

Revised, January 2016

Political Activities: Guidelines for Faculty and Staff of Harvard University

Harvard University is fully committed to the free and open expression of ideas, and Harvard's institutional commitment to free expression applies with equal force in the context of electoral politics. Harvard strongly encourages members of the University community — faculty and staff, as well as students — to participate actively and earnestly in matters relating to the country's governance at all levels: local, state, and federal. However, federal law provides that Harvard may not itself “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” This prohibition on Harvard's institutional participation in partisan politics is expressed in Section 501(c)(3) of the Internal Revenue Code, as a condition that Harvard must satisfy in order to preserve and retain its status as a tax-exempt organization. Sanctions for violating the non-participation principle may include audits and government investigations, the imposition of taxes and penalties and potential lawsuits, and even the outright forfeit of the University's tax-exempt status.

Like any institution, Harvard does not itself act or participate in any sort of activity, except through its employees. In recognition of that fact, the law distinguishes between acts of political participation freely undertaken by University faculty and staff in their individual capacities — that is, acts that the First Amendment to the United States Constitution privileges them to undertake — and acts of those same individuals that may fairly be attributed to the University. The government has issued substantial guidance on this point, which we have distilled into the following guidelines.

Generally

Participation in political campaign activities by senior officials at the University is appropriate so long as those officials clearly indicate that their statements and actions are given in their personal capacities and not on behalf of Harvard.

Participation by other faculty and staff is appropriate so long as the statements and acts are not given “within the context of their employment” at Harvard or with Harvard's “real or apparent authorization.”

All Harvard employees must refrain from using University resources in the course of their participation in any political campaign. For these purposes “University

resources” includes — but is not limited to — University letterhead, @harvard.edu and other email accounts provisioned for work purposes, the University’s offices and other physical facilities, office supplies, electronic resources not available to the general public, and the administrative support of other employees.

Fundraising

Fundraising on behalf of a political candidate or party by Harvard University is strictly prohibited under all circumstances. Faculty and staff, of course, are free in their personal capacities to engage in political fundraising. To ensure that the University is not deemed to be involved in these efforts, faculty and staff must avoid the following activities:

- Implicitly or explicitly requiring another Harvard employee or student to make a political contribution or to support a particular candidate or party;
- Using working hours or support staff resources to solicit or make contributions;
- Using Harvard funds to reimburse individuals for political donations;
- Using work-provisioned email accounts, electronic resources, letterhead, or stationery to transmit and/or solicit political contributions;
- Using a Harvard mailing address as the return address for the solicitation of funds;
- Providing mailing lists or, subject to the “arm’s length transaction” exception set forth below, access to office space, office equipment or Harvard facilities, for fundraising or campaigning; or
- Coordinating institutional fundraising with fundraising for a candidate or political party.

Campaigning and Advocacy

Use of Harvard University resources to sponsor a candidate or party or use of the Harvard name to implicitly or explicitly lend legitimacy or support to a particular campaign or campaign position is also forbidden. Faculty and staff members should make clear in correspondence of a political nature that they are acting in their private capacity and that they do not represent the views or position of the University. If such political correspondence makes reference to the faculty or staff member’s affiliation with Harvard University, he or she must ensure that the document clarifies that employer information is being provided for purposes of identification only. In addition, faculty and staff must not engage in any of the following activities:

- Making oral or written statements, or allowing others to make oral or written statements, in support of a candidate or party in a manner, at a location, or in connection with an event that, given the circumstances, could be viewed as support for such candidate or party by the University (including, for example, placing signs on University property or distributing campaign materials at University events);

- Using University resources or facilities — including writing from work-provisioned email accounts — to make or publish oral or written statements in support of a candidate or party
- Posting links on a University-hosted website to a particular candidate’s website or to other material supporting a candidate or position in a manner that favors one candidate over another; or
- Providing a candidate with a forum that could reasonably be used to promote his or her campaign, if other candidates are not given the same opportunity (such prohibition to apply even if the forum is not intended to assist the candidate).

Voter Education, Registration and Get out the Vote Campaigns

Conducting voter education and voter registration activities is permissible at Harvard University, so long as these efforts do not reflect or incorporate political bias or opinion. Problems arise when such activities, guised in the cloak of education, are in fact used to convey support on behalf of the University for a candidate or party. Accordingly, faculty and staff must refrain from engaging in the following activities to the extent that, in the words of the IRS guidance, they are conducted with Harvard’s “real or apparent authorization”:

- Commenting on specific actions, statements, or positions taken by candidates in the course of the campaign;
- Promoting voting or other action with respect to particular issues that have become readily identified as dividing lines between the candidates;
- Conducting voter registration activities that are skewed in favor of certain candidates, such as questionnaires confined to a narrow range of issues; or
- Coordinating voter education activities with campaign events.

Institutional Support for Student Groups

The University encourages students to engage in political activities, including the support of campaigns. Although the acts of students are not themselves attributable to the University, under certain circumstances Harvard may run afoul of the non-participation requirement through its provision of institutional support for student political activity. Faculty and staff frequently make facilities and other resources available to student groups; indeed, “recognized” student groups may be granted limited funding by their supervising Schools. When providing institutional support to a student group that conducts political campaign activities, faculty and staff should take steps to ensure that (1) applicable University or School policy authorizes the institutional support in question, (2) the institutional support is given on the same basis and terms that govern support of non-political student groups, and (3) faculty and staff extending institutional support to political student groups do not discriminate on the basis of viewpoint.

Exception for Sale/Lease/Rental of Harvard Property

The sale, lease or rental of property, space, facilities, or equipment owned by the University to candidates (or other persons) who intend to use the Harvard property in furtherance of political activities can raise complicated legal and policy issues. The Office of the General Counsel must be consulted if any such arrangements are proposed.

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The guidelines set forth above are not exhaustive and do not provide specific legal advice. When evaluating a particular situation, faculty and staff should use reasoned judgment with the above principles in mind. The point to remember is that partisan political activities must be conducted independently of a faculty or staff member's University affiliation and without the support of University resources, and activities conducted in the course of faculty and staff employment must be both explicitly and implicitly nonpartisan. Please contact the University's Office of the General Counsel with any specific questions regarding these guidelines or participation in political activities.