

Your national headquarters has received a number of questions concerning the wearing of The American Legion cap, which is basically our official uniform, as well as questions concerning the use of posts for campaign events, and the legality of accepting donations from candidates or any other political entity. I think you will find the answers below, and would appreciate the widest dissemination. For your information, these are the preferred procedures; however there is no penalty for a violation. If there is a violation, no one speaks for the national organization except our national commander or his designated spokesperson. Thanks.

From: David Lee

MEMORANDUM

Date: October 25, 2012
To: Daniel S. Wheeler
From: P. B. Onderdonk, Jr.
Re: Partisan Politics

You requested a review of the limitations on The American Legion becoming involved in partisan political activities. It may not.

This is made crystal clear by 36 US Code §21706 (part of The American Legion Corporate Charter), which states:

“The corporation shall be nonpolitical and may not promote the candidacy of an individual seeking public office.”

This is further emphasized by the provisions of Article II, Section 2 of the National Constitution which provides:

“The American Legion shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles nor for the promotion of the candidacy of any person seeking public office or preferment.”

The American Legion takes positions on issues and lobbies for veteran's benefits and a strong America. This is clearly permitted. What is not permitted is the endorsement of any candidate or the donation of funds by The American Legion to a candidate. The American Legion takes positions on issues and its members being citizens need to be informed on the issues. Hence, American Legion programs such as candidate nights are fully authorized as long as all candidates are invited on the same terms and conditions. It would be illegal to invite the one you support with advance notice, but the one you oppose with no notice at all. When Legionnaires wear their pins and hats to political rallies, the media often try to reach the wrong conclusions. This can be very embarrassing to the Legionnaire. Hence, we normally recommend that Legionnaires do not wear their caps to partisan political rallies. There is no rule against doing this so long as the Legionnaire makes it clear there is no endorsement.

Likewise, we recommend that Legion publications not accept paid political ads. However, if they do, the paid political advertisements must be made on the same terms and conditions for all candidates and should be labeled “Paid Political Advertisement” at both the top and bottom.

As noted above, those who violate the partisan political activities prohibition put the Legion charter of their post at risk as well as its tax exempt status.

The wearing of the cap and usage of The American Legion emblem, Facilities and political donations

According to Article II, Section 2, of the Constitution of The American Legion, “The American Legion shall be absolutely nonpolitical and shall not be used for the dissemination of partisan principles or for the promotion of the candidacy of any person seeking public office or preferment.” The National Charter, approved by Congress, also stipulates The American Legion as an organization is nonpolitical* which has been interpreted by the National Judge Advocate as “nonpartisan” in modern lingo. Therefore, The American Legion as an organization is prohibited from contributing, helping or endorsing a candidate. However, a member, as a private citizen, and not representing the organization, can employ whatever legal and ethical means to advance his or her candidate.

The Legion cap is considered the official Legion uniform (see p. 42). It is not an individual Legion member’s decision on the appropriate usage of the cap and emblem. If attending a political event, The American Legion cap, or any clothing with the emblem visible, should be removed so as not to imply endorsement by The American Legion. The problem is the assumption of endorsement by those who see the emblem or name worn at in improper location, such as a partisan rally.

When using post facilities to host candidates, post should remove emblem and Legion flag to avoid any impression of endorsements. Candidates for all parties must be presented equal opportunity at the same time to use the facilities on the same terms and conditions as other competing candidates.

If financial contributions are offered by candidates for political office, campaigns, political action committees or political parties, The American Legion should politely decline. Accepting these contributions may be perfectly legal, but The American Legion must avoid any perception of supporting any candidate or political party.

The American Legion values its independence and effectiveness on veterans’ issues. This stance is best maintained by neutrality on individual candidates or political parties. The American Legion by legal definition is non-partisan and supports only issues which impact your Four Pillars.

** This means “non-partisan” in today’s society. The American Legion is allowed by Congress to lobby for veteran’s benefits and a strong United States of America. (NJA, October 25, 2012)*