



Do's and Don'ts in an Election Year*

NOTE: This is not a comprehensive or timeless legal document. Specific details of your political activities may vary, laws change, and court cases are decided. Local chambers of commerce, trade associations, and their members are encouraged to consult their own legal counsel for a timely and detailed review of any potential or planned political activity.

***Revised June 2014**

THE LAW - OVERVIEW

In Minnesota, corporate political activity (including chambers of commerce and trade associations) is regulated by federal and state law. Federal and Minnesota law are not always the same.

Federal Law

Applies to federal races (e.g. U.S. Senate, U.S. House of Representatives)

- Allows independent expenditures to be made which expressly advocate for or against candidates (i.e. “vote for/vote against Candidate X”)
- Prohibits direct corporate contributions to federal candidates
- Allows corporations to pay the costs of administering a Political Action Committee (“PAC”)
- Allows non-partisan voter education and GOTV

Minnesota Law

May apply to federal, state and local races (e.g., Governor, Legislature, Attorney General)

- Permits “standard” political committees (PACs) to raise personal money (not corporate funds) and contribute directly to candidates
- Prohibits corporations from contributing directly to candidates
- Permits corporations to make independent expenditures that expressly advocate for the election or defeat of a candidate for office
- Requires registration and reporting of independent expenditures via an “independent expenditure political committee” (IEPAC)
- Permits IEPACs to raise corporate dollars (but cannot contribute to candidates)
- Prohibits corporations from directly sponsoring PACs that contribute to candidates (but federal corporate employee PACs registered with the FEC may donate to state IEPACs)
- Prohibits coordination of independent expenditures with candidates for state office
- Permits corporations to endorse candidates, although expenses associated with promoting that endorsement might be considered an independent expenditure
- Prohibits anyone from engaging in economic reprisals or threatening loss of employment or physical coercion because of political activity
- Allows certain non-profits to pay limited administrative costs for an associated PAC
- Allows non-partisan voter education and GOTV

Local Law

Some cities and counties may have additional regulations regarding local political activity. Check with your city or county attorney’s office for more information.

Violation

- Violation of the corporate contribution prohibition, Minn. Stat. §211B.15, subd. 2 is a felony and a corporation may lose its charter. It is always a good idea to have your legal counsel review any political program you plan to undertake.
- Violations of reporting requirements are subject to civil penalties under Minn. Stat. §10A.

Permitted Chamber Activities without a Standard Political Action Committee (PAC)

- Candidate endorsements (if money is not spent to promote endorsement)
- Non-partisan voter registration and absentee ballot drives
- Candidate visits/site tours
- Company voting parties
- “Eggs and Issues” educational events
- Distribution of non-partisan voter guides

Permitted Chambers Activities with a Standard Political Action Committee (PAC)

- Candidate contributions
- Candidate endorsements
- Partisan communications
- Independent expenditures (personal money only)
- Candidate fundraisers (subject to certain limits)

Permitted Activities for Chambers with an Independent Expenditure Political Committee (IEPAC)

- Independent expenditures (personal or corporate money)
- Candidate endorsements
- Partisan communications
- Transfer of business or dues revenue to an associated IEPAC

PROHIBITED Activities for Chambers with an Independent Expenditure Political Committee (IEPAC)

- Candidate or party contributions (including legislative caucus contributions)
- Coordination with candidates strictly prohibited
- Candidates may not attend IEPAC fundraisers

FAQ's (state level races)

Can my chamber make a contribution to a candidate?

No. Corporate contributions are strictly prohibited by law. Only a chamber's registered PAC may make a contribution to a candidate (subject to limits).

Can I post a campaign sign on my business property?

In general, permitting the installation of a campaign sign on corporate property without payment for such use is prohibited. Campaigns may rent space from businesses to display signs.

Can my chamber help distribute a candidate's campaign materials?

No. Use of chamber resources (including faxes, e-mail, copiers, lists, etc.) would be considered a corporate contribution, which is prohibited by law.

Can my chamber endorse a candidate?

