

Debating the Future

Foundations Can Educate the Community Through Candidate Debates

Public and private foundations may attempt to educate voters and encourage voter participation by either sponsoring candidate debates before primaries or general elections or funding grantees to host these types of events. A debate is where candidates directly engage each other at the same time on particular topics in accordance with carefully drawn rules. Both federal tax law and federal election law¹ permit public and private foundations to sponsor candidate debates. In planning a candidate debate, the foundation or its grantees should adhere to the following guidelines in order to ensure compliance with the law:

Invitations

- *All* viable candidates seeking the same office must be invited (not just the two most popular or those the organization considers particularly favorable). While it is preferable to invite all candidates, the IRS has indicated if it is impracticable to invite every candidate, a foundation 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;
- If one or more candidates refuse to participate after being invited, the foundation should consult with legal counsel before deciding to go forward with the event. It is unclear when a candidate's refusal to participate after being invited prevents the foundation from holding the debate at all. If only one candidate has accepted the invitation, it is particularly risky for the foundation to proceed with the event;
- The foundation should not invite people from particular viewpoints to be part of the audience. The goal is to avoid having an audience that is supportive of one candidate and hostile to another. Foundations should publicize the event widely and not just to groups and individuals with relationships to the foundation or its grantees;
- A debate before a primary election may be limited to the legally qualified candidates running for the nomination of a particular party. The IRS considers primary debates to be a permissible nonpartisan electoral activity, even though the participating candidates only represent a single party.²

Moderator

- The moderator should be neutral and act in an unbiased manner, and should make a statement at the beginning *and* the end of the program noting the views expressed were not

¹ This fact sheet addresses only federal tax law and federal election law. If your foundation wants to host a candidate debate featuring state candidates, you should consult with your state's election law. For information on state election laws, you can review our online [State Law Resources](#).

² Sometimes 501(c)(3) primary debates will be questioned or challenged by candidates running unopposed in another party's primary. When planning primary debates, public charities do not have to invite every candidate for that office, only the candidates in that party's primary race. Furthermore, foundations are not required to host a debate for both (or all) parties, but may choose to do so for only one party.

those of the sponsoring foundation. If the head of the foundation or other foundation staff have publicly known opinions on the topics debated during the event, the foundation may want to select another individual to moderate the debate;

- The moderator should treat each candidate fairly, and not provide one candidate with more favorable treatment, such as allowing only one candidate to exceed the pre-set time limit.

Questions

- Questions for the candidates should be prepared and presented by an *independent* and *nonpartisan* individual or panel – though questions from the audience may be permitted as well;
- Questions should represent a broad range of interests rather than a narrow perspective, as a narrow set of issues may suggest support for a candidate, particularly if it looks like the answer is being sought to mirror the foundation's views on those issues. The foundation or its grantees may need to partner with other organizations to ensure a broad range of topics can be discussed during the debate.
- Candidates should not be asked whether they agree or disagree with the positions, agendas, platforms, or statements of the organization.

Rules

- Each candidate must be given an equal opportunity to present his or her views on each of the issues discussed;
- The goal of the debate cannot be to suggest (whether implicitly or explicitly) which candidate is “good” or “better” on the issues; the foundation must avoid comparing its views with those of the candidates;
- The foundation should avoid permitting candidates to distribute campaign literature at the event unless *all* candidates are participating.

While it is permissible to conduct a candidate debate, a foundation cannot publish a final report of the event containing any ratings or evaluations of the candidates, as this would constitute support for or against a candidate.

Alternative Formats

Rather than having the candidates debate, some foundations and charities prefer to have the candidates appear at sequential events, or to allow the candidates to make open-ended statements about their qualifications and opinions (often called a candidate forum). Foundations interested in hosting a sequential event should consult our fact sheet on [candidate appearances](#) as well as review the guidelines described above for candidate debates (to ensure candidates are given equal treatment). In addition, the foundation may also be required to comply with applicable federal or state election law. Federal election law generally prohibits corporations (including 501(c)(3) organizations) from hosting a forum for federal candidates unless it meets strict criteria. The only time a candidate forum is specifically allowed under federal election law is if a 501(c)(3) *educational institution* either makes its facilities available “in the ordinary course of business and at the usual and normal charge” to candidates and party representatives, or if it takes steps to make the event an “academic setting”



rather than a “campaign rally.” As such, an organization wishing to host this type of event for federal candidates will likely need to work in partnership with an educational institution.

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