

## NHA PAC Guidelines - State PAC

- ***What is the NHA PAC?***
  - Under the Nebraska Political Accountability and Disclosure Act (NPADA), the NHA PAC is a “separate segregated political fund” sponsored by the NHA for the purpose of accepting contributions and making expenditures in support of or in opposition to the election of candidates.
  
- ***Who may contribute to the NHA PAC?***
  - The NHA PAC may accept money only from the employees, officers, directors, stockholders and members of the NHA.
  - The NHA may not contribute to the PAC; however, it may pay certain administrative expenses of the PAC.
  - A person may not make a contribution in a name other than the person’s legal name.
  - The NHA PAC may not hold a fundraising event and solicit contributions from the general public at that event.
  - Government entities may not contribute to the NHA PAC.
    - Public funds may not be used to support or oppose candidates.
    - The NHA may accept contributions from eligible entities that are tax-supported but are not owned by a state or local government entity as long as public funds are not contributed.
  
- ***Are there restrictions on contributions to the NHA PAC?***
  - The NHA PAC may only accept cash contributions in the form of currency, checks, credit cards and money orders.
  - A contribution of more than \$50 in the form of currency may not be accepted.
  - Contributions of more than \$50 must be received via written instrument containing the names of the payor and payee.
  - An anonymous contribution may not be accepted. All anonymous contributions received by a PAC must be donated to a tax-exempt charitable organization and a receipt from the charity is required for documentation.
  
- ***Are there limitations on spending NHA PAC money?***
  - The PAC may disburse funds to local, state and federal candidates.
  - The PAC may pay its own administrative expenses.
  - PAC funds may not be used for lobbying.
  - Generally, there is no limit on how much a PAC may contribute to a candidate.
  - A disbursement may not be made without the express authorization of the PAC treasurer or assistant treasurer.
  - There is no dollar limit on the amount that a PAC may disburse.

- ***What are the reporting requirements of the NHA PAC?***
  - Periodic campaign statements are required.
    - Three primary election campaign statements are required: 30 days before, 10 days before, and 40 days after the election.
    - Three general election campaign statements are required: 30 days before, 10 days before, and 70 days after the election.
    - An annual campaign statement is required on or before January 31<sup>st</sup> following a nonelection year.
  - The names and addresses of all contributors of more than \$250 and amounts contributed.
    - Federal PAC contributions require the names, addresses, occupations and employers of all contributors of more than \$200 and the amounts contributed.
  - Disclosure of to whom disbursements of more than \$250 were made.
  - Contributions of \$1,000 or more received during the 14 days immediately preceding the election require a special report to be filed within two days after receipt.
  - Independent expenditures of \$1,000 or more made during the 14 days immediately preceding the election require a special report to be filed within two days after the expenditure is made.

## **AHAPAC Guidelines – Federal PAC**

- ***What is a federal PAC?***
  - A federal political action committee (PAC) is technically called a “separate segregated fund.”
  - Associated with a particular group, industry or corporation such as the American Hospital Association (AHA) and is usually bipartisan.
  - Designed to promote its members’ views on specific issues, typically by raising money, which is in turn donated to the campaigns of candidates who support the PAC’s positions.
  - Regulated by federal election law, administered by the Federal Election Commission (FEC).
- ***What is a contribution?***
  - Monetary donation given voluntarily, free of coercion.
  - Cash, check, credit card, wire or online transfer.
  - AHAPAC does not accept in-kind donations.
- ***What is prior authorization?***
  - FEC regulations require prior written authorization from a primary contact (usually the hospital CEO or administrator) before the PAC can solicit employees of member organizations.

- Signed prior authorization forms should be maintained in the files of the Nebraska Hospital Association Political Action Committee (NHA PAC) and the American Hospital Association Political Action Committee (AHAPAC).
- ***What is a collecting agent?***
  - Organization affiliated with the AHA (e.g. NHA) that collects contributions on behalf of its PAC.
  - Collecting agents must collect donor information and forward that information along with the contributions to the AHAPAC.
- ***What is a solicitation?***
  - The FEC defines solicitation as a request for a contribution or any information on how to contribute, a statement encouraging support of the AHAPAC.
- ***Who may be solicited?***
  - With prior authorization, executive, administrative and managerial personnel of a member organization (e.g. NHA and member hospitals).
- ***Is a disclaimer required?***
  - FEC regulations require that all materials that may be considered a solicitation contain the following disclaimer:
    - *Contributions or gifts to the AHAPAC are not deductible as charitable contributions for federal income tax purposes. Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in a calendar year.*
- ***Who is the donor?***
  - The person who signs the check or credit card.
  - If the person who signs the check is not the intended donor, written direction must be given by the signatory to record the donation in another's name and the intended donor must be a joint holder of the account the contribution is drawn on.
- ***What are prohibited sources of federal contributions?***
  - Corporate money.
  - Anonymous cash contributions exceeding \$100.
  - Contributions made in the name of others.
  - Contributions from foreign nationals.
  - Contributions from federal contractors.
- ***What is hard money?***
  - Itemized contributions from eligible individual donors that may be used by the AHAPAC to donate directly to federal candidates.

