

FAQs - Candidate Appearances at University Events

September 9, 2020

In support of our teaching and research missions, Princeton University encourages faculty, student groups, and campus organizations to invite a range of speakers to the University to provide their insights, expertise, and perspectives. That said, rules governing the University's status as an educational, nonprofit organization need to be taken into account when considering whether or not to invite someone running for political office, or someone representing a campaign, to a University event (in person or through remote or virtual technology). The following FAQs are intended to help you navigate the rules pertaining to political candidates, campaigns, and the University.

**1. Why does the University have rules concerning bringing candidates to a University event?
Where can I find these rules?**

The University is an educational, nonprofit organization that is exempt from federal income tax under Section 501 of the Internal Revenue Code. Section 501(c)(3) states that exempt organizations like the University may not participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for any elective public office. This includes any individual who offers himself or herself, or is proposed by others, as a contestant for an elective public office, whether national, state, or local.¹

Due to these restrictions on the political activities of 501(c)(3) organizations, the University has rules governing political activity, including rules that address the circumstances under which a candidate can be invited to a University event. These rules can be found in *Rights, Rules, Responsibilities* 1.5.2.

2. Does this mean that you can't invite anyone running for office to speak at a University event?

No. In many cases, candidates for office are also experts in their field or hold current or former positions that would position them to contribute to our campus conversation. If they appear at a University event primarily as a candidate, though, certain special rules apply that must be considered.

3. Under what circumstances can a candidate for elective public office be invited to a University event in their capacity as a candidate?

A candidate may be invited by a campus organization, administrative unit, or academic department to speak at a candidate debate, candidate forum, or other University event, provided that pertinent rules found in *Rights, Rules, Responsibilities*, including sections 1.5.2 and 1.2.3, are followed.

¹ I.R.S. Revenue Ruling 2007-41, 2007-25 I.R.B. at p.2.

4. Can't faculty, staff, and students engage in political activity without implicating the University?

Yes, provided they do so on their own time and do not use the University's resources. Members of the University community are free to participate or not, on their own time, as they see fit, in political and advocacy activities, provided they make clear that they speak only for themselves and not for the University and they do not use University resources.

In order to constitute prohibited political campaign participation or intervention, the political activity must be that of the University and not individual faculty, staff, or students. However, if the actions of faculty, staff, or students could be attributed to the University, the University must take care to ensure there is no impermissible political activity.

5. What are some applicable guidelines for when a candidate is invited to speak at a debate or forum?

All viable candidates seeking the same office or nomination must be invited. The event should be publicized widely and not just to groups or individuals with particular viewpoints.

The questions for the candidates should be prepared and presented in a non-partisan manner (e.g., by an independent nonpartisan panel), and the topics discussed by the candidates should cover a broad range of issues that the candidates would address if elected to the office sought and are of interest to the public.²

Each candidate should be given an equivalent opportunity to present his or her view on each of the issues discussed. Candidates should not be asked to agree or disagree with positions, agendas, platforms, or statements of the University (or a group/unit at the University). The moderator should not comment on the questions or otherwise imply approval or disapproval of the candidates.³

A University representative or the event organizer should state at the outset of the debate or forum that the University does not endorse, support or oppose any candidate. Furthermore, candidates are not permitted to fundraise, distribute campaign materials or conduct campaign-related activities.

6. If there are many candidates in the field, do we really have to invite all of them to speak at the debate or forum?

While it is preferable to invite all candidates, the IRS has indicated that if it is impracticable to invite every candidate, an exempt organization may invite fewer than all of the candidates if reasonable, objective criteria are consistently and non-arbitrarily applied to decide whom to invite, and the criteria are not designed to exclude a particular candidate.⁴ For example, if a candidate were polling below a reasonably and fairly-determined low threshold in a reputable poll, then the candidate might be excluded.

² Revenue Ruling 2007-41, 2007-25 I.R.B. ("Candidate Appearances") at p.5.

³ Revenue Ruling 2007-41, 2007-25 I.R.B. ("Candidate Appearances") at p.6.

⁴ Judith E. Kindell and John F. Reilly, I.R.S. Publication, *Election Year Issues* at p.423.

If inviting all candidates is impracticable, an exception can be made if approved in advance by the Executive Vice President (contact: Laura Strickler, Executive Director of Administrative Planning & Chief of Staff, Office of the Executive Vice President, at lauras@princeton.edu) in consultation with the Office of the General Counsel.

