UAW CAP

ELECTION GUIDE

Internal Revenue Code
Federal Campaign Law
State Campaign Laws

Produced by UAW National CAP Department
and
UAW Legal Department
THREE STEPS TO POLITICAL VICTORY

1. Checkoff for UAW V-CAP

2. Register to vote

3. Vote for union-endorsed candidates

AUTHORIZATION FOR ASSIGNMENT & CHECKOFF OF CONTRIBUTIONS TO UAW V-CAP

To: _______________________________ I hereby assign to UAW V-CAP, from any wages earned or to be earned by me as your employee, the sum of (check one)

☐ $1.00 ☐ $3.00 ☐ $5.00 ☐ Other _______________________________

This authorization is voluntarily made. I understand that the signing of this authorization, and the making of payments to UAW V-CAP are not conditions of membership in the Union or of employment with the Company, that I have the right to refuse to sign this authorization and contribute to UAW V-CAP without any reprisal, and that UAW V-CAP will use the money I receive from my payroll contributions and expenditures in connection with federal elections or referenda, that all UAW members may be eligible for UAW V-CAP contributions regardless of whether they make a contribution to UAW V-CAP, and that contributions shall be distributed on a nondiscriminatory basis. I also understand that the guidelines set forth above are merely suggestions, that I may contribute more or less than the guidelines suggest, and that the UAW shall not favor or disadvantage me based on the amount of my contribution or my decision not to contribute.

Contributions or gifts to UAW V-CAP are not deductible as charitable contributions for federal tax purposes. All UAW members may be eligible for related raffle drawings, regardless of whether they make a contribution.

Contributions or gifts to UAW V-CAP are not deductible as charitable contributions for federal income tax purposes.
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INTRODUCTION

UAW officers, staff, and members can do a more effective job in politics if they are familiar with the various provisions of the federal and state laws regulating elections. This booklet is a general guide to our rights and responsibilities under these laws. It is not possible to anticipate every question. As specific questions arise, they should be directed through National CAP to the Legal Department.

There are three distinct sets of laws that have an impact on the UAW’s political activities.

INTERNAL REVENUE CODE

First, there is Section 527 of the Internal Revenue Code. This provision in the federal income tax code applies to all political activities throughout the country, whether federal, state, or local. Essentially, this law imposes substantial income tax liability on labor organizations that make their political contributions directly, rather than through separate, segregated political funds.

FEDERAL CAMPAIGN LAW

Second, there is the federal campaign law. This law applies to all federal elections throughout the country, including elections for U.S. Senate and House of Representatives, as well as presidential elections. This law requires extensive reporting and disclosure of political contributions and expenditures, and places limitations on the amounts that can be contributed to federal candidates. In addition, the federal law makes the use of union treasury money in federal elections a felony.

STATE CAMPAIGN LAWS

Third, there are now state campaign laws in almost every state that regulate state and local elections. These statutes generally require extensive reporting and disclosure of political contributions and expenditures. Some of the laws also place limitations on the amount that can be contributed to certain state and local candidates. Other states, including Michigan, prohibit donations of union treasury money for candidates running for state and local office.
FUNDS AND EXPENDITURES

To comply with the federal and state campaign laws, and to minimize income tax liability under the Internal Revenue Code, the UAW has established a number of separate, segregated political funds (PACs or V-CAP) through which it makes all contributions to, and expenditures on behalf of, candidates for public office.

All federal political contributions and expenditures are paid for by UAW V-CAP. This fund is composed entirely of “free” money contributed voluntarily by UAW members and their families.

Similarly, all political contributions relating to state and local candidates are paid for by the various political action committees that have been established in each state. These funds are composed of a portion of the per capita dues paid by UAW members, or, in states where this is unlawful, the PAC contains only voluntary donations from UAW members and their families.

Local unions and CAP councils have an important role to play in elections. In particular, local unions and CAP councils may spend their treasury money for membership communications, certain non-partisan registration and get-out-the-vote activities, the solicitation of voluntary contributions to UAW V-CAP, lobbying activities, and the expense connected with referenda, ballot questions, or initiative campaigns. The funds of UAW V-CAP and the various political action committees should not normally be used for these purposes.

When in doubt about the application of federal laws and/or state regulations, contact your regional director or the National CAP Department for interpretations or assistance. State laws vary a lot, so it is wise to ask first.

As a retiree/surviving spouse, I want to continue to protect my benefits and secure my family’s future through the UAW V-CAP political action program.

