
From: "Gillespie, Lillian" [REDACTED]
Date: Monday, September 20, 2021 at 10:41 AM
To: "Goodwin, Kelsey" [REDACTED]
Subject: Questions about Enforcement of 501(c)(3)

Dear Kelsey,

Thank you for including us in the Campus Democracy Challenge. I am so excited to work on it and get more students involved in the voting process. I wanted to follow up with you about my thoughts and questions about the activities fair and school interpretation of 501(c)(3).

Last Sunday, while participating in the student activities fair, College Republicans was notified by you and College Democrats that we were not allowed to display or distribute campaign materials for candidates actively running for office. This prohibition, we were told, did not only extend to the fair (which admittedly may not have been the best forum for campaigning), but was consistent with university policy regarding activities on campus at all times. I understand this to mean that Washington and Lee University does not allow individual students and student organizations to use university resources to promote candidates, does not allow speakers running for office to speak unless their candidacy isn't mentioned, and most likely considers campaign materials on university property a policy violation.

While I recognize Washington and Lee is a private university and therefore not constitutionally beholden to preserving students' First Amendment right to free speech, [the school purports](#) to value "the central importance of freedom of expression" in the university community. Banning individual students and student organizations from passing out campaign materials or having campaign materials on school property limits our freedom of expression, as well as an opportunity for students to learn about hands-on civic engagement opportunities.

You referred me to the [IR Code 501\(c\)\(3\)](#), which states corporations operated exclusively for educational purposes "cannot participate in any political campaign on behalf of (or in opposition to) any candidate for public office." However, individual students and student organizations (that do not receive school funds for their activities) do not seem to be the "corporations" mentioned.

The Foundation for Individual Rights in Education (FIRE) [writes](#) that while section 501(c)(3) should be taken seriously, "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." FIRE continues, "In a 1994 statement, the IRS made clear that '[i]n order to constitute participation or intervention in a political campaign...the political activity must be that *of the college or university* and not the individual activity of its faculty, staff, or students'" [emphasis mine]. Washington and Lee's interpretation that prohibitions extend to students and student organizations is either mistakenly overbroad or an intentional attempt to limit students' freedom of expression.

It is preposterous that the actions and opinions of a small minority of students dedicated to politics and political activity could be construed to represent the beliefs of the University as a whole. College Republicans will of course introduce any speakers invited to campus as representing their own ideas and not representing those of the University. Nevertheless, per university policy, if College Republicans invites a Republican speaker does the organization have to invite a Democrat as well? Or can College Democrats be responsible for ensuring equal representation of their viewpoints by inviting their own guests? Their organization will hear no objection from me over inviting a competing speaker.

The General Counsel's [Statement](#) Concerning Political Activity says, "Student political organizations (College Republicans, Young Democrats, etc.) are not prohibited from pursuing their normal activities consistent with the academic nature of their endeavors." College Republicans is a youth political organization for college and university students who support the Republican Party, and by extension affords its members engagement in Republican political activities. Our organization has long been associated with offering students valuable professional connections and experiential opportunities (such as campaigning). Providing students with and notifying students of campaign opportunities falls into the purview of our educational mission. Our actions as students and as a student organization do not imply any writ large endorsement of (or opposition to) any candidate *by the University*.

Regardless of W&L's belief of whether students should or should not express their opinions about candidates for office on campus, questions remain regarding the neutral application of rules surrounding student political activity

Do these rules extend to private property of professors, administrators, and students kept on school grounds, such as a privately owned car emblazoned with Biden or Trump campaign materials (stickers)? Or by extension apply to a privately owned table on school grounds with campaign materials on it?

Would we (students) be prohibited from having private property on campus expressing political statements? What about students that wish to put up posters with political statements or expressions of support for candidates on school property (in campus housing)?

Do Instagram accounts in favor of candidates for office, such as @WLU4Joe and @WLUagainst_JB, imply W&L is for or against a candidate?

Do rules limiting student political engagement ban student campaign contributions made over school WiFi?

May W&L students opt-in to receiving campaign emails to their university email?

Or emails from the local political chapters that may, on occasion, include announcements of candidate endorsements?

Is CRs not allowed to encourage students to get involved with candidates who support our values? If students want to hear from both sides, can they not attend College Democrat functions?

Thank you for your time. I look forward to your response and explanation.

Sincerely,
Lilly Gillespie

Lillian Gillespie
President, College Republicans
Washington and Lee University '22
