**Module 16**

**Candidate Appearances**

**PowerPoint Script**

**Slide 1: Title Page**

Welcome to a brief introduction on candidate appearances and electioneering.

Today we are going to spend some time talking about candidate appearances and electioneering. The goal of this training module is to educate you as to why your organization needs to pay attention to its electioneering activities, particularly to when deciding whether or not to host a candidate at an organization sponsored event. First, we will briefly discuss what is classified as a candidate appearance. Next, we will define when a candidate appears in their official or unofficial capacity. Finally, we will discuss the restrictions on a candidate’s appearance.

**Slide 2: Candidate appearances**

Read from the slide.

**Slide 3: Official vs. unofficial capacity**

A candidate appears in their official capacity when a candidate is invited to speak at an organization’s event in his or her capacity as a political candidate. Alternatively, a candidate appears in their unofficial capacity when a candidate is invited to speak at an organization’s event in his or her individual capacity as a public figure and makes no mention of their candidacy.

The IRS recognizes that a candidate may appear in an unofficial capacity as a public figure where “an individual that ‘currently holds, or formerly held, public office; a public figure considered to be an expert in a non-political field; or one who is a celebrity, or has led a distinguished military, legal, or public service career’ … choose[s] to attend an event that is open to the public, such as a lecture, concert or worship service. The candidate’s presence at an organization- sponsored event does not, by itself, cause the organization to be engaged in political campaign intervention.”

**Slide 4: Official Capacity**

In considering whether a candidate has appeared in their official capacity, the IRS will assess three factors, which include:

1. Whether the organization provides candidates seeking the same office an equal opportunity to participate?
2. Whether the organization indicates any support for or opposition to the candidate?
3. Whether the organization engaged in any political fundraising?

**Slide 5: Whether the organization provides candidates seeking the same office an equal opportunity to participate?**

In assessing whether the organization provides candidates seeking the same office an equal opportunity to participate, the IRS will look to the nature of the event to which each candidate is invited and the manner in which each candidate is presented at the event.

Read the example on the slide.

Answer: This would likely be determined to be a permissible candidate appearance given that all candidates were invited, even though one declined. Additionally, each candidate was given an equal opportunity to address questions, and the candidates were not presented in an unequal manner at the event.

**Slide 6: Whether the organization indicates any support for or opposition to the candidate (including candidate introductions and communications concerning the candidate’s attendance)?**

In assessing whether the organization indicates any support for or opposition to the candidate (including candidate introductions and communications concerning the candidate’s attendance), the IRS will look to how the candidate or candidates are introduced and to the communications concerning the candidate’s appearances.

Read the example on the slide.

Answer: This would likely be determined to be an impermissible candidate appearance given that the candidate was introduced was favored over the other candidates in attendance when the President of the organization offered his support for her candidacy.

**Slide 7: Whether the organization is engaged in any political fundraising?**

In assessing whether the organization is engaged in any political fundraising, the IRS will determine the facts and circumstances of the event.

Read the example on the slide.

Answer: The would likely be determined to be an impermissible candidate appearance given that only one candidate was permitted to set up a table soliciting donations, while all other requests were denied. Despite the facts that President Brown made no mention of any candidate’s qualifications and each was given an equal opportunity to address questions, one candidate was still favored over the rest in that the organization permitted political fundraising solely for her campaign.

**Slide 8: Unofficial Capacity**

In considering whether a candidate has appeared in their unofficial capacity, the IRS will assess five factors, which include:

1. Whether the individual is chosen to speak solely for reasons other than candidacy for public office;
2. Whether the individual speaks only in non-candidate capacity;
3. Whether either the individuals or any representative of the organization make any mention of his or her candidacy or the election;
4. Whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present; and
5. Whether the organization clearly indicates the capacity in which the candidate is appearing and should not mention the individual’s political candidacy or the upcoming election in the communications announcing the candidate’s attendance at the event.

Now that these factors have been mentioned, let’s dive into some examples.

**Slide 9: Whether the individual is chosen to speak solely for reasons other than candidacy for public office?**

In assessing whether the individual was chosen to speak solely for reasons other than candidacy for public office, the IRS will look to the facts and circumstances of the event to determine if the individual acted in their unofficial capacity.

Read the example from the slide.

Answer: The IRS will likely find that the individual acted in their individual capacity given that the Senator made no mention of his time in public office, his campaign for the Presidency, or the upcoming election.

**Slide 10: Whether the individual speaks only in non-candidate capacity; and whether either the individuals or any representative of the organization make any mention of his or her candidacy or the election?**

In assessing whether the individual speaks only in non-candidate capacity and whether either the individuals or any representative of the organization make any mention of his or her candidacy or the election, the IRS will look to the facts and circumstances of the event to determine if the individual acted in their unofficial capacity.

Read the example on the slide.

Answer: While the President of the organization did reference that the speaker was the current Governor, no mention was made of the Governor’s re-election during his introduction or during his speech on arts and education. While the elected official was recognized based on his current title, the President of the organization gave the same introduction that he would for any other official. The IRS will take this into consideration when assessing the facts and circumstances, but it will likely find that the Governor acted in his unofficial capacity.

**Slide 11: Whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present; and whether the organization clearly indicates the capacity in which the candidate is appearing and should not mention the individual’s political candidacy or the upcoming election in the communications announcing the candidate’s attendance at the event?**

In assessing whether the organization maintains a nonpartisan atmosphere on the premises or at the event where the candidate is present; and whether the organization clearly indicates the capacity in which the candidate is appearing and should not mention the individual’s political candidacy or the upcoming election in the communications announcing the candidate’s attendance at the event, the IRS will look to the facts and circumstances of the event to determine if the individual acted in their unofficial capacity.

Answer: The IRS will likely find that the Mayor did not act in his unofficial capacity given that the organization, in introducing him as the Mayor and calling for the attendees to support him in the upcoming election, did not maintain a nonpartisan atmosphere. Additionally, the organization did not clearly indicate the unofficial capacity in which the Mayor was attending, but rather used the introduction to mention the Mayor’s support for the organization while in office to bolster his political candidacy and encourage attendees to vote for him during the upcoming election.

**Slide 12: Permissible candidate appearances**

I know this has been a lot of information, but before we end, I would like to just reiterate what the IRS considers to be permissible and impermissible candidate appearances.

Read from the slide.

**Slide 13: Impermissible candidate appearances**

Read from the slide.

**Slide 14: End**