

# HOWARD UNIVERSITY POLICY

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<b>Policy Number:</b>	Series 800-002: External Relations and Fundraising
<b>Policy Title:</b>	POLITICAL ACTIVITY GUIDANCE TO ALL KEY STAKEHOLDERS
<b>Responsible Officers:</b>	Vice President for External Affairs General Counsel
<b>Responsible Offices:</b>	Office of External Affairs Office of the General Counsel
<b>Effective Date:</b>	October 14, 2020 (Original) July 23, 2024 (Revised)

## I. POLICY STATEMENT

Howard University (“the University”), like all universities, provides a natural forum for political discourse and activity. As a 501(c)(3) tax-exempt, private institution of higher education, the University is committed to academic freedom and protecting the free expression of ideas and opinions by all members of the University community, including political views and opinions. The University is dedicated to active citizenship and encourages all Key Stakeholders to exercise fully their civic and political rights as individuals.

Moreover, Howard University’s commitment to the “discovery of solutions to human problems in the United States and throughout the world” is in its mission and the University’s essence is expressed in its core values of *Excellence*, *Leadership*, *Service* and *Truth*. For more than a century, Howard has fostered leadership to address issues borne from injustice, discrimination, and disparity, to effect positive social, economic, and political change, particularly for African Americans and other people of color, through scholarship and activism.

To protect this important legacy, it is incumbent upon all Key Stakeholders to comply fully with University policies and procedures.

**Howard University, as a tax-exempt educational institution, is prohibited from engaging in partisan political activity.** Every Key Stakeholder has a responsibility to understand how to engage in political activity *without compromising* the University’s status as a nonprofit institution of higher education. This Policy provides guidance to Key Stakeholders on what is permitted and what is not permitted according to the applicable Internal Revenue Service (IRS) guidance governing 501(c)(3) tax-exempt institutions.

Since this Policy does not address every possible situation nor is it intended to provide legal advice, Key Stakeholders should seek guidance from the Office of the General Counsel before undertaking any complex or nuanced Political Activity not covered in

this Policy. Violations of this Policy may result in significant monetary fines for the University, revocation of the University's 501(c)(3) status, and penalties for individuals or groups, including revocation of organizational charters, termination of employment, and expulsion from the University.

## **II. RATIONALE**

As a 501(c)(3) non-profit, private institution of higher education, the University is prohibited from participating in partisan Political Activity, including campaigning for political candidates, political parties, or ballot initiatives. The University can be implicated in Political Activity only through the actions of individuals who indicate, imply, or appear to a reasonable person that they are engaged in Political Activity on behalf of, or with the knowledge and consent of, Howard University. Therefore, it is incumbent upon all Key Stakeholders to refrain from such behavior to avoid compromising the University's 501(c)(3) tax-exempt status.

The purpose of this Policy is to preserve and advance the mission and values of the University in a manner compliant with federal laws and regulations. This Policy is not intended in any way to abridge academic freedom, freedom of expression, or imply that individuals cannot exercise their constitutional political and civic rights.

## **III. ENTITIES AFFECTED BY THIS POLICY**

This Policy applies to Key Stakeholders of Howard University including, but not limited to students, employees, alumni, friends, and leadership/membership of University-affiliated organizations. Similar guidance has been provided to the Howard University Board of Trustees.

## **IV. DEFINITIONS**

For the purposes of this Policy, terms are defined as follows:

- A. Political Activity** – Partisan political activity that includes directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to), or endorsing any Candidate for public office. Political Activity may include, but not be limited to, making financial contributions to a campaign; soliciting campaign contributions; distributing information or creating websites and links that favor or oppose certain Candidates; sponsoring events to promote certain Candidates; engaging in disparate treatment of Candidates invited to participate at a University event; and establishing political action committees (PACs).
- B. Candidate** – Individuals who have declared themselves contenders for public office.
- C. Disclaimer** – A statement to be used by Key Stakeholders engaged in Political Activity to indicate explicitly that their views or opinions do not represent those of Howard University:
  - “This event/publication/solicitation/opinion is not sponsored, supported or

authorized by Howard University. Howard University does not participate in political campaigns on behalf of, or in opposition to, any Candidate for public office.”

Additionally, the Disclaimer must be used in making oral introductions of Candidates, and on Political Activity materials published or distributed by Key Stakeholders, including on announcements and solicitations.

#### Public Statements (Oral or Written) by Key Stakeholders

Key Stakeholders may not make partisan political statements (oral or written) when speaking as a representative of Howard University, at official Howard University functions, or in official Howard University publications.

Personal, public statements in support of a Candidate or political party are permitted where there is a clear indication that comments are entirely personal and do not, and are not intended to, reflect or represent the views of Howard University and an appropriate Disclaimer is used.

- For all oral personal public statements regarding a Candidate – the speaker should personally state: “Opinions expressed are the personal opinions of [Name] and not the opinions of Howard University, a tax-exempt educational institution.”
- For all written personal statements or appearances where an official is referred to by name and title – the statement should include: “Titles and affiliations of each individual are provided for identification purposes only. Opinions expressed are the personal opinions of [Name] and not the opinions of Howard University, a tax-exempt educational institution.”

**D. Key Stakeholders** – Includes, but not limited to, all students; faculty, staff and other employees of Howard University and Howard University Hospital<sup>1</sup>; the leadership and membership of all Howard University-sponsored or affiliated organizations and associations; Howard University alumni; members of Boards of Visitors; volunteers, and friends.

