campus during election season.
- Consider:
 - What your policy/protocol will be for these visits
 - Who needs to know?
 - Is approval required, and at what level?
- Examples of Protocols and Guidelines:
 - [Ohio State Protocol for Visits by Political Candidates or Surrogates Sponsored by Registered Student Organizations](#)
 - [Case Western Reserve Guidelines for Conducting Political Activity on Campus](#)
 - [Yale Guidelines for Students on Political Campaign Activity](#)



Student Registration & Voting

What Has Changed for Voting & Voter Registration?

- In many states, increasing challenges and complexity for students wishing to register and vote in the institution's voting jurisdiction
- Challenging Voter Registration Requirements
 - Additional forms of temporal and identity documentation needed
 - Difficulty in proving address to satisfy residency requirements



Hurdles for Mail & Absentee Voting

- Eligibility Requirements for Mail/Absentee Ballots
 - Additional criteria to qualify for mail/absentee voting
 - Very specific conditions under which mail/absentee ballots can be requested



Challenge for Institutions

In this environment, how does your institution provide non-partisan information to students on voter registration and voting?



Voting on Your Campus



Early Voting, Ballot Dropboxes, and Election Day Precincts on Campus

- Know the location, nature, and timing of voting activities on your campus
- Significant changes in several states in last few years, and possibly last few months and weeks, warrants updated review and assessment



Liaise with Your Local Elections Officials

- Now is the time to identify and check in to establish and/or nurture relationships with local elections officials
- Review anticipated election-related activities on your campus
- Troubleshoot expected challenges
- Establish an open line of communication leading up to and during election
- If scope of partnership is extensive and/or high profile, consider formalizing in MOU



Concluding Thoughts



Questions?

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