AUTHORIZATION FOR ASSIGNMENT & CHECKOFF OF CONTRIBUTIONS TO UAW V-CAP

To: ____________________________

Company Name

I hereby agree to assign to UAW V-CAP, from any pension payments

☐ $1.00

☐ $3.00

☐ $5.00

☐ Other $________

made or to be made to me as your retired employee or surviving spouse, the sum of (check one)

Each and every month, I hereby authorize and direct you to deduct such amounts from my monthly pension, and to remit same to UAW V-CAP at such times and in such manner as may be agreed upon between you and the Union at any time.

This authorization is voluntarily made. I understand that the signing of this membership in the Union or of retirement with the Company, that I have no right to withdraw such contributions and that UAW V-CAP will use the money it receives to contribute to UAW V-CAP without any prior notice to me.

I also understand that the guidelines for contributions to UAW V-CAP are made at the discretion of the UAW and may vary from time to time.

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I also understand that the guidelines for contributions to UAW V-CAP are made at the discretion of the UAW and may vary from time to time.

The above are merely suggestions, that I contribute to UAW V-CAP and that the Union will not be responsible for my contribution or my decision not to contribute.

Contributions or gifts to UAW V-CAP are deductible as charitable contributions for federal tax purposes. As an employee or spouse, you may be eligible for related tax benefits. You are advised to consult your own tax advisor for guidance on your own tax situation.

This committee does not ask for or accept authorization from any candidate and no candidate is responsible for its activities.

Signature __________________________ Date __________

Region __________ Local __________ Soc. Sec. # __________

Name (print) __________________________

Address __________________________

City __________________________ State ______ Zip ______

Chapter or Int'l Area Council __________________________

Pension File or Retirement No. __________________________

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Remit card to: UAW National CAP Dept., 8000 E Jefferson Ave., Detroit, MI 48214
1. What elections and campaigns are covered by the federal and state campaign laws?

A. These laws cover all elections, including primary, runoff, special, general, recall, millage, and ballot question elections. In addition, these laws apply to any convention, caucus, or mass meeting that nominates candidates for public office.

2. What is treasury money?

A. Treasury money includes all monies of a labor organization’s treasury – whether raised by dues (including retiree dues), fines, initiation fees, investment income, or any other source, except, of course, voluntary contributions for political purposes. In election law, treasury money is included under the category of “soft money.”

3. What is “free” money?

A. “Free” money includes all monies voluntarily contributed by UAW members and their families for political purposes. This V-CAP money typically is raised through dollar drives and voluntary checkoff, but may also be raised through tickets to events, hat-passing at meetings, sale of campaign materials, raffles, etc. Free money is often referred to as “hard money.”

4. What types of things are considered to be political contributions and expenditures?

A. The federal and state campaign laws define “contribution” and “expenditure” very broadly. Contributions and expenditures include any payment, purchase, gift, subscription assessment, contract, advance, forbearance, loan, donation, deposit, pledge, transfer or promise of money, or anything of ascertainable monetary value made for the purpose of influencing, assisting, or opposing the nomination or election of a candidate for public office, or the qualification, passage, or defeat of a ballot question.

Obviously, the direct donation of money to political candidates is covered. This includes the purchase of tickets or payment of an attendance fee for events such as dinners, luncheons, rallies, testimonials, and similar fund-raising events, and the granting of discounts or rebates not available to the general public.

In addition, all in-kind donations of goods, materials, services, or facilities to or on behalf of political candidates constitute contributions or expenditures. This includes allowing a candidate to utilize paid union personnel, computers, copy machines, telephones, office supplies, union halls, or anything else of value, either free or for a below market rate. It also includes the distribution of literature or slate cards, the operation of a phone bank, the purchase of radio or TV time, or space in newspapers or magazines, the establishment and maintenance of a campaign headquarters, and the assignment of union personnel, staff, members, or retirees to work on political campaigns – when these are used to contact the general public for the purpose of influencing the nomination or election of a candidate for public office or the qualification, passage, or defeat of a ballot question.

However, membership communications, certain non-partisan registration and get-out-the-vote activities, the solicitation of voluntary contributions to UAW V-CAP, and lobbying activities are not considered to be political contributions and expenditures under either federal or state campaign laws.

Furthermore, volunteer work performed by UAW staff, personnel, members, and their families
does not constitute a political contribution or expenditure.

