

## **Prohibition On Political Campaign Activity: Content and Speech Guidelines as a Public Charity**

Chicago Public Media and its affiliate, Chicago Sun-Times Media are tax-exempt as public charities under § 501(c)(3) of the Internal Revenue Code. (Hereinafter Chicago Public Media and Chicago Sun-Times Media shall collectively be referred to as “CPM.”) As a public charity, CPM is organized and operated exclusively for educational purposes. Specifically, it serves the public interest by providing news and information through local and independent journalism. This Policy is intended to ensure that CPM’s published content is consistent with the organization’s educational mission and complies with the Internal Revenue Code and related IRS guidance, particularly the absolute prohibition on participating or intervening in any political campaign on behalf of or in opposition to any candidate for local, state, or federal public office.

The following general concepts apply to all CPM activities:

- The prohibition against political campaign activities is absolute. Accordingly, even a single instance of CPM participating in prohibited political campaign activity could result in the revocation of its tax-exempt status.
- CPM’s news coverage and opinion pieces should collectively instruct or educate the public on timely and newsworthy subject(s).
- News coverage may address partisan electoral issues, so long as content does not advocate for or against a political candidate.
- Issue advocacy is not prohibited political campaign activity. However, as discussed below, CPM must be cognizant of the line between issue advocacy and prohibited political campaign activity.

Simply put, as a news organization, CPM covers campaigns and elections but does not participate in or attempt to influence them in any way.

This policy applies to all employees of CPM and freelancers when performing work for CPM.

*If there is any question as to whether an anticipated CPM activity implicates the prohibition on political campaign activity, refer the matter to CPM Legal for review and consultation.*

### **I. Educational Purpose under § 501(c)(3)**

As a 501(c)(3) CPM is required to operate for educational purposes. Educational activity includes publication of editorial content that:

- Presents factual information or analysis that helps readers understand issues of public interest;
- Provides historical background, context, or comparative perspectives;
- Explains complex social, civic, economic, or governmental topics in a manner accessible to the general public; and
- Encourages critical thinking by presenting relevant facts and, where appropriate, multiple perspectives.

## **II. Political Campaign Activity Restrictions**

As a § 501(c)(3) organization, CPM is prohibited from participating or intervening in any political campaign for or against a candidate for public office. While there is no exhaustive list or bright line test, the following are prohibited activities:

1. Endorsing or opposing, directly or indirectly, a candidate for public office.
2. Rating candidates for public office. This obviously includes endorsements or ratings, but also includes more implicit expressions of support of or opposition to a candidate for public office..
3. Making direct or indirect contributions to a PAC or a candidate's campaign committee (even if otherwise permitted under applicable election laws)..
4. Reimbursements for contributions to a candidate or his or her PAC.
5. Purchasing tickets to political fundraisers or reimbursement for attendance.
6. Transferring or loaning funds to another entity, either related or unrelated, then having that entity make a political contribution.
7. Providing non-financial support to a candidate or candidate PAC, such as providing space, sponsoring an event, or permitting CPM's name to be used to solicit contributions.
8. Providing use of a mailing list to a candidate, unless the list is offered equally to all candidates.

The IRS uses a facts-and-circumstances test to determine whether a person is a candidate. Generally, a person who has publicly announced their candidacy or intention to run for office, or taken other steps such as fundraising, hiring campaign staff, or participating in debates or candidate forums is considered a candidate. A person who is popularly viewed as a contender may also be considered a candidate.

### **III. Permissible Activity**

The following activities are permissible, however, CPM must ensure that they do not inadvertently result in political activity.

#### **A. Educational Content**

Content that educates does not violate the prohibition against campaign activity even if it advocates a particular position or viewpoint so long as it “presents a sufficiently full and fair exposition of the facts as to permit an individual or the public to form an independent opinion or conclusion.” Treas. Reg. 1.501(c)(3)-1(d)(3)(i). The IRS applies the methodology test to evaluate whether content meets this standard and is therefore educational within the meaning of § 501(c)(3). The methodology test includes four factors that weigh *against* the conclusion that content is educational; CPM employees should evaluate their work against these factors.

1. A significant portion of the organization’s communication consists of the presentation of viewpoints or positions that are unsupported by facts.
2. Facts that purport to support the viewpoints or positions are distorted.
3. The organization’s content makes substantial use of inflammatory and disparaging terms and expresses conclusions based more on strong emotional feelings rather than objective evaluation.
4. The approach is not aimed at developing the audience’s understanding of the subject matter because it does not consider their background or training.