## **V. GENERAL GUIDELINES FOR STAKEHOLDERS AND STAKEHOLDER GROUPS**

The following provides general guidance to all Key Stakeholders on what is permitted and not permitted regarding Political Activity.

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<sup>1</sup> Howard University Hospital is now Howard University Hospital Corp., a separate 501(c)(3) wholly owned by Howard University, which is subject to similar restrictions and guidelines.

## **A. NOT PERMITTED – ALL KEY STAKEHOLDERS**

All Key Stakeholders shall refrain from using **Howard University Resources** of any kind to engage in Political Activity to support or oppose a Candidate or political party. **Howard University Resources** include, but are not limited to:

- Howard University images, campus statuary and landmarks, logos, insignia, or marks. This includes images of the Clock Tower, University Seal, Bison logo, and other trademarked intellectual property.
- Howard University printed or digital letterheads or stationery.
- Howard University building and email addresses.
- Indoor and outdoor campus spaces, including the Yard, auditoriums, offices, meeting rooms, and so forth.
- Office equipment, such as computers, phones, and copiers, and office supplies.
- Howard personnel, including administrative staff and other Howard employees.
- Email, campus mail, and voicemail systems.
- Howard University social media, and other platforms sponsored by the University, such as Zoom and Teams; websites; and blogs. University print and digital publications.
- Bulk mail privileges and sales tax exemptions.
- Paper and electronic mailing lists, including directories, listservs, donor rolls and databases.
- Food and refreshments.

## **B. GUIDANCE FOR EMPLOYEES**

- Employees are encouraged to vote in elections.
- Employees may conduct voter education and registration activities on campus or online, including hosting non-partisan public forums, publishing voter education guides, and administering voter registration drives and get-out-the-vote events. Non-partisan events are those where there is no disparate treatment of Candidates: all Candidates are invited and treated fairly.



- Please reference the Disclaimer in Section IV of this Policy. Informed by the requirements delineated under the Disclaimer, employees may participate in Political Activity of their choosing provided such activity takes place before or after normal work hours.
- If an employee is running for political office, no Political Activity can be conducted on campus and every attempt should be made to avoid the appearance of a University endorsement.
- Employees should take care to avoid the appearance of partisan support with respect to invitations they extend to Candidates to speak or visit, and all University Policies should be followed related to an invitation to campus. (See [400-002 Policy for Inviting Dignitaries to HU](#)).

Additionally:

- Employees must indicate they **are speaking as individuals** when speaking out on political issues. (See “Disclaimer” in Section IV.)
- Senior staff, whose political views could be reasonably construed to represent those of the University, **should be explicit in their statements and actions** that they are not speaking on behalf of Howard University, but in their personal capacities. (See also [400-008 Designated Spokesperson for Official University Communications](#).)
- Employees must use the **Disclaimer** to indicate their actions and statements are their own on all printed and digital Political Activity materials and in oral presentations. (See “Disclaimer” in Section IV.)
- Employees must ensure the **Disclaimer** is used for introductions and on digital and printed materials if they are invited to speak out on political issues. (See “Disclaimer” in Section IV.)
- Employees who wish to work together with Howard colleagues on a collective Political Activity must do so **off-campus** and without using online University resources, such as Microsoft Teams, Google, Facebook, Zoom or other University accounts. Such activity cannot use the Howard name or suggest any affiliation with, support or sponsorship by the University.
- Employees should only **use personal e-mail, social media, or other online accounts** (and not [howard.edu](#) accounts or other Howard electronic resources or devices) for the distribution of campaign messages, petitions, and similar material.
- Howard Zoom, Teams, and other University accounts cannot be used for convening or attending political meetings, events, or fundraisers.

- Employees **may not use, or allow others to use, or link to a University-hosted website** if they are engaging in Political Activity. Student organizations using a University-hosted website may not link to other sites engaged in Political Activity.
- Faculty may invite Candidates and/or their representative(s) to speak to students in conjunction with their candidacy as part of a course on government, political science or a related topic, provided it is explicitly stated: 1) the appearance is not sponsored by Howard University; 2) no statement is presented as being made on behalf of Howard University; and 3) there is an equal opportunity given to other Candidates to participate.

### C. GUIDANCE FOR STUDENTS

- Students are encouraged to vote in elections.
- Students may conduct voter education and registration activities on campus or online, including hosting non-partisan public forums, publishing voter education guides, and administering voter registration drives and get-out-the-vote events. Non-partisan events are those where there is no disparate treatment of Candidates: all Candidates are invited and treated fairly.
- Students must **determine whether the activity requires obtaining permission** and, if so, obtain permission from the relevant Howard University office. (See [400-002 Policy for Inviting Dignitaries to HU.](#))

If activities are conducted on behalf of or in opposition to a Candidate rather than on a non-partisan basis, **students and student organizations:**

- Must **explicitly state the activity does not have the support or endorsement** of Howard University by including the Disclaimer on printed materials and in oral introductions/presentations. (See “Disclaimer” in Section IV.)
- **Cannot use University funds or resources** (See Section V.A.) in the planning or conduct of the Political Activity.
- Must pay **facility or user fees** for a Political Activity from non-University funds.
- May **invite Candidates** and/or their representative(s) to speak to fellow students in person or online in conjunction with their candidacy provided it is explicitly stated 1) the appearance is not sponsored by Howard University; 2) no statement is presented as being on behalf of Howard; and 3) there is an equal opportunity given to other Candidates to participate. The Disclaimer should be used on all printed and digital materials. (See “Disclaimer” in Section IV.)