5. May local unions and CAP councils use their treasury money to communicate with their members on political issues?

A. Yes. Under the federal and state campaign laws, including those in Michigan and Ohio, local unions and CAP councils are perfectly free to communicate with UAW members and their families (including retirees) concerning political issues. This group is considered the Union's "restricted class." So long as the communications go solely to our members and their families, any monies spent on these communications are not considered to be contributions or expenditures within the meaning of the federal and state campaign laws. This means that local unions and CAP councils can use their treasury money for these membership communications. There are no limits on the amounts that can be spent for such internal communications. And, with one exception (see below), there are no reporting and disclosure requirements.

However, a number of qualifications must be added. First, in order for campaign materials to qualify as membership communications, they must be produced by the UAW and reflect the views of the UAW. They cannot be simply reproductions of materials prepared by candidates, such as their brochures or leaflets. Federal law is especially strict on this point.

Second, if a CAP council or local union spends over $2,000 per election on communications to its membership that are primarily devoted to advocating the election or defeat of a clearly identified candidate for federal office, these expenditures must be reported to the Federal Election Commission on FEC Form 7. There are no limitations on how much can be spent on such communications; the expenditures simply must be reported if they exceed $2,000 per election. If the $2,000 limit is exceeded, you should contact the National CAP Department for instructions. The $2,000 limit for reporting applies to each election (with the primary and general elections being considered separate elections).

Furthermore, each local union and CAP council has a separate $2,000 limit. However, in determining whether the $2,000 limit has been exceeded, each local union and CAP council must add together the costs of all membership communications on behalf of all federal candidates. The federal campaign law only requires unions to report membership communications that are "primarily devoted" to clearly identified candidates for federal office. A letter, slate card, or special insert in a union newspaper sent to the membership
endorsing particular federal candidates would be considered "primarily devoted" to the election or defeat of a clearly identified candidate. But a regular edition of a union newspaper that simply refers to an election campaign in one of its articles would not fall within this category. If a slate card or special insert in a newspaper endorsed both federal and state candidates, a pro rata share of the costs of the membership communication should be counted toward the $2,000 limit, and reported to the FEC.

If the membership communication concerns only state and local candidates, or if it is not "primarily devoted" to a federal candidate, in most states the expenditures for the communications would not have to be reported, no matter how much is spent. The three exceptions are in Idaho, Maine and Missouri, which have state campaign laws that also require the reporting of membership communications devoted to state and local candidates. Note that the Missouri reporting rule is only triggered upon spending of $2,000 or more in a calendar year.

Third, although local union and CAP Councils can invite candidates to come to their union halls to speak to the membership using treasury money, it is essential that they do not require or accept donations being made to the candidate. That is to say, the candidate may solicit and the union may encourage the membership to make contributions to the candidate’s campaign before, during, or after the event, but no officer, director, or representative of the union may collect the contributions. The local union or CAP Council must not physically collect or participate in the transmittal of the contributions. Such contributions would be considered illegal facilitation of the contribution.

Fourth, whether communications by a "joint labor committee" to the members of the constituent labor unions, or even the AFL-CIO to its members, will qualify as membership communications under the federal or state campaign law may depend on the particular facts and circumstances involved in each case. For instance, are UAW members also members of the other labor body? Accordingly, you should contact your CAP coordinator for further guidance before becoming involved. It's probably OK, but checking is easy.

The key to all of these activities is that the local unions and CAP councils are communicating solely with their membership, and not with the general public. So, a billboard along a public highway is a communication to the general public subject to restriction, while a posting in a local union hall is a membership communication. Likewise, a car bumper sticker is a communication to the general public that cannot be paid for with treasury money and is subject to spending limits, while a lunch box sticker designed to go on a worker's lunch box, and, consequently, to be viewed only by fellow union members and family, is a membership communication free of spending limits that can be paid for with treasury money. As always, it is useful to discuss any matter that is not clearly a membership communication with your CAP coordinator to make the appropriate determination.

6. May local unions and CAP councils use their treasury money for non-partisan registration and get-out-the-vote activities?

