

*Federal Elections,
Union Publications
and
Union Websites*

(Produced by the APWU National Postal Press Association)

Dear Brother or Sister:

Election Day is Tuesday, November 8, 2008. Working families have an enormous stake in the 2008 elections, as control of the White House, Senate, House of Representatives, governorships and state legislatures will be determined.

As union representatives we can help make a difference on Election Day. Through our publications we can inform our members about the significance of the election, educate them about the issues, provide a review of the candidates (including endorsements), emphasize voter registration, encourage contributions to APWU COPA and publish reminders about the importance of voting on Election Day.

The following guidelines will be of assistance when including information in your publication regarding the November 2008 elections for federal representatives. Also included in this booklet are guidelines for websites.

Elections for federal offices are regulated by the Federal Election Commission (FEC) and federal law. State law governs elections for state and local offices. Consult with an attorney who is familiar with your state's election laws before pursuing any activity regarding candidates for state or local office. **(Note: These guidelines do not apply to internal union elections. Such elections are covered under separate laws and regulations.)** For the purposes of this material, references to a "local" also apply to any other APWU body, including state organizations.

Also discussed in this booklet are techniques used by labor organizations in past federal elections that generated a high level of participation by union members and their families on Election Day. For example, one key principle is to focus on the candidates' positions on issues (especially postal worker-related) instead of publishing "marching orders" based on political party affiliations. Read more about these proven techniques starting on page 10.

As always, the APWU National Postal Press Association is here to serve you! Therefore, if you have any questions regarding this information please let us know.

In Solidarity,

Tony Carobine, President
APWU National Postal Press Association

Overview

Mailings directed to your restricted class can include advocacy material, such as candidate endorsements, while publications sent more broadly cannot. A local union's restricted class is limited to APWU members (including retirees who pay retiree dues) and their families and executive or administrative personnel of the local union and their families. Executive and administrative personnel of locals are salaried employees in a managerial or professional position.

The FEC has found that mailings sent to a few people who were not members of the restricted class were not violations of the law, as long as only a **de minimis** number of additional people received the publication inadvertently. This seems to apply only if a good faith effort was made to restrict distribution of the publication containing advocacy material to the restricted class. **Please remember that members of unions other than the APWU are not part of your local's restricted class!**

Material permitted in your publication if it is mailed only to your local's restricted class:

1. Information about the APWU Committee on Political Action (COPA). Note: Any article that encourages contributions to COPA is considered a solicitation.

When including a COPA solicitation in your paper, send that issue of the paper only to your restricted class, and not, for example to other unions, public officials, etc.

The following statement must accompany information in a publication that encourages COPA contributions or provides information about how to make COPA contributions. The statement must be clearly and conspicuously displayed.

“Contributions or gifts to COPA are not deductible as charitable contributions for federal income tax purposes. COPA will use the contributions it receives for political purposes, including making contributions to candidates for federal, state and local offices, and addressing political issues of public importance. Contributions to COPA are voluntary. More or less than the suggested amount may be given, and the amount given or the refusal to give will not benefit or disadvantage the person being solicited. Federal law requires political action committees to report the name, mailing address, occupation, and employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.”

2. A column or editorial written by an APWU member stating his/her personal views on a partisan candidate. This includes personal endorsement of candidates and urging others to vote for a particular candidate. Any article that implies support for a candidate should include a statement that it represents the views of a particular local member or of the local, as appropriate. This can be done by inserting a phrase such as "in my opinion" or a by-line.

3. Publication of information about a candidate in the form of a resume of his or her qualifications for office, or a "score card" of positions on issues or voting records. (Note: Reprinting of campaign material received from a candidate for federal office is prohibited. See *Prohibited activity with regard to material provided to your restricted class* on page 3).

4. A "bona fide paid political advertisement" paid for by a candidate or political party. You must charge for the advertisement at your established rate and payment **must** be received prior to publication.

5. Encourage members to register and vote and to vote for a particular candidate.

6. Encourage members to volunteer to work for candidates involved in federal, state and local campaigns.

7. Publicize upcoming candidate events such as political rallies, meet the candidate forums, etc. You can also report on what happened at such events, including discussing the points made by the candidate in his or her speech.

8. Expression of an opinion on an issue or legislation; for example, support for Medicare in such a way that a "reasonable person" would interpret this as urging the election of a particular candidate(s).

Prohibited activity with regard to material provided to your restricted class:

Do not reprint **unpaid** advertisements, or any other campaign material prepared or issued by a candidate or political party.

