IRis

Northeastern University

Of Counsel Newsletter

Office of the University Counsel

October 01, 2008

Of Counsel : Fall 2008

Northeastern University

Recommended Citation

Northeastern University, "Of Counsel : Fall 2008" (2008). *Of Counsel Newsletter.* Paper 6. http://hdl.handle.net/2047/d20000173

This work is available open access, hosted by Northeastern University.

OF COUNSEL - Fall 2008
the newsletter of

NORTHEASTERN UNIVERSITY
OFFICE OF THE UNIVERSITY COUNSEL

In this issue: **Guidelines for Political Campaign Activities on Campus**
What to Do When a Subpoena Arrives
How to Respond to Requests for Personal Information
Immigration

To what extent can Northeastern engage in campaign and election activities?

Federal tax law limits tax-exempt institutions like Northeastern from participating in political activity that either favors or opposes any candidate for public office. Below is some guidance on how to conduct political campaign activities while remaining in compliance with the law.

A. Voter Education and Registration

Tax-exempt organizations can conduct voter education and registration activities and get-out-the-vote drives if they are conducted in a non-partisan and educational manner. If these activities intend to increase participation in the political process, they are not prohibited unless evidence of bias is present.

B. Candidate & Speaker Appearances

In some situations, tax-exempt organizations may invite candidates to speak at their institutions without jeopardizing their tax-exempt status. In order to host a candidate, a tax-exempt organization must provide all legally qualified candidates seeking the same office an equal opportunity to attend and to participate. This means that factors like audience attendance, venue, and advertising must be similar for each candidate's visit. In addition, an organization should take steps to clarify its neutrality and distance itself from any opinions being expressed. Any communications related to the event should include disclaimers of support or opposition on the part of the organization, and statements of disassociation should also be made at the event itself. The IRS suggests an organization should ensure that questions for the candidates are non-partisan, that discussion topics cover a broad range of issues, that each candidate is given an equal opportunity to speak, that candidates are not asked to agree or disagree with the organization's views, and that the moderator's comments do not imply approval or disapproval of the candidates.

C. Issue Advocacy

Tax-exempt organizations may comment on issues relevant to their tax-exempt purposes, but they cannot encourage voting on one side of such issues.

D. Voter Guides

Voter guides are documents or charts intended to give voters an overview of the candidates' platforms on a set of issues to allow for comparison. Voter guides risk violation if they focus on a single issue or narrow set of issues, or if the questions reflect bias. To avoid violation, an organization should ensure that the voter guide's structure and content are unbiased, that the answers in the voter guide are those provided by the candidate in response to the organization's questions, that all candidates for office

are covered, and that the issues included in the guide reflect the major issues of interest to the entire electorate.

E. Use of Institutional Resources

Tax-exempt organizations may not use institutional resources to support a candidate, political party, or political action committee. Such resources include office space, letterhead, photocopiers, telephones, fax machines, and electronic resources including email, websites, and online discussion boards. Tax-exempt organizations may support a student newspaper as long as the students exercise control over the content of the newspaper and print a statement indicating the newspaper's non-affiliation with the organization.

F. Participation in the Election Process By Students & Employees of the Institution

Both faculty and students may participate in the election process, provided that they are not acting in the name of the university. Faculty can participate in campaign-related activity as long as that activity is outside normal work hours or the work time is either made up within a reasonable time period or charged to vacation time. Student groups and other university entities that are supported in whole or in part by university funds may not endorse a particular candidate. In general, tax-exempt organizations can allow class time and credit for political campaign activity, as long as the students choose which campaign to support.

While there are limits on the extent to which tax-exempt organizations can engage in political activities, these organizations can meaningfully participate in the political process in certain ways. Demonstrating non-partisanship, non-endorsement, and non-advocacy of political issues are key steps to compliance with federal tax law. The IRS actively monitors whether organizations comply with the prohibition against political campaign intervention, and the consequences of non-compliance are severe. Before engaging in political or campaign activity of any kind, please contact our office for guidance.

What should I do if I am served with a subpoena?

A subpoena is an official court document that requires the recipient to appear in court, and often to produce documents. The University Counsel's Office is the registered agent for Northeastern University, and all subpoenas must be served on the Counsel. This means that if you are served with a subpoena, you should not accept it. Instead, you should inform the server that you are not authorized to receive the subpoena and direct him or her to the University Counsel's Office. Even if the information requested does not seem related to legal matters concerning Northeastern, executing the subpoena on your own may have serious legal consequences for the University.

Once the University Counsel receives the subpoena, we may ask your department to produce certain records or other information requested in the subpoena. The Registrar's Office often facilitates this process, and we ask that you please cooperate by promptly responding to any requests. If you have any questions about these requests, please feel free to contact our office.

How do I handle requests for information by someone outside the University?

Anyone looking for private information about a student or an employee, as part of a background check or otherwise, should be directed to the University Counsel's Office. If you are contacted and asked to provide information, testimony, documents, records, or other materials to someone outside of the University community, you must contact our office before you respond in any way to the request. In order to protect the University and you as an employee of the University, it is imperative that we check an individual's credentials before providing anyone with confidential documents or information.

Subpoenas for student records should be directed to the Registrar's Office, to the attention of Senior Assistant Registrar Lacetia M. Foster.