A. Yes. Under the federal and state campaign laws, local unions and CAP councils are free to use their treasury money for non-partisan registration, get-out-the-vote, and other activities that are conducted among the general public. However, in order to be considered non-partisan, certain requirements must be satisfied.
First, plain speech. Local unions and CAP councils can use their treasury funds to pay for non-partisan registration and GOTV communications that are directed at the general public. Simple communications of this type no longer have to be jointly sponsored by a nonprofit, umbrella organization; they can be sponsored directly by a local union or CAP council. However, the rules are stiff: In order to be considered non-partisan, the communications must not depict or favor any candidate or political party and must be limited to urging acts such as registering and voting and to describing the hours and places of voting. These types of communications can be made through posters, billboards, broadcast media, newspapers, newsletters, brochures, etc. The communications may contain the logo of, or otherwise identify, the labor union sponsoring the communication. But they may not contain any reference to political issues (such as “vote for jobs”).

Second, “More” than speech. Unlike non-partisan registration and GOTV communications, which simply provide information to the general public, non-partisan registration and GOTV drives, which makes services available to the general public, such as transportation to the polls, must still be conducted in conjunction with a nonprofit, umbrella organization that does not endorse or support any candidates, such as the Labor Council for Latin American Advancement, A. Philip Randolph Institute, Frontlash, or the NAACP registration committees, or by a state or local government agency that is responsible for the administration of elections in order to be considered non-partisan.

Thus, CAP councils and local unions cannot use their treasury funds to conduct such drives on their own. But they may use their treasury funds to make direct monetary donations or in-kind donations of goods and services to help support such drives when they are being sponsored by a nonprofit organization (or by a state or local government agency which is responsible for the administration of elections).

In order for a drive to be “conducted” by an umbrella organization, one or more persons from the nonprofit organization or government agency must participate in the administration of the drive. The drives cannot be linked to any particular political issue. All materials prepared for distribution to the general public in connection with the drive must include the full names of all drive sponsors, including any labor unions which are jointly cosponsoring the drive.

There is one limited exception to the foregoing rules. CAP councils and local unions may set up a table, rack or booth on their own premises for distributing official registration or voting information (i.e., information produced by official election administrators) to the general public. They may use union employees or members to assist in the distribution of such materials. This type of activity is not considered to be “conducting” a “drive,” so there is no need to jointly sponsor this type of activity with a nonprofit umbrella organization.

Third, local unions and CAP councils can use their treasury funds to pay for the reproduction and distribution of registration and voting information prepared by official election administrators. This includes materials such
as official registration by mail forms. Local unions and CAP councils may also donate their treasury funds directly to state and local governments to help defray the costs of producing and distributing such information. In either case, the registration and voting materials must be distributed in a non-partisan manner, and there cannot be any endorsement or favoring of any candidate or party.

Fourth, CAP councils and local unions can spend their treasury funds to distribute non-partisan voting records to the general public, so long as the distribution of the voting records is not for the purpose of influencing a federal election. In order to be considered non-partisan, the voting records must simply contain a factual recital of an incumbent’s or candidate’s votes on bills. But, they can also contain indices or scores of votes on specific bills. The distribution of the voting records must not be coordinated with any candidate or political party, and probably should not take place too close to an election – otherwise there is a danger that it may be considered to be for the purpose of influencing the election. CAP councils and local unions should contact their CAP coordinator for assistance in obtaining appropriate voting records.

Note: It is important to remember that CAP councils and local unions can conduct partisan registration, GOTV and other activities, so long as they are directed solely at the union’s membership and their families. The foregoing rules regarding non-partisan registration, GOTV and other activities only pertain to situations where a labor union wants to use its treasury funds for activities directed at the general public.

7. May local unions and CAP councils use their treasury money to raise “free” money for UAW V-CAP?

A. Yes. Under the federal and state campaign laws, CAP councils and local unions may spend their treasury money for the establishment, administration, and solicitation of funds to a separate, segregated fund, such as UAW V-CAP, created for the purpose of making federal political contributions. This means that local unions and CAP councils may spend their treasury money to run their V-CAP dollar drives. Treasury money can be spent for such items as rent, personnel, overhead, general administration, and the various fund-raising events held to raise money for UAW V-CAP.

However, a number of qualifications must be added.

First, CAP councils and local unions can only solicit contributions from UAW members and their families. You cannot solicit among the general public.

Second, you cannot “trade money.” The federal regulations require that the costs associated with entertainment, raffle prizes, and gimmicks (such as buttons, posters, or articles of clothing) used in connection with fund-raising activities must not exceed one-third of the voluntary money raised. For example, you cannot spend $500 on buying prizes for a raffle that only raises $1,000. In order to insure that the UAW does
not exceed this one-third limit, local unions and CAP councils should first check with their CAP coordinator before spending substantial sums of money for gimmicks or prizes.