Yes. The act of announcing an endorsement is permitted, and chambers can announce endorsements on their websites. However, chambers should not spend money to promote the endorsements (i.e. paying for advertising in a newspaper) as that may be considered an independent expenditure.

Can my Chamber have a standard PAC? An Independent Expenditure PAC? Both?

Yes. A political action committee (PAC) can accept individual contributions only; an independent expenditure political committee (IEPAC) can accept individual or corporation contributions, but the funds cannot be comingled.

How do I start a PAC or IEPAC?

Contact the Minnesota Campaign Finance and Public Disclosure Board for registration and reporting requirements. www.cfboard.state.mn.us or 1-800-357-4114.

Do I need to form a PAC or IEPAC?

You **must** form a political committee or fund if:

- your group will receive more than \$750, or spend more than \$750, to influence the election of a state candidate; or
- your group will receive more than \$1,500, or spend more than \$1,500, only for independent expenditures.

Can my chamber organize and sponsor a fundraiser for a candidate?

No, but your PAC or your members can (see Fundraisers).

I am a chamber executive. Can I host a fundraiser for a candidate?

Yes. As a leader in the community, nothing prohibits you from personally supporting a candidate. However, be careful not to use any chamber resources (i.e. chamber name, phones, faxes, copiers, supplies, lists, chamber time, etc.) to organize a fundraiser because use of chamber resources would be considered a prohibited corporate contribution. If you serve on a candidate's campaign committee and also run an IEPAC, however, you should avoid hosting a fundraiser.

Can chamber executives and staff volunteer for local candidates' campaigns?

Yes.

Can my chamber make a contribution to our associated PAC?

It depends on the type of PAC. If your "PAC" is an Independent Expenditure Political Committee, then your chamber may make a contribution from your general treasury to your IEPAC (subject to certain limitations and with disclosure of certain information). Your chamber may **not** make a direct contribution to a standard PAC; however, note that non-profit corporations (chambers of commerce) are allowed to contribute the value of expenses relation to administration of the PAC (up to \$5,000 or 7.5% of the PAC's annual expenditures, whichever is less). Check with the Campaign Finance and Public Disclosure Board for further details.

Can my chamber organize and sponsor a GOTV campaign without forming a PAC?

Yes, but all activities must be completely non-partisan and cannot be coordinated with any political party or candidate.

Can my chamber distribute a candidate questionnaire for voter education purposes without forming a PAC?

Yes. However, questionnaires must be completely non-partisan and not advocate the election or defeat of any particular candidate or party.

Can I print responses to a candidate questionnaire in the chamber newsletter?

Yes. Provided you list the responses (or non-responses) of all candidates and do not advocate the election or defeat of any candidate or party. Be careful not to "rate" or edit any of the responses.

Can my chamber sponsor a candidate forum without forming a PAC?

Yes. Be sure the forum and questions are non-partisan (i.e. invite all serious candidates of major parties, and state questions objectively).

Can my chamber provide meeting space for candidates and campaign events?

Yes. Space may be provided for candidate meetings on a nondiscriminatory and non-preferential basis.

Can my chamber provide mailing lists to candidates?

Yes, if the chamber charges the candidate's campaign committee the "fair market value" for the mailing list; otherwise, it is a prohibited corporate contribution.

Can candidates advertise in my chamber newsletter?

Yes, if the chamber permits ALL candidates' campaign committees to purchase advertising – campaign advertising cannot be limited to members only.

POLITICAL CONTRIBUTIONS

Contributing to a candidate is one of the best ways to show support for a candidate. Contributions can be made from individuals or from **standard PACs**, subject to certain limits.

| Office | 2013-2014 Contribution Limit – Total Amount for Two-Year Period |
|--------------------------|--|
| Governor | \$4,000 |
| Senate | \$1,000 |
| House of Representatives | \$1,000 |

Note that candidates are subject to aggregate contribution limits, which means that candidates can only raise up to \$12,500 in special source funds (which includes PACs and lobbyists, not big donors).

