PAC Communications: Talking to Whom about What

The Basics

- The Federal Election Campaign Act and regulations from the Federal Election Commission identify two basic audiences for corporations and associations: 1) the restricted class; 2) everyone else.
- The restricted class for corporations: executive, managerial, professional, administrative personnel, shareholders, immediate families of the above provided they are US citizens or legal permanent residents.
- The restricted class for associations: executive, managerial, professional, administrative personnel of the association and their immediate families; people who are members of the association in their individual capacity; and employees of member corporations with whom the association normally conducts its business provided all such persons are US citizens or legal permanent residents. The restricted class of an association is defined slightly differently for purposes of soliciting PAC contributions and other communications related to the PAC.
- The restricted class may receive messages about: candidate advocacy including endorsements.
- Others may receive messages about: issues and elections as long as there is no candidate advocacy coordinated with the candidate.
- A PAC may communicate with anyone at any time about any subject in any manner as long as the reporting requirements are fulfilled.

BIPAC Recommendations

- Employers are credible when speaking about issues related to the workplace.
- Employees want to hear about these issues.
- More frequent communications trigger greater support for the PAC, more contact with elected officials, and a more likely voter.
- Fundamental PAC communication includes: annual solicitation, thank you, report on PAC recipients prior to election, annual report.
- Fundamental grassroots communication includes: list of issues affecting organization, alert to communicate with elected officials on those issues, comparison of candidates on those issues, voting record of elected officials on those issues.
- Fundamental election/get out the vote communication includes: reminder of election dates, voter registration campaign, early/absentee ballot opportunities, get out the vote messages.

Typical Communication about the PAC

- Basic information about the PAC can be shared with anyone outside the restricted class. This would include a mere mention that the organization has a PAC and data that could be derived from public records (such as how much money was raised, who received contributions, etc). Such communications may not use laudatory language about the PAC or those who give or information about how to give to the PAC. Trade associations
may send unlimited requests for prior approval to the designated individual within member organizations, but may not solicit PAC contributions until prior approval is granted.

- Annual solicitation message and follow-ups to the restricted class. These can be conducted through meetings, printed material, one on one presentations, telephone calls, email, web-based or other electronic messaging. Annual solicitation in the form of an organization-wide campaign during the first quarter with a uniform message and methodology is the norm. Other organizations segment or tier the restricted class in a “rolling solicitation” that could run throughout the year using different messages or methods to reach different tiers.

Candidate Advocacy/Endorsements

- A corporation or trade association may endorse/recommend the election or defeat of candidates or engage in so-called express advocacy on behalf of candidates to its restricted class. Any expenses over $2,000 for any express advocacy related to an election must be reported to FEC.
- A corporation may publicly endorse/recommend the election or defeat of candidates or engage in so-called express advocacy on behalf of candidates as long as the messages are not coordinated with candidates or political parties and comply with the rules and regulations applicable to reporting independent expenditures.
- The press list with whom the organization normally communicates may be notified of these endorsements/advocacy as long as they are not coordinated with the candidate or agents thereof.
- Such communications should not be coordinated with candidates or their agents. The FEC uses a three-pronged test to determine coordination. An activity or communication is deemed to be coordinated if it meets certain tests of payment, content, conduct. A candidate’s responses to inquiries about his/her position on legislation or policy is not considered an element of coordination. Refer to FEC guidelines and/or discuss with BIPAC any questions that arise in this area.

Appearances by Candidates and Elected Officials

- Candidates and elected officials may appear before corporate and association audiences at any time, but certain rules apply depending upon the audience and the nature of the appearance.
- Before the restricted class: corporation or trade association may present a PAC check; corporation or trade association may endorse the candidate; candidate may solicit contributions or volunteers; no requirement to offer equal opportunity to other candidates; organization may not republish or reproduce candidate’s campaign materials.
- To all employees or association members: corporation or trade association may not present a PAC check or endorse the candidate; candidate may ask for support and leave behind information; organization may not solicit or direct contributions to the candidate; organization must permit other candidates for the same office to make a similar appearance if those candidates request such an opportunity unless the elected official appears in his/her capacity as an incumbent and the event is devoid of campaign/election content.
Electioneering Communications

- This term refers to certain ads aimed at the general public that are not candidate endorsements or express candidate advocacy but which normally would be considered issue ads if run during a different time frame. Typical content could be: Call Rep. Smith and tell him thank you for supporting jobs in our district; tell Sen. Jones to vote for S 1234; Sen. Smith, don’t come home unless you fix Social Security; Rep. Jones voted for China trade, etc.
- The law defines what makes one of the above messages an “electioneering communication” due to the proximity of the election. Electioneering communication is defined in the law as any broadcast, cable or satellite ad that refers to a clearly identified candidate within 60 days of a general election, special election or runoff election or within 30 days of a primary which can be received by 50,000 or more persons in a congressional district or state where the election is being held. This definition applies even if the ad refers to the candidate in the context of an issue. Communications that are done through newspaper ads, billboards, direct mail, etc are not included in this definition even if they mention a candidate in an issue context during this timeframe.
- Communications on issues mentioning the names of candidates aimed at the restricted class or other employees/retirees conducted by corporations or trade associations by means other than TV or radio, are not considered electioneering communications.

Issue Alerts/Grassroots/Voting Records

- A Corporation or trade association may share its issue agenda with anyone at any time in any manner.
- Corporations or trade associations may send issue alerts to all employees and retirees and ask them to take action by communicating with an elected official.
- Information on an issue agenda or “take action” messages can be included on websites reachable by the general public.
- Voting records that state how an elected official performed on issues may be sent to anyone without triggering regulation as long as they contain no language or indications that can be construed to endorse a candidate in an election.
- Voting records accompanied by candidate endorsements can be sent to the restricted class.

Election Information/Get Out the Vote

- Organization may circulate information on elections including candidate profiles to anyone as long as no candidate is favored and the material is not a republication of material received from the candidate or agent thereof.
- Organization may circulate information that favors a candidate to the restricted class.
- Voter registration drives may be conducted among the general public as long as there is no express advocacy and opportunities to register are made available to anyone who requests them.
- Voter registration drives aimed at the restricted class could include a recommendation to register in a particular party or on behalf of a particular candidate.
- Early voting/absentee ballots/get out the vote information can be directed at the general public without triggering regulation as long as there is no express advocacy.
- Early voting/absentee ballots/get out the vote information aimed at the restricted class can include express advocacy and recommendations on behalf of a particular candidate.