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# STUDENT VOTING AND COLLEGE POLITICAL CAMPAIGN-RELATED ACTIVITIES IN 2024

Fifty-three years ago, the 26th Amendment to the U.S. Constitution lowered the voting age from 21 to 18. Approximately 50 percent of people ages 18 to 29 and 66 percent of college students voted in the 2020 presidential election.<sup>1</sup> As *the New York Times* has noted, “turnout in recent cycles has surged for young voters, who were energized by issues like abortion, climate change and the Trump presidency.”<sup>2</sup>

A majority of young Americans say they are likely to vote in 2024.<sup>3</sup> They will compose nearly one-fifth of the electorate, and 16 million Americans will have their first opportunity to participate in a presidential election. But recent polls identify an enthusiasm gap among young voters entering into the 2024 elections, and they may be less likely to actually cast votes in 2024 than they were in 2020.<sup>4</sup> That said, young voters care about issues, such as the rising cost of living and a volatile job market; the health of our democratic institutions; the Israeli-Palestinian conflict; abortion; and mental health.<sup>5</sup>

College students have a constitutional right to vote where they are residing while attending college.<sup>6</sup> The ramifications are obvious, especially in the current battleground states of Wisconsin, Georgia, Arizona, Pennsylvania, Michigan, Nevada, North Carolina, Minnesota, New Hampshire, and Florida where—according to experts—young voters are the “critical (young) electorate.”<sup>7</sup>

Unfortunately, however, the rules for participating as voters in our country's democratic process can quickly feel complex to young voters—particularly students attending college away from home. Voting is controlled by the states, within an increasingly fraught and contested context regarding the legality of varying and often-changing voter registration requirements. Indeed, in the 2022–23 term, the U.S. Supreme Court ruled six to three in *Moore v. Harper* that state legislatures do not have exclusive, independent, and unfettered authority to set the rules regarding federal elections and that the Supreme Court of North Carolina could review the North Carolina legislature's congressional districting plans for compliance with North Carolina law.<sup>14</sup> At said, the Supreme Court also stated that federal courts “have an obligation to ensure that state court interpretations of that law do not evade federal law.”<sup>15</sup>

As for political campaign–related activities that occur on campus or those that are perceived to be undertaken by the institution itself, they will continue to be subject to considerable attention and public debate. It is prudent to presume they may be scrutinized within the broader current context of colleges and universities being increasingly



The choice of resources and other campus efforts may be impacted by the nature of the institutions and their constituencies. Some examples include:

- *Community Colleges*. In 2020, 57 percent of community college students voted, compared to 66 percent of college students overall.<sup>23</sup> Community college-focused partnerships aim to close that gap. For example, Independence Community College is one of over 300 institutions to partner with the digital platform TurboVote to register students to vote and provide them with reminders of upcoming elections.<sup>24</sup> The Community College Commitment, a new nonpartisan initiative, aims to get 500,000 new community college students out to vote by 2028, with funding for voter registration events on community college campuses.<sup>25</sup>
- *Historically Black Colleges and Universities (HBCUs)*: The Campus Vote Project's HBCU Legacy Initiative and NAACP's Youth & College Division partnered to identify barriers and strategies to student voting on HBCU campuses and strategies for removing them.<sup>26</sup> N0 1 (/ I-CIDmpuylina A&T)-CPng them.



out several years ago, “college students . . . will ‘go through the process of applying for a mail-in absentee ballot, they will fill out the ballot, and then they don’t know where to get stamps.’”<sup>42</sup>

Several states require witnessing or notarization of votes being submitted by mail or in a drop box.<sup>43</sup> In such states, colleges should consider providing day and/or nighttime locations and staffing (or volunteers) with witnesses and notary services for their on- or near-campus students this fall.

