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 Lawrence
- Partner
- Tierney Lawrence LLC

Jake Williams
- Executive Director
- Healthier Colorado

Daniel Ramos
- Executive Director
- One Colorado
**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?
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.
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.
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.
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 ongoing 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
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!
Hard Side Giving

Lobbying

Soft Side Giving

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

<table>
<thead>
<tr>
<th>Rank</th>
<th>Sector</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Health</td>
<td>$385,301,147</td>
</tr>
<tr>
<td>2</td>
<td>Misc Business</td>
<td>$371,104,766</td>
</tr>
<tr>
<td>3</td>
<td>Finance/Insurance/Real Estate</td>
<td>$366,343,658</td>
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<tr>
<td>4</td>
<td>Communication &amp; Electronics</td>
<td>$277,699,831</td>
</tr>
<tr>
<td>5</td>
<td>Energy &amp; Natural Resources</td>
<td>$223,866,898</td>
</tr>
</tbody>
</table>

Source: Center for Responsive Politics

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

<table>
<thead>
<tr>
<th>Rank</th>
<th>Sector</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>US Chamber of Commerce</td>
<td>$79,205,000</td>
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<tr>
<td>2</td>
<td>National Association of Realtors</td>
<td>$45,255,769</td>
</tr>
<tr>
<td>3</td>
<td>Blue Cross/Blue Shield</td>
<td>$19,058,109</td>
</tr>
<tr>
<td>4</td>
<td>American Hospital Association</td>
<td>$15,454,734</td>
</tr>
<tr>
<td>5</td>
<td>Pharmaceutical Research &amp; Manufacturers of America</td>
<td>$14,717,500</td>
</tr>
</tbody>
</table>

Source: Center for Responsive Politics
State & Federal Candidate Spending by Sector—2016 Cycle

- Pharmaceuticals/Health: $24,159,291 (State), $15,830,726 (Federal)
- Health Professionals: $48,433,615 (Total)
- Hospitals & Nursing Homes: $25,665,505 (State), $6,570,787 (Federal)
- Health Services/HMOs: $13,915,815 (State), $3,151,427 (Federal)
- Beer, Wine, Liquor: $19,847,838 (State), $2,687,575 (Federal)
- Food Processing & Sales: $10,225,835 (State), $2,534,436 (Federal)
- Food & Beverage: $10,098,824 (State), $1,635,510 (Federal)
- Tobacco: $4,528,648 (State), $264,500 (Federal)

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

<table>
<thead>
<tr>
<th>Industry Sector</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Hospitals &amp; Nursing Homes</td>
<td>$1,023,134</td>
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<tr>
<td>Insurance*</td>
<td>$1,065,423</td>
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<tr>
<td>Pharmaceuticals &amp; Health Products</td>
<td>$843,463</td>
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<tr>
<td>Health Professionals</td>
<td>$790,895</td>
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<tr>
<td>Beer, Wine, Liquor</td>
<td>$485,153</td>
</tr>
<tr>
<td>Tobacco Companies &amp; Sales</td>
<td>$363,129</td>
</tr>
</tbody>
</table>

*Includes insurance companies beyond health

*Source: National Institute for Money in State Politics*
State Level “Hard” Candidate Spending in CO by Industry 2016

<table>
<thead>
<tr>
<th>Industry Sector</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospitals &amp; Nursing Homes</td>
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<tr>
<td>Insurance*</td>
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<tr>
<td>Pharmaceuticals &amp; Health Products</td>
<td>$467,517</td>
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<tr>
<td>Health Professionals</td>
<td>$837,463</td>
</tr>
<tr>
<td>Beer, Wine, Liquor</td>
<td>$272,500</td>
</tr>
<tr>
<td>Tobacco Companies &amp; Sales</td>
<td>$13,123</td>
</tr>
</tbody>
</table>

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

Find Your District ➪

Read Candidate Responses ➪

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

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?

What solutions do you have in mind for improving walking, biking, or other safety programs for children travel between school and home?
A FAIR AND JUST 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
Questions?
Mark your calendar

**Sept. 12:**
Ballot Measure Campaigns

**Oct. 10:**
Legal Advocacy and Strategic Litigation

**Nov. 7:**
Executive Branch Advocacy and the Regulatory Process