Third, the federal campaign law requires that all contributions of $50 or less must be forwarded to the treasurer of UAW V-CAP within 30 days after receipt of the contributions. The Federal Election Commission is particularly strict on this point. Thus, in order to insure that they are in compliance with this rule, CAP councils and local unions should establish procedures where-by every week (and in no event later than every 20 days) they automatically forward all contributions received from members to their regional office or directly to UAW V-CAP, care of the International Union. CAP councils and local unions should not hold onto the contributions and simply forward them to their regional office or UAW V-CAP at the end of the V-CAP fund-raising drive.

Fourth, members who give voluntary contributions must be informed that the money will be used in connection with federal, state or local elections, that contributions are purely voluntary, and are not a condition of membership in the union or employment with the company, and that they have the right to refuse to contribute without fear of reprisal. No one may be pressured or coerced into contributing to V-CAP.

Fifth, the following statement must be printed on the front or face of all materials used in V-CAP fund-raising drives — including letters and posters.

_**UAW V-CAP is an independent political committee, created by the UAW. This committee does not ask for or accept authorization from any candidate and no candidate is responsible for its activities. UAW V-CAP uses the money it receives to make political contributions and expenditures in connection with federal, state and local elections.**_

Contributions to UAW V-CAP are purely voluntary, and are not conditions of membership in the union or of employment with the company. Members have the right to refuse to contribute without fear of reprisal. Monies contributed to UAW V-CAP constitute a voluntary contribution to a joint fund-raising effort by the UAW and the AFL-CIO.

Contributions or gifts to UAW V-CAP are not deductible as charitable contributions for federal income tax purposes.

In addition, the federal campaign law requires that if any fund-raising materials suggest that members contribute a particular sum of money, these materials must also contain the following statement in addition to the statement set forth above:

_**The guidelines for contributions to UAW V-CAP set forth above are merely suggestions. Members can contribute more or less than the guidelines suggest. The union will not favor or disadvantage members based on the amount of their contributions or their decisions not to contribute.**_

Sixth, you cannot accept anonymous or unidentified contributions over $50. And, as a general rule, you should make sure that you have filled out the ticket stubs for each V-CAP
ticket you sell—including the name and address of the member who purchases the ticket. You should also keep records of the proceeds from mass collections, and from the sales of pins, buttons, literature, hats, etc.

Seventh, although the federal and state campaign laws allow CAP councils and local unions to conduct drawings in order to raise free money, there are other restrictions on such activities. For example, the federal postal regulations prohibit the sending of materials connected with a lottery through the mail. Some states also have statutes prohibiting gambling and private lotteries. Finally, in conducting lotteries and similar activities, you should be careful to use only volunteer help. Otherwise, your receipts from these activities may be subject to federal income tax. Also, if the prize is $600 you must report it, and at $1,000 or more you must withhold federal income tax on the winner’s monies at the tax rate of 28 percent.

Eighth, CAP councils and local unions may also raise free money through payroll deduction plans, commonly known as V-CAP Checkoff. Under the federal campaign law, if a corporation or any of its subsidiaries, branches, divisions, or affiliates uses a payroll deduction plan for soliciting voluntary political contributions from its executive or administrative personnel, then the corporation is obligated to also make a payroll deduction plan available to the UAW, upon written request, for soliciting contributions from members of the union. Furthermore, even if your corporation does not utilize a payroll deduction plan, you may still negotiate contract provisions that provide for a payroll deduction plan for voluntary political contributions. And you may also establish payroll deduction plans with credit unions in which UAW members are participants.

For further information and assistance concerning the establishment of payroll deduction plans for contributions to UAW V-CAP, you should contact the National CAP Department.

Ninth, all voluntary contributions that are received by local unions and CAP councils should be accounted for by the local union or CAP council prior to being sent to their regional office or UAW V-CAP, as established by past practice. Local unions and CAP councils should keep separate records on their books of all receipts and deposits that represent contributions to V-CAP, and should also show on their books the immediate forwarding of the contributions to their regional office or UAW V-CAP, care of the International Union.

Tenth, in order to avoid onerous reporting requirements under the federal campaign law, CAP councils and local unions should forward the gross proceeds from any fund-raising events to UAW V-CAP. They should not pay the costs connected with fund-raising events out of the proceeds of the activities, and then simply send the net proceeds to V-CAP.