Notwithstanding efforts in some locales to discourage convenient campus polling or ballot drop locations, some colleges and universities are able to serve as polling places to ensure adequate access by students. Institutions that do provide polling locations need to be mindful that every state has its own rules regarding what activity can take place in the vicinity of polls when voting is underway (e.g., signage, vote solicitation, handing out bottled water, among others), so universities should consult applicable state and local rules. The National Conference of State Legislatures has a [helpful aggregation of links](#) to state-specific resources, which notes that 46 states and the District of Columbia offer early in-person voting.<sup>44</sup>

## POLITICAL CAMPAIGN–RELATED ACTIVITIES BY AND AT COLLEGES AND UNIVERSITIES

The IRS is unambiguous about the fact that the Internal Revenue Code “absolutely” prohibits all 501(c)(3) organizations from participating in political campaign–related activity.<sup>45</sup> This prohibition includes directly or indirectly participating in or intervening in any political campaign or election of a candidate for public office, regardless of whether that office is a local school board, a state comptroller, a member of Congress, or the president of the United States. For example, colleges and universities may not offer public statements in favor of or in opposition to any candidate for public office or make contributions to political campaign funds.

Generally speaking, potential penalties for improper political activity by a college or university can include loss of the institution’s tax-exempt status and imposition of taxes on the institution and its responsible managers. There are other risks as well, such as federal or state government lawsuits, audits, and investigations.<sup>46</sup>

However, 501(c)(3) organizations, including colleges and universities, may engage in electoral educational activities unrelated to a candidate for public office. These include nonpartisan voter education drives and get-out-the-vote initiatives. Hosting or presenting public forums and publishing voter education guides conducted in a nonpartisan manner also are perfectly fine and indeed encouraged—as are other nonpartisan activities that describe, encourage, enable, and inform the democratic process.<sup>47</sup>

### Engaging in and Enabling Issue Advocacy; Lobbying; and Public Policy Educational Activities

Generally, 501(c)(3) organizations may engage in lobbying activities, but are limited to an allowable amount of lobbying.

With the issuance of the Supreme Court’s abortion ruling in *Dobbs v. Jackson Women’s Health Organization*, the

Lobbying is “activities [that are] attempting to influence legislation,”<sup>50</sup> including contacting, or urging the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation. Issue-specific lobbying must be nonpartisan and not designed to influence the election of any particular candidate.

Nonpartisan analysis or communications that examine broad social, economic, and similar policy issues that are intended to educate the public do not constitute lobbying. These activities are generally permissible for 501(c)(3) colleges and universities. Applicable tax regulations say that these sorts of “educational” communications or activities must present “a sufficiently full and fair exposition of the pertinent facts,” the presentation of information must not be biased, and it must “permit an individual or the public to form an independent opinion or conclusion.”<sup>51</sup>

Faculty hosting forums or presenting on public policy issues such as gun violence, state election laws, abortion, climate change, among others, can be undertaken as educational activities, provided that the programs are conducted in a manner that is defensible as educational within the meaning of the tax regulations previously described.

Colleges and universities are the source of some of the deepest wells of expertise on subjects that are relevant to public policy issues of the day. Faculty are expected to write and engage publicly on topics, and they are often interviewed by the press to explain issues and provide their views. As a general matter, the expressed views and activities of faculty are not likely to be attributed to the institution by the IRS unless these individuals are directed or authorized to speak on behalf of the institution. The same is true for students.

## Campaign-Related Activities by Faculty and Staff

American citizens have the prerogative and constitutional right to engage in partisan political activity. However, distinguishing between an individual faculty or staff member’s own permissible civic engagement from that which would be impermissibly representative of the institution (actually or perceptively) is critical.

Colleges and universities can encourage individually motivated participation in political and social action while also helping their community members understand and attend to this distinction. Guidelines that are widely known and easily accessible should underscore community members’ actions, and words should not imply that the institution embraces or is committed to any partisan political position or point of view.

## ILLUSTRATIVE PERMISSIBLE AND (LIKELY) IMPERMISSIBLE ACTIVITIES (YES/NO)

### Student Voting

#### Permissible

- Y1. **Creating and conducting voting information programming, including online webinars**, designed to increase student understanding of the electoral process or to encourage campus community members, including students, to become involved in the process. Such programming must be nonpartisan in the recruitment of instructors, the advertising or invitation to students, and the curriculum. The program should be widely publicized, although groups underrepresented in the electoral process may be targeted.
- Y2. **Participating in nonpartisan voter registration encouragement or get-out-the-vote activities**. Such activities by an institution, including its staff and faculty, are considered nonpartisan even when aimed at groups (such as students, urban voters, young people, or minorities) likely to favor a certain political candidate or party, provided that the activities are not intended to target voters of a particular party or to help particular candidates, and—further—that particular geographic areas are not selected to favor any party or candidates.