- May **solicit funds** on behalf of a Candidate provided they do not state or imply Howard University's endorsement, and do not use University funds or resources, (see Howard University Resources in Section V.A.) in the planning or conduct of the solicitation.
- May conduct a **phone bank** within University facilities if they make clear the activity does not have the support or endorsement of the University by including the Disclaimer on printed and digital materials and in oral communications. (See "Disclaimer" in Section IV.)
- May **publish editorials** expressing the editors' views on Candidates if a statement on the editorial page indicates that the views expressed are those of the student editors and not those of the University.
- Students should only **use personal e-mail, social media or other online accounts** (and not [howard.edu](http://howard.edu) accounts or other Howard electronic resources or devices) for the distribution of campaign messages, petitions, and similar material.

Students or student organizations **may not use, or allow others to use, or link to a University-hosted website** if they are engaging in Political Activity. Student organizations using a University-hosted website may not link to other sites engaged in Political Activity.

#### D. GUIDANCE FOR ALUMNI, FRIENDS AND OTHERS

- Alumni and Friends must indicate they are **speaking as individuals** when speaking out on political issues. (See "Disclaimer" in Section IV.)
- Alumni and Friends who wish to work on a Political Activity must do so without using Howard University Resources, **such as images of Howard University landmarks or other trademarked intellectual property, including the Clock Tower, University Seal, Bison logo, etc.**
- Alumni and Friends **may not raise funds for Political Activity using Howard University Resources** or imply that a fundraiser for a Political Activity is sponsored by Howard University.
- Alumni and Friends should only **use personal e-mail, social media or other online accounts** (and not [howard.edu](http://howard.edu) accounts or Howard-affiliated electronic resources or devices) for the distribution of campaign messages, petitions, and similar material.
- Alumni and Friends **may not use, or allow others to use, or link to a University-hosted website** if they are engaging in Political Activity.

- If an Alumni or Friend is running for political office, no Political Activity can be conducted on campus and every attempt should be made to avoid the appearance of a University endorsement.

## **VI. INTERIM POLICIES**

There are no interim policies associated with this Policy.

## **VII. SANCTIONS**

Violations of this Policy may result in the loss of Howard University's 501(c)(3) status; therefore, sanctions are commensurate to the seriousness of violating this Policy. Significant monetary fines may be applied. Howard University-affiliated organizations may lose their campus charter and receive other penalties. Penalties for individuals may include termination of employment and expulsion from the University.

## **VIII. RESOURCES**

[Howard University Policy Office](#)

[400-002 Policy for Inviting Dignitaries to HU](#)

[400-008 Designated Spokesperson for Official University Communications](#)

Additional Resources:

[Attached: American Council on Education: Student Voting and College Political Campaign-Related Activities in 2024. Please refer to the summary starting on page 9, "Political Campaign-Related Activities by and at Colleges and Universities."](#)  
(Prepared for ACE by Hogan Lovells).

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





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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 “most likely” to “shape” the outcome of the presidential election.<sup>7</sup> *The New York Times* recently observed that President Biden’s path to victory in 2024 runs through Dane County, where the University of Wisconsin–Madison is located.<sup>8</sup> Georgia and Arizona had some of the biggest youth turnouts to the polls in the 2022 mid-term election at 26 percent and 25 percent, respectively.<sup>9</sup> Arizona has one of the highest proportions of college-goers relative to state population, with large numbers of students on campuses; Arizona State University’s on-campus enrollment reaches nearly 80,000 students.<sup>10</sup> In 2018, 11 percent of New Hampshire’s 1.3 million people were students enrolled in higher education.<sup>11</sup>

Moreover, with 33 Senate seats and all 435 House seats up for election in 2024, young voters will influence results in key races.<sup>12</sup> Further, 110 statewide measures have been certified for the ballot in 35 different states for the upcoming election, including initiatives that would establish a state constitutional right to abortion in Colorado, Florida, and South Dakota; no-excuse absentee voting in Connecticut; and an \$18 minimum wage in California.<sup>13</sup> These down-ballot races and ballot initiatives may not garner as much attention in the press as the presidential election, but they present young voters an opportunity to make their voices heard on the issues that are most important to them.

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This issue brief updates ACE’s 2023 publication regarding institutional opportunities and obligations to encourage and enable student voting and attentiveness to campus political campaign-related activities. It offers illustrative examples of what is likely to be permissible and impermissible. It does not seek to address other issues, such as freedom of speech and civility.

This issue brief was prepared in June 2024 by Peter McDonough, vice president and general counsel, ACE, and the Washington, DC law firm Hogan Lovells U.S. LLP. We thank Clarissa Unger, co-founder and executive director of the Students Learn Students Vote Coalition, for her comments.

**DISCLAIMER**—This issue brief does not constitute legal advice. It incorporates and reflects high-level observations based on non-exhaustive research and does not analyze any specific factual scenarios taking into account potentially relevant details. Institutions should examine issues addressed here based on the context and facts of each situation, institutional policies, geographical and political context, and on their own counsel’s interpretation of relevant law. This is a fluid environment and topic that includes the potential for changes in current law or current enforcement practices.