FUNDRAISERS

Fundraising is an integral part of politics, and hosting a fundraiser for pro-business candidates can be an effective way for local chamber members to meet candidates and make contributions. Fundraising events bring in funds for candidates or for standard PACs. While the chamber cannot serve as the host of a fundraiser, its PAC or individual members may host an event. Note that because of strict fundraising rules for IEPACs, fundraising events are not advised without consulting an attorney.

For more information, see “Fundraising Issues” published by the Minnesota Campaign Finance and Public Disclosure Board: <http://www.cfboard.state.mn.us/issues/fundraising.pdf>

NON-PARTISAN CANDIDATE QUESTIONNAIRES

Getting to know candidates’ positions on the issues is important in an election cycle. Federal and state law require that candidate questionnaires be completely non-partisan and not advocate the election or defeat of any particular candidate or party. Generally, statements that focus on chamber lobbying and educational activities are more likely to be viewed as non-partisan.

Specific indicators of non-partisanship, according to federal rulings, include:

- Include a broad range of questions; avoid single-issue questionnaires)
- Focus questions on business community and local concerns, rather than on election issues.
- State questions objectively.
- Report all responses or non-responses of all serious candidates.
- Do not target candidate responses or voter registration or get-out-the-vote information only to districts of candidates your chamber favors or disfavors, or only to districts in which an election is likely to be “close.”
- Do not edit responses to candidate questionnaires.
- Reports of responses to candidate questionnaires are more likely to be viewed as non-partisan if at least two candidates respond.
- Do not display one candidate’s responses to a questionnaire more prominently than another candidate’s or give one candidate significantly more space.

GOTV LEGAL GUIDELINES

Communication by employers with their employees or others regarding public policy issues is protected by the First Amendment. In general, employers are allowed, under federal law, to support or conduct voter registration and get-out-the-vote (GOTV) drives aimed at their employees under the following conditions:

1. The voter registration efforts cannot be coordinated with any candidate or political party.
2. The voter registration drive cannot be directed primarily at employees previously registered with or intending to register with a particular political party.
3. The GOTV and voter registration services provided by the company must be made available without regard to the employees' political preferences.
4. Employees conducting the voter registration or GOTV drive must not be paid on the basis of the number of people registered to support one or more particular candidates of a political party.
5. The company must notify in writing those receiving information or assistance that these services are being made without regard to the voter's political preferences.

GET-OUT-THE VOTE (GOTV) DO'S AND DON'TS

DO:

- Encourage your employees to vote, regardless of their political preference.
- Encourage voting in both the August 12 primary and the November 5 general election.
- Publicize voter information to employees.
- Make voter registration cards and absentee ballot applications available at work.
- Invite candidates from all political parties to speak to management and employee gatherings at your company.
- Invite candidates to tour your place of business.
- Allow employees a reasonable amount of time off from work to vote without loss of pay on August 12 and November 4. (It's the Law!)

DON'T:

- Tell your employees which candidate or political party to support or vote for in an election.
- Make contributions to candidates from company or business funds.
- Force employees to vote or make voting participating or political activity a factor in employee performance evaluations.
- Coordinate voter registration or get-out-the-vote efforts with any candidate or political party.
- Design or conduct your get-out-the-vote efforts with any candidate or political party.

FOR MORE INFORMATION:

Relevant Statutes

2 U.S.C. §441
Minn. Stat. §10A
Minn. Stat. §§ 211A, 211B

State PACs and Reporting Requirements

Campaign Finance & Public Disclosure Board
Suite 190
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155-1603
651-296-5148 or 1-800-657-3889
www.cfboard.state.mn.us

Resources for Political Committees and Funds:

http://www.cfboard.state.mn.us/handbook/pcf_handbook.pdf

Minnesota Secretary of State

Minnesota Secretary of State's Office
180 State Office Building
100 Constitution Avenue
Saint Paul, MN 55155-1299
651-215-1440
1-877-600-VOTE (8683)
www.sos.state.mn.us/election

Federal PACs and Campaign Practices

Federal Election Commission
999 E Street, NW
Washington, DC 20463
1-800-424-9530
www.fec.gov