- Y3. **Providing students with a clear summary of state registration and voting requirements.** Institutions may create or update existing websites that explain in practical terms voting laws, processes, and deadlines, including regarding voter registration, and link to nonpartisan tools for registering and voting. Colleges and universities may create and staff a nonpartisan telephone helpline and/or an email help desk for students to contact with questions about the voting process.
- Y4. **Students may be voting in various jurisdictions.** Given the varying locations of some students, institutions may wish to provide information not only about the state where the college or university is physically located but also about other states' laws. Offering links to explanatory websites is an efficient way to do this. Care should be taken to assure those websites are nonpartisan.
- Y5. **Providing periodic voter encouragement and deadline reminders.** Colleges and universities may send emails and text messages as well as use their social media platforms to encourage voter registration and voting and to remind students to be attentive to relevant deadlines, especially those for voter registration, absentee ballot requests, and ballot receipt.
- Y6. **Providing clarity regarding current voting by mail options.** Students may be uncertain about the availability of voting by mail and their eligibility to obtain and submit a ballot. Give particular attention to residency eligibility, processes, and deadlines for students who wish to vote as residents of the community where the institution is physically located. Explain voting alternatives if a student is likely ineligible to vote in the community where their campus is physically located. This will allow students to make a fully informed decision as to where to register and vote.
- Y7. **Providing students with stamps, transportation to polling locations, and other resources to assist with voter registration and voting.**

- N3. **Publishing ratings of the candidates**, particularly in situations where the ratings could be viewed as reflecting the views of the institution, or when institutional resources are used to prepare or publish such ratings without reimbursement at the usual and normal charge. *(See Y9.)*
- N4. **Promoting action (voting) with respect to issues that have become highly identified as dividing lines between the candidates.** This principle does not bar the institution from commenting on issues critical to its tax-exempt purposes if it has a history of commenting on such issues in nonelection years.
- N5. **Coordinating voter education activities with a candidate's or party's campaign event.**

## Candidate Appearances

### Permissible

- Y10. **Providing access to airtime** on a university-owned radio station on an equal basis to all legally qualified candidates for a public office, in a manner consistent with the limits imposed by Federal Communications Commission standards.
- Y11. **Providing opportunities to speak** at college or university events on an equal basis to all legally qualified candidates for a public office. If the institution chooses to invite candidates to speak individually in their capacity as a candidate, it must take steps to ensure that all such legally qualified candidates are invited and that none are favored in relation to the activity. For example, if a university invites one candidate to speak at a well-attended annual banquet but invites another candidate to speak at a sparsely attended general meeting, the university will not have provided equal opportunity to participate. An explicit statement should be made in introducing the speaker and in communications concerning the speaker's attendance that the institution does not support or oppose the candidate. Campaign fundraising at the event should be prohibited. The institution must make reasonable efforts to ensure that the appearances constitute speeches, question-and-answer sessions, or similar communications in an academic setting and are not conducted as campaign rallies or events.

*Please note that Y11 addresses situations in which the institution itself (acting through its officials/authorized persons) invites one or more candidates to speak. For situations involving student groups inviting a candidate to speak, please see Y18. For situations involving faculty or other staff inviting candidates to speak, the university should consider whether the actions of the faculty or staff member could be attributed to the university and*

## Issue Advocacy, Lobbying, and Public Policy Education Activities

### Permissible

- Y14. **Engaging in or enabling issue advocacy and lobbying** if the activity is nonpartisan and not designed to influence the election of any particular candidate for office.

