

RESOURCE – DO’S AND DON’TS OF POLITICAL ACTIVITY UPDATES – NOV. 6, 2023

Non-profit hospitals and hospital systems, as charitable institutions, are restricted from engaging in partisan political activity, and doing so will put the organization's charitable status at risk and subject the organization to intermediate sanctions. Contributing to, or otherwise using the assets of the charitable organization to support or oppose candidates or political parties is considered partisan political activity and is prohibited. Governmental hospitals are similarly restricted from using public funds to support political candidates or political parties. Despite the prohibition against using the hospital's assets to support or oppose candidates or political parties, there are several things that a hospital executive or board member can do individually, so long as the activity is done in the individual's name, and the individual is not reimbursed by the hospital for expenses. The following is intended to be a list of basic do's and don'ts with respect to political activity. It is not intended to be an exhaustive analysis of what is permissible or prohibited. You should consult your legal counsel before engaging in any activity if you are uncertain whether the activity is permitted.

DO’S

- An executive or board member may use personal funds to contribute to a candidate's campaign fund, a PAC or a political party.
- An executive or board member may send a letter supporting or opposing a candidate and soliciting contributions on personal stationery, with mailing and printing costs paid for by the individual.
- A personal letter may state the reasons why the executive or board member supports or opposes a candidate, including the candidate's position on certain issues important to the hospital or health care industry.
- An executive or board member may personally contact people soliciting support for or opposition to a candidate, or contributions to a candidate, so long as the facilities or equipment of the hospital are not used.
- An executive or board member may host a fundraiser or reception for a candidate at his/her home or at a location which is not owned by the hospital (e.g. country club or restaurant), if it is paid for by the candidate's committee or by the executive or board member personally.
- An executive or board member may serve on a candidate's campaign committee and allow their name to be listed on the campaign letterhead and otherwise used by the candidate to indicate the executive or board member is a supporter of the candidate.
- An executive's title may be used for identification purposes in any personal or campaign communication supporting, opposing or soliciting contributions to a candidate, if it is clear and unambiguous in the communication that the executive is acting in an individual capacity and not on behalf of the hospital.

- Educational materials discussing a particular issue of importance to the hospital may be provided to employees or medical staff members at the hospital's expense, provided the articles do not mention a particular officeholder or candidate. For example, an article discussing the rising cost of malpractice coverage and the effect of Supreme Court decisions may be provided to employees, so long as the article does not discuss how individual members of the Supreme Court voted or a candidate's position on the issue. This type of article must be carefully written and reviewed to ensure it cannot be construed as advocating support of or opposition to any candidate. If an issue is associated with a particular candidate, there is a risk that the materials may be construed as supporting or opposing the candidate, even though they do not mention the candidate's name. This is particularly true if the article is published close to the election and coincides with political advertisements which oppose a candidate for their position on the issue.
- Educational articles discussing issues and their importance to the hospital may be included in hospital publications if the articles do not mention a particular officeholder or candidate as a supporting or opposing the issue. (See the examples and comments above.)
- An executive or board member may write letters to the editor or other editorial articles supporting or opposing a candidate for publication in newspapers or publications not sponsored by the hospital, if the letters or articles make it clear the executive or board member is acting individually, and not expressing opinions of the hospital.
- An executive or board member may personally contact employees or medical staff members and encourage them to support, oppose or contribute to a candidate. Any communication should make it clear that the executive or board member is acting personally, and not on behalf of the hospital. Communications should not take place during working hours, on hospital property or at an event paid for by the hospital.
- An executive or board member may send a written communication to employees or medical staff members encouraging them to support, oppose or contribute to a candidate. The communication should be on personal stationery, with none of the costs paid by the hospital and should make it clear the executive or board member is acting personally, and not on behalf of the hospital. The executive or board member may not use the hospital's mailing list for this type of communication. See the note on using hospital mailing lists in the "DON'TS" column.

DON'TS

- Hospital funds may not be used to contribute to or otherwise support candidates, a political party, or a PAC that contributes to candidates or political parties.
- In kind contributions of materials, supplies or services may not be made by the hospital. For example, the hospital may not provide food from the hospital's cafeteria free or a reduced cost for a reception supporting a candidate.
- The hospital may not use its assets to form a PAC, or lend its name to a PAC.

- Letters supporting or opposing a candidate or soliciting contributions to a candidate may not be sent in the hospital's name or using the hospital's stationery.
- Hospital funds may not be used to pay for or reimburse the cost of printing or mailing materials supporting or opposing a candidate, or soliciting contributions.
- Fundraisers or other receptions or events which support or oppose a candidate, or raise funds for a candidate cannot be held on hospital property.
- Hospital equipment may not be used to support or oppose a candidate. For example, the hospital copy machine may not be used to duplicate materials supporting or opposing a candidate or soliciting contributions, and the hospital postage meter may not be used to stamp a mailing that supports or opposes a candidate or solicits a contribution.
- Sponsoring candidate forums or permitting a candidate forum to be held on hospital property should generally be avoided. Although a candidate forum may be permissible if all legally qualified candidates for an office are invited to participate, the issues are not limited to issues of importance to the hospital, and the forum is not biased in favor of a particular candidate, the risk in engaging in this type of activity is high and it is not recommended.
- Sponsoring voter registration drives or permitting voter registration drives to be held on hospital property should generally be avoided. Although a charitable organization may sponsor or support voter registration drives, there are specific rules that apply to these activities, and it is generally not recommended that a hospital participate without careful review of the facts by legal counsel.
- Materials supporting or opposing a particular candidate may not be placed in employee interoffice mailboxes, pay envelopes or other hospital communications.
- Articles supporting or opposing a candidate may not be included in hospital publications, regardless of whether the publication is directed to employees or the public.
- The hospital's mailing list, including a mailing list of employees or medical staff, as well as a list of hospital supporters, may not be provided to a candidate or otherwise used to support or oppose a candidate. This prohibition includes the use of the hospital's mailing list by an executive or board member of the hospital to contact employees, medical staff members or supporters to solicit support, opposition or contributions to a candidate.
- If the hospital has a policy which prohibits employees' from displaying buttons, posters or other similar messages on their person, on their lockers, or otherwise while on the hospital premises, that policy must also be applied to political buttons, posters and other political messages. No exception should be made for employed medical staff members if they are otherwise covered by the policy. Nonemployed medical staff members need not be restricted from displaying a button or other materials on their person, unless there is a policy in place which restricts their display of other types of buttons or other materials.

- The hospital should not permit political literature to be placed or otherwise distributed on the hospital premises. For example, a candidate, hospital employee or medical staff member should not be permitted to place literature supporting or opposing a candidate in the hospital's waiting room or lobby, or to distribute material on the hospital premises, and any literature placed on the hospital premises should be removed by the hospital.
- The hospital should not provide a forum for discussions of political candidates at medical staff meetings, or other hospital staff meetings. Placing political issues or candidates on the agenda for staff meetings, or otherwise encouraging such discussions should be avoided. Medical staff members do have the right to express their own political opinions, and a spontaneous statement of support or opposition to a candidate by a medical staff member during a medical staff meeting should not place the hospital at risk, so long as the statement was not orchestrated, solicited, sanctioned or otherwise encouraged by the hospital.