8. May local unions and CAP councils use their treasury money to make political contributions and expenditures in connection with federal elections?

A. No. The federal campaign law prohibits unions from using treasury money to make political contributions and expenditures in connection with federal elections. Only “free” money can be used for these purposes. Thus, all political contributions and expenditures relating to federal elections must be paid out of UAW V-CAP funds.

For example, local unions and CAP councils may not use treasury money to purchase bumper stickers that expressly advocate for the election of defeat of a federal candidate. Such bumper stickers are expenditures in connection to a federal election and, thus, must be paid out of UAW V-CAP funds.
9. May local unions and CAP councils use their treasury funds to make contributions and expenditures in connection with state and local candidate campaigns?

A. No, for several reasons: State campaign laws, except the 13 states listed below, allow unions to use treasury money to make political contributions and expenditures in connection with state and local elections. However, to ensure compliance with the extensive reporting requirements and to avoid tax liability, all political contributions and expenditures relating to the nomination or election of state and local candidates should be paid for out of the funds of the various political action committees that have been established in each state.

Thirteen states – Alaska, Arizona, Colorado, Michigan, Minnesota, New Hampshire, North Carolina, North Dakota, Pennsylvania, South Carolina, South Dakota, Texas and Wyoming – prohibit unions from using union treasury money to make political contributions and expenditures in connection with the nomination or election of state and local candidates. In these states, only “free” money can be used for such purposes. Connecticut permits the use of treasury money or “free” money but not both. Still other states are not prohibition states but they have extremely restrictive limits on campaign donations.

Local unions and CAP councils should not make political contributions and expenditures in connection with the election of state and local candidates. Such expenditures should be made out of the funds of the various state political action committees. For example, bumper stickers expressly advocating on behalf of a state or local candidates should not be paid for with treasury money. Such items should be financed with state PAC money.

10. May a local union or CAP council use treasury money to pay for partisan political material and other express advocacy on its Web site?

A. Only if access to the Web site is restricted to union members through a password or other similar method can a local union or CAP council use treasury money to post partisan political material and other express advocacy. Please note that a union must report the costs of express advocacy communications to its members that exceed $2,000 for any federal election on FEC Form 7.

A local union’s publicly accessible Web site may include a link to a federal candidate, political party or V-PAC funded Web site, and the local union can pay for it with treasury money, if there is no express advocacy.

11. What about contributions to political parties?

A. Local unions and CAP councils may use their treasury money to make donations to the building funds of political parties. These payments are not subject to any reporting and disclosure requirements. Furthermore, there are no specific limitations on the amounts that
can be donated to political parties for these purposes. However, this cannot be used to make indirect political contributions. This is an extremely NARROW exception that must not be abused. Donations in election years are suspicious, particularly if the level increases. Indirect political contributions and expenditures will trigger the various reporting requirements, as well as income tax liability.

Local unions and CAP councils may not make contributions to political parties for the purpose of influencing the election or nomination of any candidate for public office. Such contributions must be made from the funds of UAW V-CAP (federal) or the various political action committees (state and local).

Local unions and regional offices may allow political parties to use their halls rent-free for normal, routine party meetings. But if the meetings involve or are for the purpose of influencing the nomination or selection of candidates for public office, including the selection of delegates to a nominating convention, then the political parties should be charged a reasonable rental fee for the use of the union hall.

12. What about lobbying activities?

A. Local unions and CAP councils may use their treasury funds to pay for the costs connected with lobbying activities relating to state and local legislation. Since payments for lobbying activities are not considered to be contributions or expenditures under state campaign laws, in most states there are no limits on the amounts that can be spent on such activities, and the payments do not have to be reported. However, a few states have enacted separate legislation regulating lobbying activities. Thus, before engaging in such activities, local unions and CAP councils should first clear these activities with their CAP coordinator or regional director.

13. What about referenda, initiative, and ballot question campaigns?

A. The Treasury Department and the Internal Revenue Service have taken the position that expenditures relating to referenda, initiative, and ballot question campaigns do not qualify as "political" expenditures under the Internal Revenue Code, because such expenditures do not relate to the nomination or election of any candidates. Accordingly, in order to avoid substantial income tax liabilities, all expenditures for referenda, initiative, and ballot question campaigns should be made out of CAP council or local union funds – they should not be made out of the funds contained in the various political action committees.

