



MEMO

To: Interested Parties
**From: Americans for the Arts Action Fund
Federal Affairs Team**
Re: 50 States 50 Days Legal Considerations

Purpose

The intent of this document is to help 50 States 50 Days hosts understand and navigate the permissible activities that elected officials and candidates can participate in as you try to coordinate a local event in a Member of Congress's district or home state. These rules, restrictions, allowable and prohibited activities are a baseline set of requirements. Many Members have internal standards of conduct that may preclude you from pursuing even allowable activities based on their individual office's policies.

This memorandum is a summary of several guidelines that outline the allowable conduct of elected officials and outside nonprofit groups and is specifically tailored to address the types of activities that we hope that your organization will be able to coordinate during the 50 States 50 Days timeframe

General Rules and Considerations for Stakeholders

- For "outside" groups, which most nonprofit organizations are, the rules are premised on the designation of whether an event is "official" – meaning sponsored and resourced by the elected official's office or "private" – meaning a private outside organization sponsors and resources the event.
- According to the House Ethics Manual, it is the member of Congress who makes the determination as to whether an activity or event is deemed "official" or not. This determination guides who pays and provides staff resources and planning. An event is either "official" or "private" and cannot be combined.
- The scope of activities that a Member can participate in and how they can participate are based on whether an event is official or not, an event cannot be a joint endeavor between a Member and a private entity and cannot be both an official and unofficial event.
- Most of the gift rules pivot around the answer to this question: does your event have more than 25 attendees ("widely-attended") or will it be smaller than 25 attendees?

Event Format Rules

The event categories below match those outlined in the Captains Project Outline memo and provide the allowable or prohibited activities.

Official – Member of Congress Hosts

- Official events are wholly coordinated and funded by the Member’s office using their resources and staff.
- Official events **may** accept any kind of in-kind support for office-sponsored events that a federal, state, or local governmental entity offers to provide. This includes support from public colleges and universities.
- Official events **may** have an outside appearance by a private organization/speaker.
- Official events **may** be allowed to use space for an official event if given free of charge and is routinely rented to other nonprofit groups free of charge.
- Official event designation precludes joint activities even with charitable or educational organizations, although not with governmental entities, which **is** allowed.

Private – Nonprofit Organization Hosts

- Members **may** speak, serve as honorary chairs, and even sign letters of invitation on behalf of private groups/unofficial events, provided the identity of the actual host is made clear who is sponsoring the event and if it is appropriate to the performance of his or her official duty.
- Members **may** attend “widely attended events” and accept “gifts of nominal value.” Widely attended events can apply to a broad range of events: a convention, conference, symposium, forum, panel discussion, dinner, viewing, reception, and similar events. An unsolicited offer of free attendance at such an event can be accepted when **three requirements** are satisfied:
 - a. the event is “widely attended,” as defined below,
 - b. the invitation came from the sponsor of the event, and
 - c. the attendance of the Member or staff person is related to his or her official duties.
- “Widely attended event” definition: if
 - a. there is a reasonable expectation that at least 25 persons, other than Members, officers, or employees of Congress, will attend the event, and;
 - b. attendance at the event is open to individuals from throughout a given industry or profession, or those in attendance represent a range of persons interested in a given matter.
- Members and staff **may accept invitations** to events (including meals offered as part of these events) that, while they do not meet the numeric requirement for widely attended events, are:
 - a. Educational (for example, lectures, seminars and discussions); and sponsored by universities, foundations, “think tanks,” or similar nonprofit, non-advocacy organizations.
 - b. Constituent sponsored -- the gift rule was not intended to interfere with Members meeting with constituents at events.
[further details in Gift Rules section below]
- Private events **cannot** involve the use of “official” staff and resources. Staff and congressional resources cannot be used in organization or using any official expressions or symbols of sponsorship.

Political – Nonprofit Hosts Event with Congressional Candidates

- Nonprofits **may** invite federal candidates to meetings or to public forums sponsored by the organization. The invitation must be extended to all legitimate candidates for federal office. Identical language should be used in invitation to all candidates.
- The candidates may not campaign or fundraise in the event area.
- The forum must cover a broad range of topics (such as NEA support, arts education and tax issues) and cannot just address one particular issue.
- The nonprofit should **not** state its organization’s policy views or comment on those of the candidates.
- If there is a question-and-answer period, each candidate must be given an equal opportunity to answer questions, and the moderator should strive to ensure balance.
- Speeches or other remarks by candidates at the forum **may** be published as news items in the nonprofit’s newsletter, if it is published regularly and if its circulation is limited to the organization’s normal distribution patterns.
- All section 501(c)(3) nonprofit organizations are absolutely 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. The prohibition applies to all campaigns including campaigns at the federal, state and local level.
- Section 501(c)(3) organizations are permitted to conduct certain voter education activities (including the presentation of public forums and the publication of voter education guides) if they are carried out in a non-partisan manner.

Further Gift Rule Details

Generally, when hosting and inviting an elected official to an event, meeting or forum, the gift ban rules apply in providing accommodations to ticketed events such as performances or admission, materials provided by the sponsoring organization, for example. You must take into account the gift rules in whatever format you wish to coordinate.

You must take into account the value of particular items when extending them. A Member, officer, or employee may accept a gift, other than cash or cash equivalent, having a value of less than \$50, provided that the source of the gift is not a registered lobbyist, foreign agent, or private entity that retains or employs such individuals.

The cumulative value of gifts that may be accepted from any one source in a calendar year must be less than \$100. Gifts having a value of less than \$10 do not count toward the annual limit.

The figures of \$50, \$100, and \$10 are actually dollar limits of, respectively, \$49.99, \$99.99, and \$9.99. Gifts of “cash or cash equivalent” are not acceptable under this provision. Some exceptions to this rule are intended to establish allowable activities for

events that might be under 25 attendees and thereby *not* covered by the “widely attended event” exception:

a) Educational event exception

- There are certain events that are worthwhile for Members or staff to attend, but that do not meet the numeric requirement for widely attended events (i.e., at least 25 non-congressional attendees). Among such events are those designed for a small group in order to facilitate discussion.
- Members and staff to accept invitations to events (including meals offered as part of these events) that, while they do not meet the numeric requirement for widely attended events, are:
- Educational (for example, lectures, seminars and discussions); and Sponsored by universities, foundations, “think tanks,” or similar nonprofit, non-advocacy organizations.
- As under the gift rule provisions summarized above regarding events, Members and staff may accept such an invitation from the event sponsor only.

b) Constituent organizations exception

- The gift rule was not intended to interfere with Members carrying out their conventional representational duties, and that meetings or events with constituent organizations may sometimes be attended by only a few constituents, particularly when the organization is from a state with a small or diffuse population. Such events may not satisfy the numeric requirement for widely attended events.
- Examples of constituent organizations covered by this waiver include, but are not limited to, civic associations, senior citizens organizations, veterans groups, and business, trade or professional associations (*e.g.*, associations of lawyers, nurses, bankers, teachers, or farmers).

Questions? Contact:

Gladstone Payton
Associate Director for Federal Affairs
Americans for the Arts Action Fund
202-371-2830 x2059
gpayton@artsusa.org

RESOURCES

[U.S. House of Representatives Committee on Standards of Official Conduct](#)

[Internal Revenue Service \(501 \(c\)\(3\) guidelines](#)

[Federal Election Commission](#)

[Center For Lobbying in the Public Interest](#)