

Election Activities of Individuals Associated with 501(c)(3) Organizations

501(c)(3) organizations are prohibited from participating in political activity. This prohibition, however, does not apply to the activities of officers, directors, or employees of 501(c)(3)s who are acting in their **individual capacity**. 501(c)(3) staff may work on political campaigns outside of work hours, or while using their available leave time; however, 501(c)(3) leaders, staff and volunteers may not use the facilities, equipment, personnel, or other 501(c)(3) resources to provide support to or oppose a candidate or campaign.

Employees and volunteers of public charities are often personally engaged in the political and democratic process in ways that are related to an organization's mission. Although the charity itself is prohibited by its tax-exempt status from engaging in partisan activity, individuals do not give up their basic First Amendment rights of speech and association because they become affiliated with a charity, whether as staff, board member, or volunteer. The question is, when is an individual representing a 501(c)(3), and when is she acting in her individual capacity? The following examples and guidelines will help you determine whether an individual's actions should be treated as personal statements, or will likely be attributed to the organization with which the individual is associated.

- A charity should not allow its assets or facilities to be used for individuals' personal campaign work (including obvious resources like letterhead, photocopiers and telephones, as well as perhaps less obvious ones like distribution lists, mailing permits, and email accounts). Staff time – time for which a charity compensates the individual – is also the charity's resource, and should not be used for supporting or opposing candidates. Even unpaid time off could be problematic if permitted to staff outside of standard personnel policy limits and preferentially allow them to volunteer on some campaigns and not others.
- 501(c)(3) -sponsored events use the organization's reputation and goodwill, so 501(c)(3) representatives cannot support or oppose candidates at events. (For example, an employee should not, while attending a charity-sponsored event, wear a political button). Charities should also avoid reporting their supporters' personal campaign intervention activities in the charity's newsletter.
- 501(c)(3) organizations should make staff are aware, in writing, of policies against using organizational resources for supporting or opposing candidates, ideally in the organization's personnel manual.
- When dealing with the public on issues in an election, charity spokespersons should liberally include disclaimers, explaining that the charity cannot and does not endorse candidates (for example, posting a disclaimer on the charity's website). While such disclaimers will not excuse partisan activity, they can help explain a charity's public communications not intended to support or oppose candidates to those who might otherwise read campaign intervention on them.

- Individuals should make it clear that they are speaking for themselves and not for the organization when participating in partisan activities off the charity's clock.

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