However, in several states expenditures relating to referenda, initiative, and ballot question campaigns will qualify as "political" expenditures under the state campaign laws. Thus, in some states, it may be necessary for CAP councils to register and file campaign reports if they made such expenditures. Depending on the provisions of each state law, it may be possible to establish a separate referenda, initiative, or ballot question committee on an ad-hoc basis, to be funded out of CAP council or local union funds, which would in turn be solely responsible for registering and filing any required reports. Because the reporting requirements differ in each state, you should check with your CAP coordinator to find out the best way to go about becoming involved in referenda, initiative, and ballot question campaigns in your state.
14. What about volunteer work?

A. UAW members and their families, including officers and staff of local unions and CAP councils, are perfectly free to do volunteer work for any candidate or campaign they wish. In order to be considered volunteer work, the individuals must not receive any compensation from the union and specifically must not be paid lost time or expenses. If local union and CAP council officers and staff are assigned to work with the general public on behalf of a candidate or campaign in lieu of their normal duties, yet are still paid their regular salaries or wages, this will be considered a political expenditure, not volunteer work.

Because all political contributions and expenditures in connection with federal, state, and local candidate elections must be paid for by UAW V-CAP or the various political action committees, and because of the limitations on the amount of contributions and expenditures that may be made in such elections, the decision to make any in-kind contributions or expenditures (such as pulling people out of the plants to distribute literature or slate cards to the general public) should be made by UAW V-CAP (federal) or by the various political action committees (state and local). Local unions and CAP councils should not make any in-kind contributions or expenditures on their own.

For further explanation, contact the National CAP Department.

16. What if a candidate wants to use a union hall for a fund raiser or other event that is open to the general public?

A. The candidate should be charged a reasonable rental fee for the use of the union hall. If the candidate is only charged a nominal fee, or is allowed to use the hall for free, this amounts to an in-kind political contribution, which will subject the local union (or region) to the various reporting and disclosure provisions of the state or federal campaign laws, as well as substantial income tax liability. Candidates should also be charged a reasonable rental fee if they utilize union telephones, office supplies, or equipment (such as copy machines) to contact the general public.

17. What about purchasing tickets or paying an attendance fee for dinners, luncheons, rallies, testimonials, and similar fund-raising events?

A. If the monies collected by the fund-raising
event are used to support political candidates or parties, then the tickets or attendance fees must be paid for out of the funds of UAW V-CAP or the various political action committees, depending on whether a federal, state, or local election is involved. Local unions and CAP councils should not spend their treasury money for these purposes. However, if the monies collected by the fund-raising event are used exclusively for membership communications, non-partisan registration and get-out-the-vote activities, or soliciting V-CAP contributions, then local unions and CAP councils may use their treasury money to pay for the tickets or attendance fees.

18. What about paying lost time or expenses to retirees or members who are taken out of the plants?

A. If the retirees or members are used solely for membership communications, non-partisan registration and GOTV activities, or soliciting V-CAP dollars, then their lost time and expenses may be paid for out of local union or CAP council treasury money. It is best to avoid using retirees or members to contact the general public in support of or opposition to any candidates or political parties. This amounts to an in-kind political contribution or expenditure, which must be approved and paid for by UAW V-CAP or the various political action committees, depending on whether a federal, state, or local election is involved. Worse, it requires compliance in a federal election year, with strict federal allocation rules.

In rare cases where UAW V-CAP or the appropriate political action committee approves this type of political contribution or expenditure, UAW V-CAP or the PAC must either (1) directly pay the retirees or members for their lost time or expenses, or (2) provide sufficient funds in advance to the local union in order to cover all of the lost time and expenses that will be incurred, and then have the local union use these funds to pay the lost time and expenses to the retirees or members (with the local union handling any necessary tax deductions). Note: if the latter approach is used, UAW V-CAP or the appropriate PAC must pay the local union in advance for the total amount of the lost time or expenses that will be incurred; UAW V-CAP or the PAC cannot simply reimburse the local union for these monies after the fact.

19. What about the costs involved in preparing and distributing literature or slate cards, or in operating a phone bank?

A. If these things are used solely for membership communications, non-partisan registration and GOTV activities, or soliciting V-CAP dollars, then they can be paid for out of CAP council or local union treasury money. But avoid any partisan communications directed towards the general public on behalf of or in opposition to any candidates or political parties, particularly if any federal office is on the ballot. Federal election regulations have strict and complicated rules about how costs of such joint federal/state efforts (e.g., slate cards at the polls) must be allocated. A candidate or party is better able to comply. These rules do not apply to strictly membership communications.

