



# Engaging Candidates for Public Office

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Advocating for Impact Workshop Series

# Today's moderator

## Kyle Legleiter

- Senior Director of Policy & Advocacy
- Colorado Health Foundation



## Our vision

That across Colorado each of us can say: “We have all we need to live healthy lives.”



# Engaging Candidates for Public Office

Cara  
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- Partner
- Tierney  
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- Executive  
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# ELECTION YEAR ACTIVITIES OF 501(c)(3) ORGANIZATIONS

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Aug. 9, 2017

tierney  
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## Partisan Political Activities of 501(c)(3)'s

**Absolute Prohibition:** 501(c)(3) expressly provides that 501(c)(3) organizations may not “participate in, or intervene in (including the publishing or distribution of any statements), any political campaign on behalf of (or in opposition to) any candidate for political office.” This statutory prohibition is absolute. It applies to both public charities and private foundations.

**Policy Behind Prohibition:** Contributions to 501(c)(3) entities are tax deductible for federal income tax purposes, but contributions to candidates and political action committees (PACs) - as well as to other 501(c)(3) organizations - are not. Hence, the use of 501(c)(3) entities to support or oppose candidates would circumvent federal tax law by enabling candidates and PACs to attract tax deductible contributions to finance their election activities.

## Partisan Political Activities of 501(c)(3)s

**Policy Point:** 501(c)(3) status is the most favored category of tax exemption due to the tax deductibility of its contributions, reduced postal rates and, in certain states, sales/use and property exemptions. Accordingly, 501(c)(3) entities are subject to the most regulation by the Internal Revenue Service (IRS). The federal government does not want to subsidize political activities with taxpayer dollars through a tax deduction.

### In Violation of the First Amendment?

## Definition of “Partisan Political Activities”

The technical term used by the Code is “exempt function” activities.

This means *the function of influencing or attempting to influence the selection, nomination, election or appointment of any individual to any public office or office in a political organization.*

Exempt function activities include advertisements which do not specifically endorse a candidate, but can include many more subtle activities than that.

## Definition of “Candidate for Public Office”

A candidate for public office means “an individual who offers himself, or is proposed by others, as a contestant for an elective public office, whether such office be national, state, or local.” This definition includes all levels of candidates who have announced their candidacy.

Attempts to influence appointments of persons to non-elective public offices, such as judicial nominees, do not constitute prohibited political campaign intervention. However, actions during a legislative confirmation process, considering nominees for certain non-elected government offices (such as judgeships and executive cabinet positions) may constitute lobbying.

## Participation or Intervention in a Political Campaign

**501(c)(3) organizations are prohibited from “directly or indirectly” participating in political campaigns:**

**Direct or indirect participating in political campaigns include:** Distributing printed statements or making oral statements on behalf of, or in opposition to, a candidate for public office. This clearly applies to a written or oral endorsement of a candidate. However, it also applies to much less express statements. In fact, it applies even if the candidate’s name is not mentioned and certain codes language or references are used as a substitute for a candidate’s name (for example, the use of “code” terms like “pro-choice,” “liberal” etc.)

## Prohibited Election- Related Activities For 501(c)(3)s

- Endorsing candidates or political parties
- Making any cash or in-kind campaign contributions
- Restricting renting of mailing list or facilities to certain candidates
- Asking candidates to sign pledges on any issue.
- Increasing the amount of criticism of elected officials who are also candidates as the election approaches

**Prohibited  
Election-  
Related  
Activities  
For  
501(c)(3)s**

- Candidate scorecards or rating candidates
- Partisan candidate questionnaires
- Accepting paid political advertisements
- Attending certain partisan events

**Permissible  
Election-  
Related  
Activities for  
501(c)(3)s**

**Voter Education Activities:** Efforts to inform the electorate in a *non-partisan* manner about candidates' positions is not a prohibited political activity so long as there is no bias, express or implied, towards any one or more candidates.

**Voter Registration Drives:** Voter registration drives conducted by 501(c)(3) organizations must be conducted in a *non-partisan* manner in order to be permissible. Factors illustrating non-partisan drives include naming no candidates or naming all of the candidates; all parties or no parties are mentioned; material distributed to potential voters describe how to register to vote; and all services are provided without regard to the voter's political preferences.

**Permissible  
Election-  
Related  
Activities for  
501(c)(3)s**

**Candidate Questionnaires/Voting Records:**

Publishing a compilation of candidates' voting records or responses to candidate questionnaires generally does not constitute prohibited activity when a wide range of issues are addressed and the published results do not suggest a bias for or against any candidate. It is important to note that the questionnaire or voters' guide cannot show any implied bias based upon its content or structure.

**Ex:** a pro-environmental group cannot distribute a candidate questionnaire if the questions only relate to environmental issues because there will be implicit bias in the structure of the guide.