### Impermissible

- N6. **Heightened and targeted issue advocacy, lobbying, or public policy education activities** conducted during a campaign season and directed at candidates' signature issues or others that are closely aligned with candidates. For example, if an issue becomes a singular dividing issue between two candidates for public office and the institution makes issue advocacy statements close in time to the election when it had not previously issued communications on the topic. *(See N17 for a discussion of facts and circumstances relevant to a determination of whether an issue advocacy communication could result in political campaign intervention.)*

## Use of Institutional Resources

### Permissible

- Y15. **Establishing genuine curricular activities aimed at educating students** with respect to the political or electoral process. For example, the IRS approved a political science program in which, as part of a for-credit course, university students participated in several weeks of classroom work to learn about political campaign methods and then were excused from classes for two weeks to participate in campaigns of their choice, without the university influencing which campaigns were chosen.
- Y16. **Rearranging the academic calendar** to permit students, faculty, and administrators to participate in the election process, if the rearrangement is made without reference to particular campaigns or political issues, provided that the recess is in substitution for another period that would have been free of curricular activity.
- Y17. **Providing financial and administrative support to a student newspaper** even though the newspaper publishes editorial opinions on political and legislative matters.
- Y18. **Allowing established student groups to use institutional facilities** for partisan political purposes, including candidate appearances on campus, provided that such groups pay the usual and normal charge, if any, for use of institutional facilities by student groups. Fees usually are not required for traditional, on-campus student political clubs. Generally, groups other than student groups should be charged. Administrators and faculty should take special care in relation to any such proposed student activities to avoid the appearance of institutional endorsement and to observe the other principles identified in this issue brief. Subject to applicable law, institutions may, as a matter of their own general policy, decline to permit their facilities to be used for such purposes. Student groups should not be permitted to use institutional resources to conduct fundraising activities on behalf of candidates. *(See N14.)*
- Y19. **Adopting a voluntary payroll deduction plan** that would allow individual employees to direct a portion of their wages to the political action committees (PACs) for their respective unions, provided that the institution's activities with respect to the PAC are ministerial and simply involve transferring the funds earmarked by the employees to the PAC chosen by the employee; the institution has absolutely no role in the management or governance of the PAC or any influence over the selection of candidates or political parties to be supported by the PAC; the institution's name is not used or otherwise acknowledged in connection with any contributions made by the PAC to any candidates for public office; the institution is reimbursed for costs associated with the plan; the institution takes steps to ensure that no employee

associates the PAC with the institution; and the institution does not allow employees to participate in PAC activities during work hours other than in the performance of the ministerial activities described previously.

- Y20. **Providing links to the web pages**, or other space on the institution's website, of all legally qualified candidates for a public office, if a tax-exempt purpose (e.g., voter education) is served by offering the link and the link is made in a manner that, after taking into account the format and other content on the institution's website, does not favor one candidate over another. *(See N12.)*

#### Impermissible

- N7. **Coordinating institutional fundraising with fundraising** of a candidate for public office, political party, PAC, or the like.
- N8. **Reimbursing college or university officials**

## Faculty, Administrator, and Staff Participation in the Election Process

### Permissible

- Y21. **Members of the college or university community are entitled to participate or not, off-hours, as they see fit, in the election process**, provided that speaking or acting in the name of the institution is prohibited except as described in this issue brief and that they are not acting at the direction of an institutional official. If the institution is identified, it should be communicated that the opinions expressed are not the opinions of the college or university.
- Y22. **A faculty member, administrator, or other employee may, if permitted by institutional policies and procedures, engage in federal or state and local campaign-related activity** that is (a) outside normal work hours; (b) within ordinary work hours, if the time is made up within a reasonable period by devoting a comparable number of extra hours to work for the institution; (c) charged to vacation time to which the

N17. **Commenting on specific actions, statements, or positions taken by candidates**

## NOTES

- 1 [“Half of Youth Voted in 2020, an 11-Point Increase from 2016,”](#) Center for Information & Research on Civic Learning and Engagement (April 29, 2021); Nancy Lomas et al., *Democracy Counts 2020: Record-Breaking Turnout and Student Resiliency*, Institute for Democracy & Higher Education (last visited May 23, 2024).
- 2 Neil Vigdor, “

19 20 U.S.C. § 1094(a)(23)(B); Federal Student Aid, *2023–2024 Federal Student Aid Handbook*, vol. 2, ch. 6 (last updated February 1, 2023).

20

42 Greg Toppo, “Students Don’t Vote . . . for Want of a Postage Stamp?,” *Inside Higher Ed* (September 27, 2018) (quoting Fairfax County, Virginia local elections official Lisa Connors).

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