20. What about the costs involved in establishing and maintaining a campaign headquarters, such as rent, heat, light, gas for automobiles, etc.?

A. If the headquarters is used solely for membership communications, non-partisan registration and get-out-the-vote activities, or the raising of V-CAP dollars, then the headquarters can be paid for out of local union or CAP council treasury money. But if the headquarters is used to make political contributions or expenditures
for any candidate or political party (including in-kind contributions), then these costs must be approved and paid for by UAW V-CAP or the various political action committees.

Remember, registration and get-out-the-vote drives are only considered to be non-partisan if they are conducted by a non-profit umbrella organization such as the Labor Council for Latin American Advancement, A. Philip Randolph Institute, Frontlash, or the NAACP registration committees.

Therefore, if a local union or CAP council uses a campaign headquarters to conduct registration or get-out-the-vote drives on its own, these activities will not be considered non-partisan, and hence the costs associated with establishing and maintaining the headquarters must be paid for out of UAW V-CAP or political action committee funds. Such free-lance partisan registration and get-out-the-vote directed at the general public will almost certainly trigger federal allocation rules in a federal election year and create problems. Leave this to the party and candidates or confine your efforts to the membership.

21. How should endorsements be made?

A. Endorsements are not contributions. They are simply free speech. All endorsements shall continue to be made by the appropriate CAP council or councils or by the appropriate political action committee or committees. Local unions and other subordinate bodies of the International Union should not make endorsements.

22. Must all campaign literature identify who is responsible for it?

A. Yes. The federal and state campaign laws require that all campaign literature that is distributed to the general public, including billboards, placards, posters, pamphlets, brochures, bulletins, letters, etc., bear the name and address of the person or organization paying for the materials. In addition, the campaign literature should indicate whether it is authorized by the candidate referred to in the literature.

23. What about anonymous cash and indirect political contributions and expenditures?

A. The federal and state campaign laws prohibit the laundering of money. That is, you cannot make a contribution or an expenditure to a person or committee with the understanding that the money will be used to support another person or committee. Furthermore, the federal and state campaign laws contain provisions prohibiting anonymous cash contributions and expenditures.

24. What about the distribution of political literature in the workplace?

A. Under the National Labor Relations Act, employees have the right to distribute literature in non-working areas during non-working times that deals with matters that are protected under Section 7 of the Act, such as working conditions or collective bargaining. In a number of cases, the courts have held that employees also have the right to distribute literature that is designed principally to educate employees on political issues that may impinge on employment
conditions, such as minimum wage or so-called "right-to-work" legislation. However, employees do not have the right to distribute literature dealing with specific political candidates or political parties on company property.

25. What reports do CAP councils and political action committees file with the Department of Labor, the Internal Revenue Service and their respective state?

A. As in the past, CAP councils must file LM reports with the Department of Labor. The deadline for filing these reports is March 31.

CAP councils must also file Form 990 with the Internal Revenue Service by May 15. Further, a Form 7 must be filed with the Federal Election Commission when a CAP Council or local union spends over $2,000 on membership communications primarily devoted to advocating the election or defeat of a federal candidate (see question 5).

The State’s or area PAC's name and address must be listed on your state or area CAP council’s LM report along with the address of the state office where the PAC will file its election reports. To avoid duplicate reporting, check with your regional director about whether your particular CAP council is responsible for listing the PAC in question.

Political action committees that receive over $100 in annual interest income must file Form 1120 POL with the Internal Revenue Service by March 15.

PACs are required to file IRS Form 990 if they exceed certain income levels. PACs must electronically file IRS Form 8871 and update it any time there are operating changes in the PAC (i.e. change of bylaws or change of officers).

IRS Form 8872 must be filed if the PAC has annual income of $25,000 or more and does not file with a state elections office. If the PAC files with the appropriate state elections board, commission, etc., and the form is made available for public inspection, then IRS Form 8872 is not required.

Instructions on how to fill out the LM reports and federal tax forms may be obtained from the National CAP Department. If need be, CAP councils and PACs can obtain extensions for filing their federal tax returns by submitting Forms 2758 and 7004 respectively. There may be various reports required by each state. Each CAP council and PAC is responsible for filing the necessary state reports.

Whenever in doubt, contact your regional director.
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