Reprinting this material in an APWU publication without being fully compensated by the candidate's campaign will be considered a campaign contribution by the local from its general fund. It is a violation of federal law to make a campaign contribution to a federal candidate from a union's general treasury.

This is not a Hatch Act restriction, but rather comes under Federal Election Laws administered by the Federal Election Commission.

In regard to state and local elections, laws concerning campaign contributions, and what constitutes a campaign contribution vary from state to state. Therefore, we strongly suggest that you consult with an attorney who is familiar with your state's election laws before publishing a candidate's campaign material or any campaign material for state or local office.

The best way to avoid problems is not to print material from candidates or political parties which is in the form of an advertisement. Instead, think of these ads as a source of information and write an article for the paper using the material from the advertisement and your own words. You may use brief quotations from speeches or other materials of a candidate in an article.

Material permitted in your publication if it is distributed outside your restricted class:

If you send your publication outside your restricted class, you may include any of the following in the publication, **provided the publication does not expressly support or oppose a candidate or political party**. Within 120 days of an election, your statements outside the restricted class may not be coordinated with a candidate or party if the statements make reference to a candidate or party.

1. Notices urging persons to register and vote that do not express support for or opposition to a candidate or political party.
2. Official registration and voting information. You can reproduce any material produced by official election administrators.
3. Voting records of Members of Congress, as long as you do not imply endorsement or opposition to them.
4. Voter guides. You may prepare and distribute to the general public guides showing two or more candidates' positions on campaign issues and biographical information on them. In publishing this material you must not coordinate in any way with candidates, political parties or their committees. However, to obtain information you may direct questions in writing to the candidates but if you use candidate questionnaires, you must send the questions to all candidates for a particular office and give them an equal opportunity to respond.
5. News reports. News reports may include reports of endorsements, political positions of the union and candidates' qualifications and positions on issues, and the fact that the APWU, local, state, or the AFL-CIO supports a given partisan candidate.
6. Information about public policy issues, legislative bills and referenda.
7. Issue advocacy that mentions incumbent office holders by name and expresses views on their policy positions (but **does not** expressly advocate their election or defeat.)
8. Statements advocating that incumbent office holders cast certain votes or take certain actions.
9. Statements asking candidates to adopt particular positions or commit to take certain official actions if elected.

Remember, if your publication contains material endorsing or opposing candidates or political parties, you may not circulate it to the general public.

The Internet and Federal Elections

Federal regulations prohibit using union treasury money (directly or indirectly) to make a contribution to a candidate's campaign. Regulations also limit the type of material that can be disseminated outside a local union's restricted class. Therefore, a local union must be careful about the material included on its website, because a website is considered to be open to the public and therefore not entirely within a local union's restricted class. Within 120 days of an election, your statements outside the restricted class may not be coordinated with a candidate or party if the statements make reference to a candidate or party.

Material permitted on a local union's website:

1. Notices urging persons to register and vote that do not express support or opposition to a candidate or political party. Such get-out-the-vote communications cannot be coordinated with a candidate or political party.
2. Official registration and voting information. You can reproduce any material produced by official election administrators.
3. You can inform website visitors what positions elected representatives take on issues important to postal workers and all working Americans, and you can encourage visitors to contact their representatives to express their own opinions on such issues.
4. Voting records of Members of Congress, as long as you do not imply endorsement or opposition to them.
5. Voter guides. You may prepare a voter guide showing two or more candidates' positions on campaign issues and biographical information on them. In publishing this material you must not coordinate in any way with candidates, political parties or their committees. However, to obtain information you may direct questions in writing to the candidates but if you use candidate questionnaires, you must send the questions to all candidates for a particular office and give them an equal opportunity to respond.
6. A labor organization may issue a press release announcing a candidate endorsement and may post the press release on its website, provided that four conditions are met:
 - (a) The labor organization ordinarily makes press releases available to the general public and posts them on its website;
 - (b) The press release is limited to an announcement of the labor organization's endorsement or pending endorsement and a statement of the reasons therefore;
 - (c) The press release is made available in the same manner as other press releases made available on the website; and
 - (d) The costs of making the press release available on the website are *de minimis*.

