



FIRE's FAQ on Political Speech on Campus

Political speech is essential for democratic participation, but all too often rules related to political speech on campus are misunderstood and misstated. Here are the answers to questions students have asked us time and time again. For even more information about your rights, check out FIRE's [Policy Statement on Political Speech on Campus 2016](#).

Q: I go to a public college. Do I have free speech rights on campus when it comes to political speech?

A: Absolutely. Students at public colleges and universities enjoy the full protection of the First Amendment. The core purpose of the First Amendment is to protect speech, especially political speech, from censorship. As the Supreme Court of the United States has written, "Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs." *Mills v. Alabama* (1966).

Q: I go to a private school. Do I have free speech rights on campus when it comes to political speech?

A: It depends, but you can find out by looking at your school's policies. If your school promises free speech, the institution should not make exceptions for the election season or political speech in general. Students at private colleges and universities are entitled to the freedoms of expression and association that the school promises in its handbooks, policies, and promotional materials. The [overwhelming majority of private institutions](#) make such promises and publicly advertise themselves as communities where free speech is valued and protected. These schools have an obligation to live up to the commitments they made to their students. For more information about deciphering your school's policies, see our resource, "[Know Your School's Speech Code](#)."

Q: I'm gearing up to campaign on campus but an administrator at my school keeps telling me that the school needs to "stay neutral." What's going on?

A: The administrator isn't wrong and is likely being cautious, but it doesn't mean that you, a student, need to be politically neutral. For universities, maintaining tax-exempt status under [Section 501\(c\)\(3\) of the Internal Revenue Code](#) is a big deal and is something they are very protective of—and for good reason! Many universities try to steer clear of anything that looks or smells like a campaign because if a university can be viewed as endorsing or opposing a particular candidate, they jeopardize their federal, tax-exempt status and the benefits that go along with it.

Section 501(c)(3) restricts qualifying nonprofit organizations, such as a university, from participating or intervening, directly or indirectly, in a political campaign on behalf of, or in opposition to, any candidate for public office.



However, it is *extremely important* to note that these prohibitions apply to the institution itself and those reasonably perceived to be speaking on its behalf, not to individual students, faculty, or staff engaged in clearly individual, unaffiliated activity.

Individual students, student groups, and faculty members may engage in partisan political speech when such speech is clearly separate and distinct from the institution's views or statements. In doing so, the individual student, student group, or faculty member does not endanger their institution's tax-exempt status.

Q: I run a political group that is recognized on campus. Can we campaign for or endorse a specific candidate?

A: Yes. Student groups and organizations are generally afforded the same rights of speech and association as individuals.

Q: An administrator at my private university pulled me aside to tell me that the university's status as a tax-exempt nonprofit forces them to ban speeches by politicians or events. Is that right?

A: No. Tax-exempt status limits the university's political speech, but not that of its students. It's important for everyone on campus to know that IRS rules related to the prohibition on intervening in a political campaign apply to the school itself and not to students. Unless you are claiming to speak for the school, it should be presumed that, in your campaigning, you are expressing your own opinions, not the university's. So, a student group hosting a candidate as a speaker or a partisan political event would not jeopardize the university's tax-exempt status, as long as they follow the same rules and requirements as any other student group hosting a speaker or event.

Q: Am I (or my student group) allowed to use facility resources to engage in partisan political speech?

A: Yes. Student groups that use university resources to engage in political speech do not endanger their university's federal tax-exempt status under Section 501(c)(3) by engaging in partisan speech when those resources are made available to all speakers and student groups, regardless of political viewpoint. Partisan student groups (such as College Democrats, College Republicans, College Libertarians, etc.) should follow the same procedures observed by all other student groups in using university resources (e.g. classroom or lecture hall).

Recognized organizations should not be denied access to student activity fee funding or university resources available to other student organizations because they take a partisan political position or endorse a candidate. The Supreme Court has made clear that when a public university denies student activity fee funding that's available to other student organizations based on a group's message or ideology, it's engaged in viewpoint discrimination that violates the First Amendment. *Rosenberger v. Rector and Visitors of the University of Virginia* (1995).

Q: What should I say to an administrator who has told me to stop communicating with students about a candidate on campus? I don't know what to do!



A: Stand up for your rights. You now have the tools and knowledge to push back on that reasoning—demand the full exercise of your rights. Consider sending a follow-up email to that administrator asking them to clarify the university’s policy. Feel free to attach or link FIRE’s statement on political speech to the email.

Do you think your rights have been violated on campus? Submit your case to FIRE:

thefire.org/submit

Have questions? Email us at fire@thefire.org