#### **B. Editorial Commentary and Educational Purposes**

CPM may publish opinion pieces, editorials, and other commentary that express a clear—or even provocative—viewpoint. However, to remain consistent with CPM’s educational purposes, CPM should:

1. Clearly label opinion pieces.
2. Rely on facts and disclose factual assumptions.
3. Avoid ad hominem attacks and inflammatory rhetoric lacking a factual basis within the written work.
4. Consider the audience's understanding based on background and educational level.

### **C. Issue Advocacy**

CPM may take positions on public policy issues, including issues that divide candidates in an election for public office. However, in some instances such issue advocacy can function as prohibited political campaign activity. A message may violate the IRS' prohibition even if an activity does not expressly tell an audience to vote for or against a specific candidate if the message implies such advocacy. Communications that contain a directive that enables the reader/listener to know the organization's position on a specific candidate are prohibited.

CPM may also publish critical or complimentary statements with respect to the actions of elected officials or with respect to how elected officials vote on various issues. It may distinguish between candidates. However the following statements should be avoided: (i) personal attacks and gratuitous characterizations without factual support; (ii) calls to action for/against an elected official's candidacy; references to approaching elections.

In particular, CPM employees should take special care when reporting on wedge issues (such as pro life or pro choice positions) in the time period leading up to an election. The IRS will look at whether a statement:

- Makes reference to voting or an election.
- Identifies one or more candidates for a given public office.
- Expresses approval or disapproval of one or more candidates' positions and/or actions.
- Addresses an issue that distinguishes candidates for a given office.
- Contains a directive that enables the reader/listener to know the organization's position on a candidate.
- Is delivered close in time to an election.
- Is part of an ongoing series of communications on the same issue that are made independent of the timing of an election.
- Is related in time to a non-electoral event, such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office.

Timing is a particularly important factor. In the lead-up to an election, statements on wedge issues such as a call to action may implicitly communicate advocacy for or against a candidate, even if those statements would not be problematic outside of an election cycle.

All facts and circumstances surrounding the above activities must be analyzed to determine if they are in danger of violating the prohibition. If there is any indication that an anticipated CPM activity may implicate the prohibition, the matter must be immediately referred to CPM Legal for review and consultation.

#### **D. Neutral Candidate Profiles**

CPM may publish factual profiles of all candidates for office that use consistent criteria and present similar information (e.g. biography, education, stated policy positions).

#### **E. Election Process Coverage**

CPM may report on voter registration rules and deadlines, election dates, how local elections function, and on upcoming ballot initiatives.

#### **F. Voter Guides and Website links**

CPM may prepare and/or distribute voter guides to educate the public. However, such guides must be free of partisan bias and influence. The following guidelines apply:

- All candidates for a particular office must be provided the opportunity to respond.
- Pose questions that are clear and unbiased.
- Candidates must have sufficient time to respond.
- Questions must cover issues of interest to the electorate.
- In no event shall CPM's positions on any issues be included in the guide so that they can be compared to the candidates' positions.

Voter guides may include links to candidate websites so long as there are links to all participating candidates' websites. The IRS will attribute the information on linked websites to CPM. When linking to a site for educational purposes, make sure the contents are nonpartisan and unbiased.

#### **G. Nonpartisan Debates or Candidate Forums**

CPM may host public discussions with political candidates or debates prior to elections, but the format and topics must be nonpartisan and unbiased. Candidate fora and debates are governed by the following requirements:

- Questions must be prepared and presented by a nonpartisan panel.
- When inviting candidates, participation may be limited to candidates who meet pre-established, objective and non-partisan criteria of viability.
- Topics discussed must include a broad range of issues of interest to the public.
- CPM may not demonstrate support for or opposition to any candidate, including indication of moderator approval or disapproval.
- Candidate fundraising at the event is prohibited.

Candidate debates implicate IRS, FCC and FEC regulations. Before agreeing to participate in or host any debate, please consult with the law department for guidance.

#### **H. Political Advertisements**

All parties seeking to place political advertisements supporting or opposing candidates or elected officials shall be charged CPM's standard commercial rate. Such advertisements must be accepted from all candidates, subject only to CPM's general standards regarding tone and tenor, and be presented in a uniform and unbiased manner. All such advertisements shall contain the following statement in large font across the top: "THIS IS A PAID POLITICAL ADVERTISEMENT. THE SUN-TIMES DOES NOT ENDORSE OR OPPOSE THIS CANDIDATE OR ANY OTHER CANDIDATE FOR PUBLIC OFFICE." Due to the heightened scrutiny inherent in all advertisements that involve or implicate candidates or political issues, prior to publication all such advertisements must first be reviewed and approved by CPM Legal.

#### **IV. Approval of this Policy and Amendments**

This Policy was approved and adopted by the CEO and the operations steering team. It is subject to review and amendment. Amendments will be disseminated when approved.