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Not-For-Profit Ban on Political Campaign Intervention

The weather has begun to change signaling that fall is on its way and with it, the dawn of a new political season. While we will not be electing a new president this time around there are still a few high-profile races to be decided and with the emotion surrounding issues ranging from the economy to healthcare reform many of the elections are certain to get heated. While not-for-profit organizations and their leadership have strong political beliefs, acting on those beliefs may cause the organization to lose their not-for-profit status.

The Political Activities Compliance Initiative (PACI) forbids not-for-profit organizations identified in section 501(c) (3) of the Internal Revenue code from participating in political activities or risk losing their not-for-profit status. Organizations identified in this section include charities, educational institutions and religious organization such as churches.

PACI reads as follows:

“Organizations that are exempt from income tax under section 501 (a) of the Internal Revenue Code as organizations described in section 501 (c) (3) may not 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.”

In other words, PACI bans any not-for-profit organizations from endorsing or opposing any candidate running for public office. As simple as PACI may sound, it has risen quite a few questions in the not-for-profit community.

Can a not-for-profit organization invite a candidate for political office to speak at one of its events without risking its not-for-profit status?

A political candidate may speak at an event for a not-for-profit organization as long as:

- a. The organization provides the same opportunity to speak to all the candidates seeking the same office;
- b. The organization does not indicate support for or opposition against any candidate (this can be particularly tricky when it comes to introductions and communications about the event);
- c. No political fundraising occurs in combination with the event.

What if a candidate attends a public event held by the organization?

Candidates who run for public office are permitted to attend all events open to the public. However, if the not-for-profit organization publicly recognizes the candidate's attendance or invites the candidate to speak their status as a not-for-profit organization may be in jeopardy.

Can a not-for-profit organization or its leadership state its position on candidates for public office?

The organization itself is strictly forbidden from publicizing its position on candidates running for public office. However, the organization's leadership has more latitude. The leaders of not-for-profit organizations are permitted to contribute to political campaigns and allow their positions to be known as long as they do not make such comments through official organization publications, events or other communications. Their support or opposition must be as an independent citizen and not as a member of the not-for-profit organization.

Can not-for-profit organizations post information on its website (or link to other websites) about a candidate for public office?

Under PACI, websites are considered a form of communication and as such not-for-profit organizations are forbidden from posting comments for or against any candidates running for public office. In addition, not-for-profit organizations are held responsible for the content of any site they link to even if the organization itself has no control over the content on the linked site. If a not-for-profit organization links to an outside website they are highly encouraged to monitor its content to ensure they do not risk their not-for-profit status.

Bottom line

While PACI prohibits not-for-profit organizations from supporting or opposing specific political candidates it has no impact on an organization's lobbying efforts. When it comes to making contributions or publicizing a campaign for public office the safest course of action is to keep your not-for-profit organization out of specific political races altogether.

If you have any questions about the intricacies of PACI, do not hesitate to contact Dawn Moeder, Not-For-Profit Partner at (214) 461-1532 or by email at dmoeder@lgt-cpa.com or Neely Duncan, Not-For-Profit Audit Manager at (214) 461-1445 or by email at nduncan@lgt-cpa.com.