- ***What is soft money?***
  - Money legally contributed to the AHAPAC that cannot be donated to candidates, such as donations from corporations and state hospital associations.
  - Money that may be deposited into the AHAPAC's administrative account and can be used for educational activities or activities that support fundraising but cannot be donated to candidates or their leadership PACs.
  
- ***How will the NHA send contributions to AHAPAC?***
  - The NHA will routinely forward a check, made payable to the AHAPAC, which represents multiple contributors along with a list of donors including: names, addresses, occupations, employers and dollar amount to attribute to each individual.
  - Members of the NHA should forward individual checks or credit card forms to the NHA PAC.
  - Money can also be wired as long as supporting documentation is emailed to the AHAPAC.
  
- ***What are the AHAPAC clubs?***
  - Ben Franklin Club - \$1,000 or more.
  - Chairman's Circle - \$500 to \$999.
  - Capitol Club - \$350 to \$499.
  
- ***What are the contribution limits?***
  - The highest amount an individual can contribute to the AHAPAC in a calendar year is \$5,000.
  
- ***How soon does the NHA need to forward contributions to AHAPAC?***
  - FEC regulations require contributions under \$50 to be forwarded to the AHAPAC within 30 days.
  - Contributions over \$50 must be forwarded within 10 days.
  
- ***How is the NHA's annual fundraising goal determined by AHAPAC?***
  - Each year, the AHAPAC Steering Committee establishes national and state-by-state goals based on hospital revenues and the size of each state's congressional delegation.

## Hospital Guidelines

Nonprofit hospitals are subject to strict rules governing participation in “any political campaign on behalf of or in opposition to any candidate for public office.”

- ***May nonprofit hospitals participate in a PAC solicitation?***
  - In general, nonprofit hospitals and their employees may participate in the AHAPAC solicitation process in the following ways:
    - Hospitals may approve the solicitation of their eligible employees by the AHAPAC and its collecting agents.
    - Hospitals may provide limited administrative support such as by providing a list of solicitable employee’s names and addresses.
    - Individual employees of the hospital may participate more actively in the solicitation of funds for the AHAPAC in their individual capacity such as by holding meetings to promote the AHAPAC or communicating with co-workers about the AHAPAC.
  
- ***What criteria are used to determine if an activity is a prohibited political activity?***
  - Were the activities educational; did they have the effect of neutrally encouraging public participation in the political process?
  - Did the organization express any opinion with regard to political issues?
  - Were hospital resources used?
  - Did the organization exercise control or direction with regard to political issues?
  - Was the activity required by another statutory provision?
  - Was the activity *de minimis*?
  
- ***Does prior authorization or providing nominal administrative support constitute participation in a political campaign? No.***
  - The hospital is not expressing a political view in support of or opposition to the AHAPAC’s political activities or any of the candidates the AHAPAC may ultimately support.
  - The hospital is not encouraging or requiring its employees to support the AHAPAC; rather, it is simply providing an opportunity to participate.
  - The hospital exercises no direction or control over how or to whom the funds are distributed.
  - The hospital is only granting permission, which is required under the Federal Election Campaign Act, for the AHAPAC to solicit a trade association member’s employees.
  
- ***May a hospital or hospital association establish a payroll deduction program for member employees who have chosen to make contributions to the AHA PAC? Yes.***
  - In a letter ruling from 2001, the IRS cited that the activity, while associated with the political process, does not involve any “preference or bias,” either directly or indirectly, for any candidate.

- While resulting in some minimal cost to participating hospitals, the activity is related only to an impartial effort to encourage employees to participate in the political process.
- ***May a hospital provide a list of eligible employees to the AHAPAC for its solicitation? Yes.***
  - To make the hospital's neutral intentions clear, it should include, with the list, a cover letter that states: "We are providing you with this information so that we can make available to our individual eligible employees the opportunity to make a voluntary decision to participate in your program. As an organization we do not favor any political program or endorse, support or oppose any candidates for public office."
  - The mailing of a solicitation to those employees should be conducted by the AHAPAC or the NHA PAC on behalf of AHAPAC, and should not require the participation of the hospital in the actual solicitation of funds.
- ***May individual employees of the hospital participate in AHAPAC's solicitation efforts? Yes.***
  - The prohibition on political campaign activities applies only to the charitable 501(c)(3) organization, not the activities of individuals in their private capacity.
  - Individual employees, in their individual capacity, are free to conduct activities to assist in the solicitation, including encouraging other employees to contribute to the PAC through oral or written communications.
- ***May a hospital facilitate individual efforts of employees? Yes***
  - To the extent such activities are permitted in other circumstances:
    - A hospital may permit PAC representatives to host a PAC information meeting on hospital property on the same basis as it allows other private activities, like charitable or social club activities.
- ***What precautions should be taken to avoid inappropriate involvement by the hospital in these activities?***
  - An employee should avoid the use of hospital facilities, equipment and supplies, except to the extent that similar uses are available to other private organizations or activities.
  - An employee should avoid any suggestion that he or she is acting on behalf of the hospital or that the hospital is encouraging support of the PAC.
  - Solicitation or education efforts should be done during after-work hours or during other personal time. Such efforts should not be conducted during official staff meetings or other hospital functions.
  - Other employees assisting with the solicitation efforts should be doing so voluntarily and not as part of their job responsibilities with the hospital.