## Permissible Election- Related Activities for 501(c)(3)s

- Engage in limited **lobbying**, including on ballot measures
- Continue to advocate for the organization's **issues** during an election year
- **Educate** all of the candidates on public interest issues within the purview of the organization's interests
- Conduct **nonpartisan public education** and training sessions about participation in the political process
- Work with all parties to get positions on the party's platform.

## Permissible Election- Related Activities for 501(c)(3)s

### Hosting Candidate Debates:

- Can educate the public on all of the candidates through nonpartisan debates
- All candidates must be invited, although a charity may invite less than all of the candidates if reasonable, objective criteria are used to exclude candidates
- If a candidate refuses to participate, the debate may not be able to go forward
- The organization should avoid inviting people of particular viewpoints
- The debate should be widely publicized
- The moderator should be neutral and unbiased
- Questions should be prepared by an independent or nonpartisan panel or individual

Permissible  
Election-  
Related  
Activities  
for  
501(c)(3)s

Business Transactions: Rental at fair market value mailing lists and facilities to other organizations, legislators, or candidates if an on-going activity of the organization and not arranged for a particular candidate or party.

# Permissible Election- Related Activities for 501(c)(3)s

## Praising and Criticizing Incumbents:

- Focus on official actions only
- Time communications to coincide with policy or legislative action
- Have track record on the issue
- Use nonpartisan criteria only
- Include legislators not up for re-election
- Pay attention to timing!
- May also praise incumbents as well (ex: call Senator So-and-So and thank her for her vote on XYZ issue)
- Avoid focusing on the candidate's personal qualities or character; focus on official action only

## Individual Political Activities of Board Members and Staff

Staff and Board are allowed to participate in campaigns and to speak their opinion (only social media or otherwise) so long as they do so outside of work hours, are very clear they are not representing the organization, and do not use the organization's phones, computers, or other business assets to do so.

They must be clear that they are speaking on their own behalf and not as a representative of the organization.

## Sanctions For Prohibited Activities

- Loss of tax-exemption
- Excise tax on campaign expenditures
- Loss of deduction for contributions
- Injunction and termination assessment

Election  
Year  
Activities of  
501(c)(3)s

Thank you!

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lawrence



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**COLORADO**

# The Other Gals & Guys



**Hard Side  
Giving**

**Lobbying**



**Soft Side  
Giving**

**Non-Lobbying  
Education**



## 2016 Top 5 U.S. Federal Lobbying Spenders by Sector

Rank	Sector	Amount
1	Health	\$385,301,147
2	Misc Business	\$371,104,766
3	Finance/Insurance/Real Estate	\$366,343,658
4	Communication & Electronics	\$277,699,831
5	Energy & Natural Resources	\$223,866,898

Source: Center for Responsive Politics

## 2016 Top 5 U.S. Federal Lobbying Entities

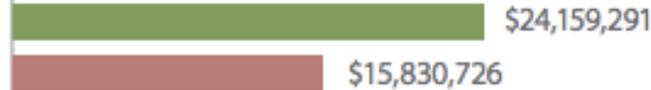
Rank	Sector	Amount
1	US Chamber of Commerce	\$79,205,000
2	National Association of Realtors	\$45,255,769
3	Blue Cross/Blue Shield	\$19,058,109
4	American Hospital Association	\$15,454,734
5	Pharmaceutical Research & Manufacturers of America	\$14,717,500

Source: Center for Responsive Politics

# State & Federal Candidate Spending by Sector—2016 Cycle



**Pharmaceuticals/  
Health**



**Health Professionals**



**Hospitals &  
Nursing Homes**



**Health Services/HMOs**



**Beer, Wine, Liquor**



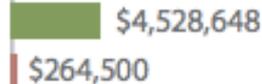
**Food Processing  
& Sales**



**Food & Beverage**



**Tobacco**



\$0      \$10,000,000      \$20,000,000      \$30,000,000      \$40,000,000      \$50,000,000

■ State Candidates  
■ Federal Candidates

Sources: State figures from National Institute for Money on State Politics, federal figures from Center for Responsive Politics.

