

# Encouraging Civic Engagement:

## Community Health Centers and Nonpartisan Voter Education & Registration Activities

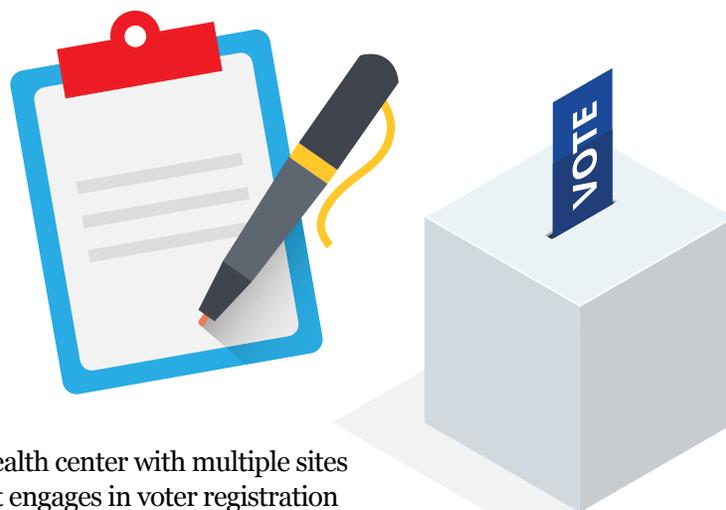
BY  
JONAY FOSTER HOLKINS, ESQ.

**H**ealth centers are fixtures in their communities, serving medically underserved residents and ensuring equal access to health care. As such, they are uniquely positioned to empower underrepresented communities to participate in the electoral process through voter registration initiatives.

While nonprofit, 501(c)(3) organizations must adhere to restrictions on lobbying and a strict prohibition on intervening with political campaigns, health centers may engage in voter registration and education initiatives for their communities. In no way, however, should a health center imply that services offered by the health center are dependent upon a patient's decision to register to vote.

### The Importance of Neutrality

A health center may legitimately engage in voter registration or other get-out-the-vote activities to encourage patients to participate in the electoral process provided that they are conducted in a completely nonpartisan matter. For voter registration to be non-partisan, it must not favor one candidate or party over another. For this reason,



a health center with multiple sites that engages in voter registration activities should provide voter registration at all sites.

For example, it is not advisable for a health center to choose to only conduct voter registration in its delivery sites in neighborhoods that are likely to support a particular candidate or party. If a health center provides voter registration activities at one or some sites over others, it may be considered as “evidence of bias” that the health center favors one candidate over another, opposes a candidate in some manner, or have the effect of favoring a candidate or group of candidates — which are each considered prohibited participation or intervention in a political campaign.<sup>1</sup>

Moreover, if a health center is part of a multi-service organization that receives funding from multiple sources, it should be mindful that some federal programs like Head Start, for example, may have different restrictions on voter registration initiatives and may prohibit voter registration activities entirely. Because each funding source has its own set of rules, health centers must assess whether there are any restrictions on voter registration activities for each source of funding. Health centers must also be aware of any state or local requirements or restrictions for conducting voter education and registration activities.

<sup>1</sup> The Restriction of Political Campaign Intervention by Section 501(c)(3) Tax-Exempt Organizations, the Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/the-restriction-of-political-campaign-intervention-by-section-501c3-tax-exempt-organizations> (page last reviewed or updated on November 30, 2018).

## Empowering Engagement

Health centers can support the participation of patients in the electoral process in a number of ways as long as they do not encourage them to register as members of a particular political party or encourage them to vote for a particular candidate. They should also exercise caution if they know a patient population is likely to overwhelmingly favor a candidate or party over another even without outside encouragement.

- Encourage patients to register to vote
- Assist patients with completing registration forms
- Send completed forms to the election authorities
- Provide voter registration materials in waiting rooms
- Allow private, non-partisan organizations, such as the League of Women Voters, to do voter registration on site

In addition to voter registration activities, non-profit health centers may also engage in non-partisan voter education activities, which can include hosting a public forum or publishing voter education guides, so long as such activities are conducted in a non-partisan manner.

For health centers that engage in voter education activities, it is advisable that they provide a balanced, nonpartisan perspective of all political parties and candidates. Health centers may report to patients how legislators voted on a particular subject matter issues (e.g. health care issues), but they must not provide information on the health center's position on the particular candidate or issue.

Further, any information provided by the health center must be provided in the same manner during an election campaign as it is during other times.

It is also not advisable for health centers to publish voting records for the first time during a political campaign or before an imminently

approaching election. Health centers that are interested in conducting voter education and registration activities should establish, through the health center's Board of Directors, a policy about the health center's voter registration activities.

Although health centers may conduct voter registration activities, they are prohibited from undertaking political campaign activities. Pursuant to the Internal Revenue Code, health centers that are section 501(c)(3) organizations are prohibited from "directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office."

## Understanding the Rules

The Internal Revenue Service considers contributions to political campaign funds or written or verbal public statements of positions made on behalf of a non-profit "organization in favor of or in opposition to any candidate for public office" as a clear violation

of the prohibition against political campaign activity. This prohibition applies to any elective public office at all levels of government, including local, state, and federal. The rule prohibiting political campaign activities is also without regard to whether the election is contested by a political party and it does not matter if a candidate is unopposed in an election.

Engaging in such activities is grounds for denial or revocation of a health center's charitable, non-profit status, and health centers (and any of its managers) who knowingly agree to political campaign expenditures and are found to have improperly engaged in political campaigns may also be subject to an excise tax by the Internal Revenue Service. Participation in political campaigns may also violate other laws, such as the Federal Election Campaign Act or state law. Furthermore, health centers must not allow candidates or political parties to post or to distribute campaign materials in connection with a voter registration drive.

It is likely that health centers may allocate costs associated with the health centers non-partisan voter registration activities to its grant. However, it is advisable that health centers consider charging voter registration expenses to non-grant income, such as program income or other unrestricted funding sources, such as donations, private grants, or contributions. By allocating the costs associated with voter registration activities to non-grant income, health centers may avoid the question of cost-allowability. ♦

*Jonay Foster Holkins is a Senior Associate of Feldesman Tucker Leifer Fidell LLP. For more information: [jholkins@ftlf.com](mailto:jholkins@ftlf.com)*