7. You may establish and maintain a hyperlink from the website of a labor organization to the website of a candidate, political committee or party for no charge or for a nominal charge. It is not considered a contribution or expenditure, and is therefore permitted, even if the labor organization selectively provides hyperlinks to one or more candidate(s), political committees(s), or political parties without providing hyperlinks to any opposing candidate(s), political committee(s) or political parties provided the following conditions are met:

(a) The labor organization does not charge or charges only a nominal amount for providing hyperlinks to other organizations;

(b) The hyperlink is not a coordinated general public political communication. This means that the labor organization cannot, in any fashion, coordinate the establishment of a hyperlink with any candidate, political party, or their committees. It must be a unilateral action by the labor organization.

(c) The hyperlink is not anchored to an image or graphic material that expressly advocates the election or defeat of a candidate(s) or political party. This would also include the text around the hyperlink. An exception occurs if the hyperlink is anchored to the text of the Uniform Record Locator (URL) of a candidate, political party or political committee's website. In that event, the text of the URL is not subject to the express advocacy limitation. Therefore, even if the text of the URL itself expressly advocates, the hyperlink would be exempt, so long as the other conditions are met.

8. Information about public policy issues, legislative bills and referenda.

9. Issue advocacy that mentions incumbent office holders by name and expresses views on their policy positions (but **does not** expressly advocate their election or defeat.)

10. Statements advocating that incumbent office holders cast certain votes or take certain actions.

11. Statements asking candidates to adopt particular positions or commit to take certain official actions if elected.

Material prohibited on a local union's web site:

1. You cannot express an opinion on an issue or legislation in such a way that a "reasonable person" would interpret this as urging the election or defeat of a particular candidate. It is important that you not coordinate any postings with candidates or political parties and that you not "expressly advocate" the election or defeat of any particular candidate or political party. For example, the website should not say "vote against Congressman X," or otherwise use phrases or words indicating express advocacy.

2. The website cannot be used to solicit funds for APWU COPA unless the solicitations are accessible only by persons in the restricted class by use of a protected password. (See "**APWU COPA Solicitations through the Internet**" on Page 7.)

3. The website cannot contain a copy of the union's publication unless the publication contains no COPA solicitation or the COPA solicitation is removed or the union publication with the COPA solicitation is accessible by persons in the restricted class by use of a protected password.

APWU COPA Solicitations through the Internet

You may use the local union's website to solicit contributions for COPA, so long as the solicitations are directed only to persons inside the local union's restricted class (APWU members including retirees who pay retiree dues and their families and executive or administrative personnel of the local union and their families).

To ensure that the solicitations for contributions to COPA only are directed at persons inside the local union's restricted class, and not to the general public, the local union must:

1. Confine the solicitation to areas of the website accessible only to the restricted class. This is typically accomplished by having a members' only section of the website accessible only by a protected password provided to persons in the restricted class (the local union can use the same password for all members).
2. Ensure that any part of the website accessible to those outside the restricted class includes the following statement: ***Federal law prohibits soliciting contributions from outside the restricted class and that such contributions, if made, will be returned to the donor.***
3. Closely monitor contributions to prevent the receipt of contributions from outside the restricted class.

Federal Election Review

Following are the answers to some frequently asked questions regarding federal elections:

Is it a violation of Federal Election Law to reprint camera-ready candidate ads circulated by the AFL-CIO without receiving payment from the candidate?

Answer: No, as long as the communications meet the following requirements: (1) they are communications from the labor organization printing them or the AFL-CIO; (2) the communications are made primarily to your restricted class; and (3) the costs of advocacy over a \$2,000 threshold per election are reported to the Federal Election Commission.

(1) You should not print ads or campaign materials sent to you from a candidate or political party.

(2) The communication cannot be sent to individuals outside the restricted class. Remember that the restricted class consists of APWU members (including retirees who pay retiree dues) and their families and executive or administrative personnel of the local union and their families. Members of other unions are **not** in your restricted class. If you send the communication to persons outside the restricted class, it is a communication to the general public, the contents of which are more restricted and which cannot contain this type of express advocacy material at all.

(3) If any labor organization spends more than \$2,000 on the direct costs of communications that advocate the election or defeat of clearly identified federal election candidates, **and the communication is not primarily devoted to other subjects**, that labor organization must file a quarterly report with the FEC on FEC Form 7. For this purpose, each APWU affiliate is counted separately. Also, each election is counted separately—the primary and the general election are separate elections for purposes of the \$2,000 threshold. However, all communication costs for or against all federal candidates in a particular election cycle are combined to see if the APWU affiliate in question exceeded the \$2,000 threshold. Costs associated with a candidate or party appearance, with phone banks, and with registration or get-out-the-vote drives, that are aimed at the restricted class and expressly advocate the election or defeat of a candidate, should be included in determining whether the \$2,000 threshold has been exceeded. **If a newspaper is primarily devoted to other subjects (do a page count) there is no reportable communication.** A special endorsement issue would, of course, be a reportable communication.