## Fundraising Activities

In general, the AHA may solicit its members and the members of its affiliated state associations for contributions to AHAPAC and the NHA may assist the AHA with solicitation, collection and transmittal of contributions to AHAPAC.

- ***Who can solicit contributions to the AHAPAC?***
  - The AHA, NHA and their members may solicit certain individuals for contributions to AHAPAC.
  
- ***Who can be solicited?***
  - AHA management.
  - AHA members – whether they are corporate or individual. Prior authorization is required before any corporation’s executive and administrative personnel may be solicited.
  - Members of the NHA, even if those members are not members of the AHA. Prior authorization rules apply to any corporate members of the NHA.
  - Management personnel of member nonprofit hospitals, government controlled hospitals and for profit hospitals provided that prior authorization has been granted.
  - NHA management and administrative personnel.
  - Management and administrative personnel of a hospital system, as long as the system itself is a member of AHA or the NHA. If the system’s hospitals are also members of the AHA or the NHA, they may be solicited on the same basis.
  - AHAPAC may not solicit the NHA’s PAC. PAC to PAC solicitations are prohibited.
  
- ***May the AHA PAC solicit hospital trustees?***
  - Trustees may be solicited if they have a significant financial or “organizational attachment” to the hospital as demonstrated by “participatory rights” in governance or evidence of “a relatively enduring and independently significant ... organizational attachment.”
  
- ***How does the AHAPAC get permission to solicit?***
  - AHA must get prior authorization from a qualified hospital representative.
    - May be any individual within the management structure who has authority to work with the AHA on PAC matters.
    - Does not have to be the president or CEO
    - A system CEO should not grant permission for member hospitals. Rather, a qualified management representative of the hospital should grant permission.
  - The request for permission to solicit by AHA must request in clear written terms the opportunity to solicit executives of a solicitable entity for contributions for specific years.
    - The request must also state that the hospital may not approve solicitations by more than one trade association in the same calendar year.

- ***When can they be solicited?***
  - Immediately following approval in writing by the appropriate hospital representative and unless limited by the hospital, the AHA may solicit as many times as it wishes.
  
- ***Are disclaimers required on solicitations?***
  - All solicitations must state clearly:
    - The political purpose for which the contributions are solicited.
    - All contributions are voluntary and in will in no way affect the status, terms or conditions of the executive’s employment.
    - If contribution levels are suggested, such as the amount generally expected from executives at certain salary levels, the solicitation must state that the guidelines are only suggestions, and that executives may contribute more, less or not at all, without fear of reprisal or other disadvantage.
    - Contributions are not deductible for federal income tax purposes.
  
- ***How can the NHA and its member hospitals help with fundraising?***
  - The NHA and/or the NHA PAC may solicit, collect and transmit contributions in its capacity as a “collecting agent.”
  
- ***What are some of the legal requirements for the NHA and/or the NHA PAC when assisting AHAPAC with fundraising?***
  - Transmit contributions to the AHAPAC in a timely manner.
  - Report to the AHAPAC in detail the name, address, occupation and employer of the contributors whose contributions are included in any amount transferred to the AHAPAC.
  
- ***May the NHA use its Web site on behalf of AHAPAC and/or NHA PAC?***
  - Information on a Web site is the equivalent of “public political advertising” and any information about the AHAPAC or NHA PAC placed on the NHA’s Web site is considered a communication beyond those whom may be solicited.
    - Basic PAC information (existence, function, names of candidates supported, number of contributors, etc.) on that portion of the site open to the public is allowable. Information should not encourage people to contribute or otherwise participate.
  
- ***May a member of the AHA or NHA that has sent back its prior authorization form solicit eligible employees via the hospital’s Web site?***
  - Yes, if it restricts access to the information to its solicitable employees. This could be done by providing solicitable employees a special password or other unique identification number to access the information.

- ***May email messages be used to solicit contributions?***
  - As with Web sites, email messages soliciting for the AHAPAC may only be sent to those individual executive, managerial or administrative employees who work for a hospital that has approved solicitation by the AHAPAC.
  - The FEC has recognized that occasionally a non-solicitable individual may read such an email solicitation and has ruled that as long as such contacts are de minimus and the original email was directed to the solicitable employee, such contacts are not prohibited.