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> That 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 criticized by elected officials and advocacy groups over their policies and practices. In July 2020, for example, President Trump directed the U.S. Department of the Treasury to look into colleges' tax-exempt status, tweeting that many institutions “are about Radical Left Indoctrination, not Education.”<sup>16</sup> However, in recent years, the Internal Revenue Service (IRS) has not added to its guidance regarding political campaign activities of Section 501(c)(3) tax-exempt organizations.<sup>17</sup>

As we have seen during the last academic year, issue advocacy on campuses by faculty, staff, students, and unaffiliated members of the public can quickly become intertwined with, and even fueled by, national and international politics and candidates for election. As we approach the 2024 elections, it may get harder in some circumstances to distinguish between permissible issue advocacy and problematic political campaign–related activities.

The legal authorities and guidance that inform this issue brief are most directly relevant to private institutions. Specific state laws that speak to political campaign activities at public institutions are not addressed. However, public institutions would be prudent to consider this guidance as likely analogous in most respects to applicable restrictions under relevant state laws.

Because of the inherent complexities and challenges in this area, each institution should consult its counsel as it develops policies or prepares to address issues that arise.

## **STUDENT VOTING**

### **The Statutory Obligations of Colleges and Universities Regarding Student Voting**

Since 1998, to remain eligible to participate in programs under the Higher Education Act (HEA), colleges and universities have been required to make good faith efforts in connection with federal and gubernatorial election cycles to help students register to vote. Institutions are required to “distribute a mail voter registration form . . . 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,” unless the state where the institution is located either does not require voter registration or provides for same-day registration.<sup>18</sup> It is incumbent upon the institution to make timely requests for forms from their states.<sup>19</sup> Alternatively, an institution can meet this distribution obligation through email messages to students containing links to registration forms so long as those messages are exclusively devoted to voter registration.<sup>20</sup>

The “physically in attendance” qualifier to the HEA's distribution mandates may be interpreted by some institutions to limit their actual obligations toward those students who are attending remotely.<sup>21</sup> But the underlying goals of this HEA obligation suggest that colleges should consider providing their remote learners with links to voter registration forms and related voter information.



One simple way colleges can comply with this institutional obligation is by distributing the [National Mail Voter Registration Form](#). This form enables students and other U.S. citizens to register to vote in each state and to change their address or update other existing registration information. It also contains voter registration rules and regulations for each state and territory. The form was developed in accordance with the National Voter Registration Act of 1993 and is maintained by the [U.S. Election Assistance Commission \(EAC\)](#), an independent, bipartisan commission established by Congress in 2002 to serve as a national clearinghouse of information on election administration.

Another useful resource is the U.S. Department of Education's *Toolkit for the Promotion of Voter Participation for Students*, which offers information to colleges and universities about voter registration and voting. The toolkit includes descriptions of colleges' and universities' legal obligations; recommended nonpartisan actions that colleges and universities can take to expand students' voter participation; federal resources to support voters in local communities; and examples of effective and promising strategies taken by institutions.<sup>22</sup>

## Encouraging and Enabling Student Voter Registration and Voting: Education and Resources

Colleges and universities have long supported voter participation and registration efforts, such as the [Your Vote, Your Voice](#) initiative, a national campus voter registration project that is coordinated by the National Association of Independent Colleges and Universities and backed by the Washington Higher Education Secretariat. Various other nonpartisan initiatives encourage institutions and their constituencies to enable student voting. For instance, the [ALL IN Campus Democracy Challenge](#) is a national awards program recognizing colleges and universities for their commitment to increasing student voting rates. [Ask Every Student](#) is a national joint initiative that facilitates collaboration between and among campus leaders and nonprofit partners to help campuses “ask every student” to participate in the democratic process and achieve full student voter participation.

In addition, many media outlets have online guides to help simplify how to vote. One example is *The Washington Post's* interactive [How to Vote in Your State](#) platform.

Colleges and universities can provide tremendous help to their students by demystifying and simplifying the voting process, ideally using communication platforms and methods that students embrace. Offering links to user-friendly websites with information about voter eligibility, deadlines, and how and where to vote can be particularly helpful. Some more nonpartisan resources to consider sharing with students are:

- [ALL IN to Vote](#) was developed by the ALL IN Campus Democracy Challenge, and [Campus Vote Project's State Student Voting Guides](#) help students navigate the voting process.
- The [National Association of Secretaries of State](#) offers valuable information about registration, voter ID requirements, and polling places in all 50 states.
- [U.S. Vote](#) is the U.S. Vote Foundation's nimble website that helps U.S. citizens participate in elections. It includes excellent resources about how to register in different states as well as information about state deadlines for requesting absentee mail-in ballots.
- [USA.gov](#) is the official web portal of the federal government and maintains a page titled “[Absentee Voting or Voting by Mail](#).”
- [Democracy Works](#) developed its [How to Vote](#) guide to help voters understand what options states offer for casting a ballot and help voters choose when and where to vote, and it created [TurboVote](#), an online service to help students vote in every election—local, state, and national.
- [Vote.org](#) aspires to use technology to simplify political engagement, increase voter turnout, and strengthen American democracy and describes itself as “the largest 501(c)(3) nonprofit, nonpartisan voting registration and get out the vote (GOTV) technology platform in America.”
- [Vote411](#) is an initiative of the League of Women Voters Education Fund, offering a polling place locator and providing a broad range of additional registration and voting information.