Can an APWU local or state organization send out a letter to all its members announcing that certain federal election candidates have been endorsed by the local or state organization?

Answer: Yes. An APWU local or state organization could pay for such a letter if it is an internal communication. It can only be circulated to the organization's restricted class, which consists of APWU members (including retirees who pay retiree dues) and their families and executive or administrative personnel of the local (state) union and their families. If recipients are outside the applicable restricted class, then it is not an internal communication and it cannot be sent.

If the cost of the letter and all other communication costs for advocacy activity exceeds \$2,000 per election (either primary or general election) for an APWU local or state organization, then the particular APWU affiliate must file FEC Form 7 and report the costs.

Can a local or state union publicly announce endorsement of a candidate through a press release and press conference, for example, endorsement of a candidate for Congress?

Answer: Yes. This can be done within certain limits. The press release and notice of the press conference can only be distributed to representatives of the news media that the local or state affiliate customarily contacts when issuing non-political press releases or holding press conferences for other purposes.

Can advocacy material printed in a local or state paper be reprinted in another local or state paper?

Answer: It is all right to reprint advocacy material originally printed in another local or state paper. Remember that advocacy material may only be sent to the restricted class.

Would it be a violation of FEC regulations to post endorsements of federal election candidates on a web page on the Internet?

Answer: YES. This would violate FEC regulations because the express advocacy would be communicated beyond the local's or state organization's restricted class. However, there are two exceptions to this prohibition:

1. If you routinely post news items from the union on the web page, you may post in the same manner a news item or news release announcing the union's endorsement of a candidate and stating the reasons for the endorsement.

2. The APWU COPA or local PAC may pay, with hard money, the cost of creating the material and the appropriate portion of ongoing hosting fees and access fees necessary to pay for a portion of the website dedicated to candidate or party endorsements. Such statements must include the required disclaimers for COPA or PAC endorsements.

Preparing for Election 2008

On Tuesday, November 4, 2008 voting-age Americans will have the opportunity and responsibility to go to the polls and cast a ballot for candidates of their choice for president, congressional representatives, state and local offices. As with all elections, the outcome will have an impact not only on our future as postal workers but all working Americans.

We must prepare our members for this important election. We need to educate them about the issues, advise them about how candidates stand on issues important to postal workers and all working families, tell them how to become registered voters, and remind them about the significance of voting on Election Day.

This is quite an involved task, but nonetheless a vital one. How can union representatives make a difference? The answer is communication and it must be a continuous effort.

The right approach

Many working people are not keenly involved in the political process and therefore aren't familiar with the candidates and where they stand on issues important to their lives. The less working families have become involved in politics – the more that politicians will be elected who don't represent their interests.

Adding to this dilemma are labor unions whose only election effort is to tell their members who to vote for on Election Day, often just a few days before they were asked to go to the polls. With this practice union members don't feel any ownership of the process and resent being told what to do.

Research indicates that members want unions to take a different approach to political action that included two key elements.

(1) Members desire political action to be, first and foremost, about them and their needs, not about candidates or political parties. Unions need to make clear that their criteria for making political and legislative decisions are based on what is in the best interests of members and other working people.

(2) Political action should focus on informing and involving the members so they can be politically empowered. The traditional candidate endorsement of labor political action does not empower them. What members want most from their union is more political information and then to be trusted to make the right decisions, rather than receiving endorsements that often seem like "marching orders." Members understand that knowledge is power and they want their unions to give them the information they need to be smarter voters and to make a difference.

Surveys conducted after recent elections offer some interesting facts about the influence that communication had on the elections. Union communications to members and their families made a difference in the election – not only in how they voted, but also, in many cases, with the outcome of the election. Local union communications were particularly effective and had the highest degree of credibility with the membership.

As a result of surveys and polls among union members, it was also discovered that when it comes to politics, members want information, not orders from their unions. They want to know about issues – not partisan agendas. Following are guidelines based on union members' views to keep in mind when communicating political information:

Issues come first, candidates and parties second. From the members' perspective, political information should be based on issues. Working to elect pro-worker candidates is a legitimate union activity, but only as a means to win on important issues – not as an end in itself.