7. In a debate or forum before the primary election, do we have to invite candidates from both parties?

No. A debate or forum before a primary election may be limited to the viable candidates running for the nomination of a particular party. The IRS considers primary debates and forums to be a permissible nonpartisan electoral activity, even though the participating candidates only represent a single party.⁵

Furthermore, exempt organizations are not required to host a debate or forum before the primary election for both (or all) parties, but may choose to do so for only one party.

8. What are some applicable guidelines for when a single candidate is invited to speak at a University event that is not a debate or forum?

When a candidate is invited to speak at a University event, the University must provide an equivalent opportunity to participate to political candidates seeking the same office (either at the same event or a comparable one). The University cannot indicate, expressly or impliedly, any support for or opposition to the candidate. No political fundraising or campaign-related activities can occur.⁶

9. What does it mean to provide an equivalent opportunity to participate?

The nature of the event to which each candidate is invited will be taken into account, in addition to the manner of presentation. For example, if one candidate is invited to speak at a well-attended annual banquet, but the opposing candidate is invited to speak at a sparsely attended general meeting, this will likely violate IRS rules prohibiting political campaign intervention, even if the manner of presentation of both speakers is otherwise neutral.⁷

10. What if the other candidates decline the invitation?

While the IRS does not require that any of the other candidates accept the opportunity, we are required to issue the other candidates a specific invitation to the same or comparable event.

11. Under what circumstances can a candidate be invited in their individual capacity (not as a candidate)?

Candidates may speak at University events in an entirely non-candidate capacity. For instance, a political candidate may be a public figure who is invited to speak because he or she currently holds, or formerly held, public office; is considered an expert in a non-political field; or is a celebrity or has led a

⁵ Judith E. Kindell and John F. Reilly, I.R.S. Publication, *Election Year Issues* at p.422-23.

⁶ Revenue Ruling 2007-41, 2007-25 I.R.B. ("Candidate Appearances") at p.5.

⁷ Revenue Ruling 2007-41, 2007-25 I.R.B. ("Candidate Appearances") at p.5.

distinguished military, legal or public-service career.⁸ However, it might be difficult to justify having a candidate for public office speak about public office during an active campaign.

12. Under what circumstances can a candidate attend a University event open to the public?

A candidate may choose to attend an event that is open to the public, such as a lecture, concert or worship service. The candidate's presence at a University-sponsored event does not, by itself, cause the University to engage in prohibited political campaign activities.

13. What are some applicable guidelines for when a candidate is invited to or attends (in their individual capacity) a University event open to the public?

- Document the reasons for the invitation, other than their candidacy;
- Make every effort to ensure the event does not turn into a candidate appearance, including avoiding any mention of the person's candidacy or the election in connection with the event and prohibiting fundraising;
- Avoid working with the candidate's campaign staff on organizing the event;
- Send a letter to the speaker, informing them of the inability to support or oppose candidates and the need to keep the event nonpartisan, and asking them not to mention their candidacy; and
- Include a non-campaign and nonpartisan disclaimer on written materials and announce it during the event. For example, a University representative or the event organizer should state at the outset that this is a non-campaign event and the University does not endorse, support or oppose any candidate in any upcoming election.

Because the speaker was invited for reasons other than their candidacy, it is not necessary to invite any opposing candidates to speak or to offer similar experiences to all of the other candidates.

14. Are there other measures that should be taken when considering inviting a candidate to a University event?

Yes, the unit or organization that has extended the invitation should inform the Office of the Executive Vice President, which will consult and coordinate with other appropriate offices to allow the University to adequately plan for the event. (Contact: Laura Strickler, Executive Director of Administrative Planning & Chief of Staff, Office of the Executive Vice President, at lauras@princeton.edu.)

In addition, the Office of Government Affairs should be informed about current office-holders invited to University events because they need to track interactions with and meals and entertainment provided to public officials. (Contact: Joyce Rechtschaffen, Director of Government Affairs, at jrechtsc@princeton.edu.)

⁸ Revenue Ruling 2007-41, 2007-25 I.R.B. ("Candidate Appearances") at p.6.

15. What happens if the IRS finds that an exempt organization engaged in prohibited political activity?

The exempt organization could lose its tax-exempt status, and it could be subject to an excise tax on the amount of money spent on that activity.⁹

Note: *These FAQs are for your general information and education only and do not constitute legal advice. Please feel free to contact the Office of the General Counsel with specific legal questions regarding candidate appearances at University events.*

⁹ I.R.S., *Political Campaigns and Charities: The Ban on Political Campaign Intervention Course* at p.6.