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> North Carolina A&T’s [Aggies Vote](#) initiative was recognized in 2020 by the ALL IN Campus Democracy Challenge as having the best democratic engagement plan and the highest voter registration rate of all HBCUs.<sup>27</sup>
- *Hispanic-Serving Institutions*: The Hispanic Services Council, an organization that strives to increase access and opportunities for Latinos, offers a web page detailing resources for voting and voter registration in Florida.<sup>28</sup> Whittier College was awarded a gold seal in the 2021 ALL IN Campus Democracy Challenge and earned a Voter Friendly Campus designation for 2021–22 from the Campus Vote Project after increasing its student voting rate from 51.6 percent in 2016 to 79.2 percent in 2020.<sup>29</sup>
- *Athletic Conference Camaraderie*: In 2019, the Big Ten and ALL IN launched the Big Ten Voting Challenge. This voter turnout competition recognizes voter turnout at Big Ten universities in two categories: (1) Greatest Overall Turnout and (2) Greatest Increase in Voting Rates.<sup>30</sup>

Colleges and universities should pay special heed to aids to young voters to encourage and enable participation in Congressional, state, and local elections, and ballot initiatives. Students, who may be new to their communities and less familiar with the local political landscape, would likely benefit from centralized voter information and nonpartisan ballot guides.<sup>31</sup>

The Department of Education recently clarified that federal work study funds may be used for student employment by a federal, state, local, or tribal public agency for civic engagement work that is not associated with a particular interest or group. Eligible employment opportunities include those supporting broad-based voter registration and get-out-the-vote activities; voter assistance at polling places or through a voting hotline; and/or working for a government official responsible for election administration, including serving as a poll worker.<sup>32</sup>

To enable student voter registration, colleges and universities may consider using federal work study funds to support a voter registration position at their own institutions, partnering with a local elections office, or partnering with a nonpartisan organization to promote voter registration and participation. The Campus Vote Project, Students Learn Students Vote Coalition, and ALL IN Campus Democracy Challenge offer “[Implementation Toolkit: Federal Work-Study for Voter Registration](#),” which contains resources about using federal work-study funds to support voter registration efforts on campus.<sup>33</sup>

Colleges and universities should take care to ensure that voting encouragement and resources offered to their students are nonpartisan and that their communications with students are likely to be received that way. Factors that tend to show that voter registration or get-out-the-vote communications are nonpartisan include: (1) limiting communications to urging individuals to vote or registering to vote and to describing the hours and places of registration or voting; (2) not naming or depicting any candidates, or alternatively naming all candidates without favoring any; and (3) not naming any political parties, with the exception of identifying the political parties of all candidates named or depicted. The Students Learn Students Vote Coalition offers a [Nonpartisan Messaging Guide](#) that provides simple messaging advice for how to advocate for core democratic values and practices without engaging in prohibited partisan activities.<sup>34</sup>

Students may be advised that if they remain uncertain about their eligibility to vote, they may still go to the polls and cast a ballot on election day. Students whose eligibility is questioned at the polls can ask to cast a provisional ballot, which will be set aside for later consideration. It is their right to cast provisional ballots even if they are not allowed to cast a regular ballot, as these votes may be accepted in the final counts.<sup>35</sup>

Institutions may want to provide shuttles or other transportation for students to local polling places or public transportation hubs on election days. Such efforts are permissible so long as the transportation is offered to all students and is undertaken in a neutral and nonpartisan way.

## **Being Aware of Barriers to Student Voting and Offering Solutions**

Despite (or because of) surges in student voting in recent years, institutions should remain attentive to state and county requirements that could undermine students' access to the polls. Voter ID registration requirements vary significantly among jurisdictions.<sup>36</sup> Moreover, the landscape can shift at the 11th hour. In recent years, a number of states have added or confirmed restrictions, such as requiring that the student ID used for voter identification be signed or issued within the past two years or—in the case of Idaho—precluding the use of student ID cards altogether.<sup>37</sup>

In addition to offering clarity and precision to students regarding what is required from them in order to register to vote, colleges and universities ought to be attentive to practical constraints and potential confusion about terminology.

“Residency” is one of those words that may trip up students when it comes to voter eligibility. The U.S. Supreme Court recognized that states may require residency as a qualification to vote. However, requiring a minimum duration for that residency is unconstitutional unless the state can demonstrate that it is “necessary to promote a compelling governmental interest.”<sup>38</sup> Roughly half the states have durational residency requirements of 30 days or less; the other half do not have any durational residency requirements at all, though they may impose a cutoff date for registering to vote prior to an election.<sup>39</sup> Students who temporarily relocate from their home to another address to attend college generally may choose to vote either where they reside while at college or where they consider their permanent home.

Absentee and mail ballots tend to be confusing as well. An absentee ballot is a ballot that a voter requests, while a mail ballot is a ballot that is automatically sent to a voter without having been requested. Both absentee and mail ballots will look the same and be processed and counted the same way by election officials.

Not all voting necessarily must occur either in person at a polling location or via sending ballots through the U.S. mail. The EAC has encouraged ballot drop boxes, noting that they “should be placed in convenient, accessible locations, including places close to public transportation routes, near or on college campuses, and public buildings, such as libraries and community centers familiar to voters and easy to find.”<sup>40</sup> The National Conference of State Legislatures notes that “many states that permit or require ballot drop boxes set minimum requirements for where they must be located, how many a county must have, hours they must be available and security standards.”<sup>41</sup> Within applicable parameters, institutions can contact their local election officials to request drop boxes on their campuses or press for changes to the requirements and limitations.

Many states expect absentee ballot applications and mail-in ballots to have appropriate postage applied by the sender. Sometimes rules vary within states. In [Florida](#), for example, some counties send out vote-by-mail ballots with prepaid return postage while others do not.