Members are very distrustful of information that comes from politicians, and are even skeptical of much they see in the mass media – so they are looking for independent sources of information. Communications with members, therefore, should emphasize the union's independent perspective and respect workers' general skepticism. Union publications should feel like *Consumer Reports* for working people, providing an objective and independent view on important employment and economic issues. Most members already believe their unions generally provide accurate and truthful information – a significant accomplishment amid today's cynicism.

Members want information, not voting instructions. Information is what most members want from their union. Members say they do not want to be told for whom to vote. Often they perceive endorsements as "instructions" on how to vote, to which they react with indifference or even resentment. Some also suspect that endorsements are driven more by unions' institutional interests than by what is best for members.

Before members will respect endorsements, they need to see what lead to them—such as issue positions and voting records. Members prefer information from the union that shows the positions of both candidates on key issues.

If solid information is provided, most members do not object to the union also making a formal candidate endorsement. But recommendations or suggestions – indicating respect for members' intelligence and good judgment – are received better than what members perceive as commands. The first choice of many members is to have the union evaluate candidates, provide information and leave it to the individual to make the final call.

Present information credibly and objectively to overcome members' distrust of politics. Members trust their union more than many other sources, but they are extremely skeptical regarding anything dealing with politics. Therefore, it is important that information is credible – with information sources cited, for example, and without unbelievable claims about how good (or bad) candidates may be.

Members' favorite union political materials are voter guides that evaluate candidates for an office. Side-by-side comparisons of the candidates and their positions and records on key issues allow members to make direct comparisons, which is very helpful in decision-making. Such pieces also suggest that the union actually evaluated the candidates, and didn't simply make a partisan choice.

Downplay partisan rhetoric and stress the unions' role as an independent voice for working people. Members don't want their union drawn into the excessive partisanship that Americans generally consider the downfall of our country's political system. Political communications should be based on issues, not on parties. Members recognize that unions may endorse Democrats more often than Republicans, but want reassurance the union's support is a result of a candidate's commitment to workers and their families rather than a reflection of a pro-Democratic bias.

Members want unions to represent their interests as workers, addressing issues that directly affect them on the job and by advancing a populist economic agenda. Labor's issue agenda should focus primarily on work-related and economic issues—the areas where members feel unions have clear understanding. Members trust the union to represent their interests on matters directly relating to their jobs.

Most members are also comfortable with the idea of unions representing their economic interests beyond the workplace. Members generally consider such issues as Social Security, Medicare, the minimum wage and tax fairness to be "pocketbook" concerns within the proper sphere of union involvement. Members see that large corporations and the wealthy have hugely disproportionate political influence, and believe that unions' counterweight on economic matters benefit working families.

Information is a key to increasing participation. Members strongly support union efforts to encourage them to vote on Election Day. Regardless of party, they feel this is an important and legitimate union activity.

Traditionally, mobilization is thought of as a fundamentally different activity than persuading members to support particular candidates. Research suggests, however, that the most important barrier to participation is members' low level of knowledge. People who do not feel they know much about the issues in a campaign, or where the candidates stand, are reluctant to walk into a voting booth.

Consequently, the best way to increase turnout is to educate members about the issues and candidates. Armed with this knowledge, members and their families are more likely to participate and will make informed choices when going to the polls on Election Day.

Communicating with your members about politics

- Shape the message so that it's about members, not about politicians. Emphasize what individual members and their families have at stake in the election. For example, point out that union members are facing economic problems and which candidates offer viable solutions for doing something about them.
- Write from the point of view as advocates of the members, not as political insiders. Labor editors communicate with members on a regular basis and, as a result, know what they're concerned about.
- Respect members' opinions and their ability to make their own decisions. Most people don't vote for candidates just because their union tells them to.
- Provide members with at least semi-objective information about the candidates and why the union endorsed specific individuals. Give them the information they need to make informed decisions.
- Keep messages positive. It's okay to point out weaknesses in opposing candidates, but it's more important to spell out the positive programs and ideas that labor-endorsed candidates have for dealing with problems.
- Focus on issues that directly concern postal workers and all working Americans. There are plenty of issues in every campaign; maintain your publication's credibility by concentrating on those that you address on a regular basis.
- Remember that a key task is to motivate members to get out and vote. Bringing them to the union's point of view on issues is the first step; translating those thoughts into action and votes is the second.