# State Level Lobbyist Spending in CO by Industry 2016



Industry Sector	Amount
Hospitals & Nursing Homes	\$1,023,134
Insurance*	\$1,065,423
Pharmaceuticals & Health Products	\$843,463
Health Professionals	\$790,895
Beer, Wine, Liquor	\$485,153
Tobacco Companies & Sales	\$363,129

\*Includes insurance companies beyond health

*Source: National Institute for Money in State Politics*

# State Level “Hard” Candidate Spending in CO by Industry 2016



Industry Sector	Amount
Hospitals & Nursing Homes	\$290,243
Insurance*	\$1,052,053
Pharmaceuticals & Health Products	\$467,517
Health Professionals	\$837,463
Beer, Wine, Liquor	\$272,500
Tobacco Companies & Sales	\$13,123

\*Includes insurance companies beyond health

*Source: National Institute for Money in State Politics*



# Candidate Education: Events

*Leverage People*





# Candidate Education: Materials & Resources

## *Leverage Knowledge*



### The Briefing Book

a brief dive into health issues facing Colorado





# Candidate Education: On the Record

*Leverage Scrutiny*

# HEALTHIER DENVER

## Candidate Questionnaire Denver Municipal Election 2015



[Candidate Responses](#)

[Find Your District](#)

[Sign Petition](#)

[About](#)

Find out where your Denver Mayoral and City Council candidates stand on issues that affect your health and encourage them to do more.



Would you support a dedicated funding source for building and maintaining pedestrian infrastructure, including sidewalks, within the City & County of Denver?

[more ↗](#)

[Find Your District ↗](#)



What role, if any, do you see for the City & County of Denver in providing transit services above and beyond the services provided by RTD?

[more ↗](#)

[Read Candidate Responses ↗](#)



What solutions do you have in mind for improving walking, biking, or other safety concerns as children travel between



**A FAIR AND JUST COLORADO**

**ONE**  
COLORADO

# Agenda

- One Colorado Overview
- Why do candidate engagement?
- Engaging our organization
- Engaging our supporters
- Engaging our partners

# One Colorado Overview

- One Colorado is the state's leading advocacy organization for LGBTQ Coloradans and their families.
- Comprised of 3 organizations:
  - One Colorado Education Fund
  - One Colorado
  - One Colorado PAC
- Key program areas:
  - LGBTQ Health
  - Safe Schools
  - Protecting our Victories

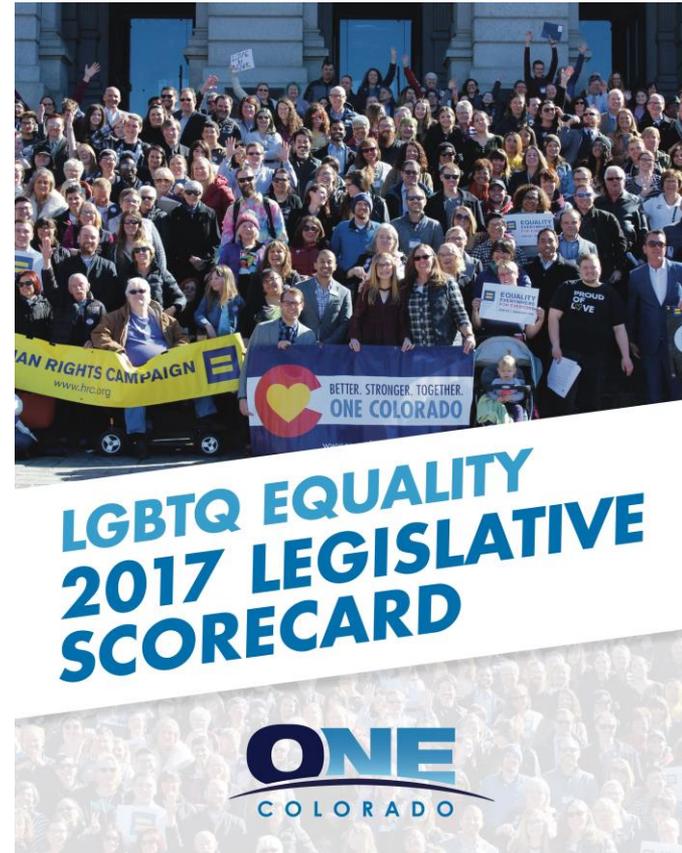
# Why do candidate engagement?

- History of laws targeting LGBTQ people
- “There are no gay people in my district”
- Change the narrative about LGBTQ people and advance a pro-equality agenda



# Engaging our organization

- Candidate questionnaire
- Legislative scorecard
- Events: Happy hours, galas, in-district events
- One-on-ones to discuss priorities and language
  - Adapt approach to the candidate
- Leverage context and timing



# Engaging our supporters

- List-building
- LGBTQ Lobby Day
  - LGBTQ priorities
  - Train attendees on how to do a lobby visit
- Identify activists to attend town halls, meet and greets or do in-district visits
  - Plant questions
  - Context/timing matters



# Engaging our partners

- Build coalitions and train partners on messaging
- Local media and editorial boards
- The echo chamber





[www.one-colorado.org](http://www.one-colorado.org)



# Questions?



The Colorado Health Foundation™



## Mark your calendar

**Sept. 12:**

Ballot Measure Campaigns

**Oct. 10:**

Legal Advocacy and Strategic Litigation

**Nov. 7:**

Executive Branch Advocacy and the Regulatory Process



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