However, stamps are as mysterious as handwritten thank-you notes for many students. Many young voters have never walked into a post office or used a stamp, and they have no idea where or how to buy one. Students who register to vote and intend to do so may end up not voting for want of a postage stamp. As *Inside Higher Ed* pointed

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, institutions may engage in or enable issue advocacy and public policy educational activity as well as an allowable amount of lobbying.

With the issuance of the Supreme Court’s abortion ruling in *Dobbs v. Jackson Women’s Health Organization*, the prevalence of gun violence, heightened attention to the state of democracy and the election process, and the ongoing Israeli-Palestinian conflict, presidents, chancellors, and other institutional leaders may feel compelled to make formal statements and otherwise encourage engagement on issues that affect broad segments of their communities.<sup>48</sup> Examples include the effort by 16 college presidents from the Washington, DC area who formed a coalition named the 120 Initiative to tackle gun violence by focusing on nonpolitical solutions and the many college and university leaders who issued statements in support of abortion rights following the *Dobbs* decision.<sup>49</sup>

Whether issue advocacy undertaken by persons authorized to speak on behalf of the institution is assessed by the IRS to veer into prohibited political campaign–related activity will be based on the particular facts and circumstances. Institutions have varying levels of risk tolerance, but they should keep in mind that it is permissible to undertake or enable issue advocacy.



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, specifically 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 the process of voting.** Institutions may wish to provide multiple locations where students living on or near campus can pick up hard copies of absentee ballot applications and make stamps easily available on campus for those applications and absentee ballots. They may wish to mail physical copies of absentee ballot applications to students and/or email applications. In states that permit it, colleges and universities may maintain drop boxes and collection points for students to return ballots on campus. For students who live on or near campus, colleges and universities may provide locations and staffing (or volunteers) for witnesses and notary services for students who need them to vote by mail. Providing students shuttles or other transportation to local polling places or public transportation hubs is permissible.
- Y8. **Telling students that the institution will quickly provide written confirmation of their residency and address verification and instructing them precisely where and how to make such a request.** Many states require proof of residency for voter registration. Colleges and universities can and should prioritize offering students proof of residency and address verification documents that students can use to help them vote.
- Y9. **Annually preparing and distributing a compilation of voting records of all members of Congress on major legislative issues** that involve a wide range of topics, without political skew or editorial opinion, *provided that the information is not geared to coincide with the election period.* Guides such as these should avoid rating candidates, even if the rating criteria are nonpartisan (e.g., based on professional qualifications), and should not be accompanied by a statement or actions that tie a position articulated in the guide to a particular candidate or election. (See N3.)

### Impermissible

- N1. **Providing partisan links or other resources** regarding voter registration or voter education.
- N2. **Conducting voter education activities confined to a narrow range of issues or skewed** in favor of certain candidates or a political party. For example, the IRS has disapproved such activities that involved selected voting records of certain incumbents on a narrow range of issues, such as land conservation.

- 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 whether university resources will be used to support a political candidate. See Y21–Y23 and N18–N19 for discussions of whether an individual's actions or statements would likely be attributed to the university. See N13 (prohibiting providing a forum to a candidate to promote his or her campaign if other candidates are not treated equally) and N9 (prohibiting providing university facilities to a candidate in a way that favors that candidate) for a discussion of the use of institutional resources.*

- Y12. **Conducting institution-sponsored public forums** to which all legally qualified candidates for a public office (or for the nomination of a particular party) are invited and given equal access and opportunity to speak, provided that the format and content of the forum are presented in a neutral manner.
- Y13. **Inviting candidates to appear in a noncandidate capacity**, provided that the individual is chosen to speak solely for reasons other than his or her candidacy, the individual speaks only in his or her noncandidate capacity, no reference to the election is made, and the organization maintains a nonpartisan atmosphere on the premises or at the event. Campaigning at the event should be prohibited. The institution should clearly indicate the capacity in which the candidate is appearing and should not mention the candidacy or the upcoming election in any communications announcing the candidate's attendance.

## 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** for campaign contributions.
- N9. **Providing mailing lists, use of office space, telephones, photocopying, or other institutional facilities or support** to a candidate, campaign, political party, PAC, or the like free of charge. If mailing lists or facilities are sold or rented to a candidate or campaign, the items must be made available to all other candidates on the same terms and at fair market prices. Additionally, the institution should be prepared to show that it did not take the initiative in making the items available and that the sales or rentals are part of an ongoing pattern in which similar items are provided to unrelated, nonpolitical entities. Counsel should be consulted on the potential for taxation of revenues generated by such sales or rentals.
- N10. **Using institutional letterhead** in support of a candidate, political party, PAC, or the like.
- N11. **Permitting social media platforms and other forums** affiliated with the institution to be used to express or provide support for particular candidates if the statements or information can be reasonably attributed to the institution. A disclaimer that states that the opinions are neither those of the institution nor sanctioned by the institution is recommended in those public discussion areas where the information could reasonably be attributed to the institution.
- N12. **Providing links to the web pages**, or other space on a university's website, of one or more candidates for public office in a manner that favors one candidate over another. Generally, information posted on an institution's website that favors or opposes a candidate for public office is treated the same as distributed printed material, oral statements, or broadcasts that favor or oppose a candidate. Institutions should diligently monitor the content of the linked website for any changes.
- N13. **Providing a candidate with a forum** or sponsoring events that promote his or her campaign if other candidates are not treated equally, even if the forum or event is not intended to assist the candidate. For example, the IRS concluded that a charitable organization violated the prohibition on campaign intervention when the candidate solicited funds on the organization's behalf because the content of the solicitation included campaign rhetoric.
- N14. **Using institutional resources to conduct political campaign fundraising activities.** Funds or contributions for political candidates or campaigns may not be solicited in the name of the university, on the university's campus, or through the use of campus resources, including by student groups.

## 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 person is then entitled or occurs during a regular sabbatical leave; or (d) during a leave of absence without pay taken with the institution’s approval. The institution should consult applicable state law concerning permitted volunteer activities by employees in connection with campaigns for state or local office. Senior institutional officials, such as the president and the vice president for governmental affairs, should be extremely cautious about personal engagement in campaign activity and ordinarily refrain from it, as there is risk that such activity would be perceived as support or endorsement by the institution. (*See N18.*)
- Y23. **Public statements, oral or written, by institutional officials** (such as the president and deans) are permitted in support of a candidate, political party, PAC, or the like, where the institutional official clearly indicates that his or her comments are entirely personal and do not, and are not intended to, reflect or represent the views of the institution. For example, the IRS condoned a full-page advertisement in a local newspaper, paid for by a candidate, in which the advertisement referred by name and title to the president of a 501(c)(3) nonprofit organization as a campaign supporter, despite the ad expressly stating that the “titles and affiliations of each individual are provided for identification purposes only.”<sup>52</sup>

### Impermissible

- N15. **Endorsing, expressly or impliedly, a candidate for public office.** Examples of express endorsement include the placement of signs on university property that show support for a particular candidate and contributing to political campaign funds. Implied endorsements include public statements at a university event by an official of the institution, praising a particular candidate in relation to the holding of public office, and a pattern of institutional activities in relation to or support of a particular candidate. As with all of the prohibitions discussed in this issue brief, such a prohibition applies even if the candidate is an administrator or faculty member of the institution.
- N16. **Wearing campaign buttons while remote teaching or having a home office background containing posters** supporting a candidate or political party are particularly problematic. As a commentator noted years ago about teachers who unsuccessfully challenged New York City’s policy prohibiting public school teachers from wearing political buttons in the classroom, “if they’re using them as political billboards—announcing their partisan identifications from their chests—the question of the intrusion of politics in the classroom cannot be avoided.”<sup>53</sup> Given the continued use of remote and hybrid classes being taught, risks in this regard are heightened. Many college and university faculty are teaching two feet from their computer’s camera, assuring that the size of a button—and its intrusion on the “classroom”—would be radically enlarged. That’s a problem. Similarly, care should be taken to assure that onscreen backgrounds are devoid of campaign posters, slogans, or other partisan political visuals while faculty and staff are engaging with students.

- N17. **Commenting on specific actions, statements, or positions taken by candidates**, including incumbents, in the course of their campaigns. The institution is not forbidden to comment on specific issues, particularly if it has a history of commenting on such issues in nonelection years. Whether a statement is delivered close in time to an election, whether the communication identifies specific candidates or approves or disapproves of a candidate's positions or actions, whether the communication is part of an ongoing series of communications on the issue by the institution that are not related to the timing of any election, and whether the timing of the communication and identification of the candidate are related to a nonelectoral event are all relevant factors in determining whether an institution's statement on a particular issue could result in political campaign intervention.
- N18. **Public statements, oral or written, by institutional officials** (such as the president and deans) in support of a candidate, political party, PAC, or the like, when there is risk that the statements would be perceived as support or endorsement by the institution. For example, the IRS has indicated that it would be inappropriate for a column titled "My Views" to appear in a university's monthly newsletter in which the university president stated that it is their personal opinion that Candidate U should be reelected, even though the president paid part of the cost of the newsletter.
- N19. **Remarks at an institutional meeting by an institutional official in support of a candidate, political party, PAC, or the like.** For example, institutional officials should not make statements that could be perceived as support for a particular candidate at a meeting of the board of trustees.

The foregoing is not exhaustive. Considerable judgment in the application of these principles is likely to be required. When activities that are separately identified in this issue brief are combined or occurring simultaneously, the institution should analyze and assess the interaction between or among the activities as well as the totality of the activities.

# NOTES

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- 2 Neil Vigdor, [“Republicans Face Setbacks in Push to Tighten Voting Laws on College Campuses,”](#) *The New York Times* (March 29, 2023).
- 3 Alberto Medina and Sara Suzuki, [“41 Million Members of Gen Z will be Eligible to Vote in 2024,”](#) Center for Information & Research on Civic Learning and Engagement (October 18, 2023).
- 4 Jess Bidgood, [“College Towns Usually Lift Democrats. Is the Picture More Complicated in 2024?,”](#) *The New York Times* (April 8, 2024); John Della Volpe, [“I’m a Pollster. Democrats Need Young Voters to Win in 2024,”](#) *The New York Times* (November 10, 2023).
- 5 Peter de Guzman and Alberto Medina, [“Youth and the 2024 Election: Likely to Vote and Ready to Drive Action on Key Political Issues,”](#) Center for Information & Research on Civic Learning and Engagement (November 29, 2023); Alberto Medina, [“Young Voters and the Israel-Palestine Conflict,”](#) Center for Information & Research on Civic Learning and Engagement (February 15, 2024).
- 6 See generally Patrick J. Troy, “No Place to Call Home: A Current Perspective on the Troubling Disenfranchisement of College Voters,” *Journal of Law and Policy* 22, no 1 (2006): 591–617.
- 7 [“2024 Youth Electoral Significance Index,”](#) Center for Information & Research on Civic Learning and Engagement (last visited May 23, 2024).
- 8 Bidgood, [College Towns Usually Lift Democrats. Is the Picture More Complicated in 2024?](#)
- 9 [“State-by-State Youth Voter Turnout Data and the Impact of Election Laws in 2022,”](#) Center for Information & Research on Civic Learning and Engagement (April 6, 2023).
- 10 Alcino Donadel, [“These Are the States with the Highest Student Enrollment Rates,”](#) *University Business* (March 19, 2024); [“Facts and Figures,”](#) Arizona State University (last visited May 23, 2024).
- 11 Mike Kennedy, [“States with Most College Students as a Percentage of Population,”](#) *American School & University Newsletter* (January 16, 2018).
- 12 “United States Congress Elections, 2024,” Ballotpedia, [https://ballotpedia.org/United\\_States\\_Congress\\_elections,\\_2024](https://ballotpedia.org/United_States_Congress_elections,_2024) (last visited May 31, 2024).
- 13 “2024 Ballot Measures,” Ballotpedia, [https://ballotpedia.org/2024\\_ballot\\_measures](https://ballotpedia.org/2024_ballot_measures) (last visited May 31, 2024).
- 14 *Moore v. Harper*, 600 U.S. 1, 32 (2023) (“[S]tate legislatures remain bound by state constitutional restraints when exercising authority under the Elections Clause.”).
- 15 Amy Howe, [“Supreme Court Rules Against North Carolina Republicans over Election Law Theory,”](#) *SCOTUSblog* (June 27, 2023).
- 16 Jeanine Santucci, [“Trump Asks Treasury Department to Review Universities’ Tax Exemption over ‘Radical Left Indoctrination,’”](#) *USA Today* (July 10, 2020).
- 17 [“Published Guidance on Political Campaign Activity of 501\(c\)\(3\) Organizations,”](#) Internal Revenue Service (last reviewed or updated March 20, 2024).
- 18 20 U.S.C. § 1094 (a)(23)(A) and (C). Twenty-two states and the District of Columbia permit same-day voter registration. See [“Same-Day Voter Registration,”](#) National Conference of State Legislatures (updated October 31, 2023). Alaska and Rhode Island additionally permit same-day registration for the purpose of voting for president and vice president. *Ibid.*

- 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 20 U.S.C. § 1094(a)(23)(D).
- 21 20 U.S.C. § 1094(a)(23)(A).
- 22 U.S. Department of Education, *Toolkit for the Promotion of Voter Participation for Students*. The U.S. Department of Education has also elaborated on voting-related obligations in recent dear colleague letters and in the *Federal Student Aid Handbook*. U.S. Department of Education, “(GEN-22-05) Requirements for Distribution of Voter Registration Forms” (April 21, 2022); U.S. Department of Education, “(GEN-24-03) Use of Federal Work-Study Funds for Voter Registration” (February 26, 2024); Federal Student Aid, *2023–2024 Federal Student Aid Handbook*, vol. 2, ch. 6 (last updated February 1, 2023).
- 23 Sara Weissman, “A New Push to Get Community College Students to the Polls,” *Inside Higher Ed* (May 13, 2024) (citing data from the Institute for Democracy & Higher Education’s National Study of Learning, Voting, and Engagement).
- 24 “ICC Votes Initiative,” Independence Community College (last visited May 23, 2024).
- 25 Weissman, *A New Push to Get Community College Students to the Polls*.
- 26 Campus Vote Project and NAACP, *HBCU Legacy Initiative’s Insights Brief: Lessons Learned Through Conversations with HBCU Students and Administrators* (2022).
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- 28 “Civic Engagement: Have Your Voice Heard,” Hispanic Services Council (last visited May 23, 2024).
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- 30 “Big Ten Voting Challenge,” All in Campus Democracy Challenge (last visited May 28, 2024).
- 31 See “Local Elections,” Students Learn Students Vote Coalition.
- 32 34 C.F.R. § 675.22 (permitting use of federal work study funds for “work in the public interest”); U.S. Department of Education, “(GEN-24-03) Use of Federal Work-Study Funds for Voter Registration” (February 26, 2024).
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- 34 Students Learn Students Vote, “SLSV Coalition Nonpartisan Messaging Guide” (last visited May 28, 2024).
- 35 “Provisional Ballots,” National Conference of State Legislatures (last updated November 4, 2022).
- 36 “Voting with Student ID in 2023: The State of the Law and Pending Legislation,” Voting Rights Lab (March 21, 2023).
- 37 Danielle McLean, “In These States, College Students Say Republicans Have Made It Harder for Them to Vote,” *The Chronicle of Higher Education* (February 19, 2020). Advocacy groups BABE Vote and the League of Women Voters of Idaho brought suit, alleging that the ban on the use of student ID as identification for voting and same-day voter registration violated the Idaho state constitution. The Idaho Supreme Court unanimously affirmed dismissal of the lawsuit, reasoning that the voter ID laws were “reasonable exercises of the legislature’s authority to enact conditions on the right of suffrage.” See generally *BABE Vote v. McGrane*, 546 P.3d 694 (Idaho 2024).
- 38 *Dunn v. Blumstein*, 405 U.S. 330, 342 (1972).
- 39 “State Voting Requirements & Information,” U.S. Vote Foundation (last visited May 23, 2024).
- 40 U.S. Election Assistance Commission, *Ballot Drop Box* (last visited May 23, 2024).
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