

For Voter Service Chairs

Debates and Forums: Planning

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DEBATES AND FORUMS: Planning

INTRODUCTION

The League Framework

The League of Women Voters does not support or oppose any political party or any candidate.

All Leagues bear the responsibility of safeguarding this nonpartisan policy and the organization's nonpartisan reputation.

Characteristics of a League Debate

On March 20, 2006, the LWVCT Debate Committee specified those characteristics that define a "League" debate. For a debate to be considered a League debate, the following must apply:

- The LWV must be a sponsor of the debate.
- The debate must be nonpartisan from planning to conclusion.
- The moderator must be approved by the League.
- The format must be approved by the League.
- League criteria for candidate inclusion must be applied.

When The League is a co-sponsor of a debate:

- The League must take an active role in the partnership.
- Ideally, all of the characteristics of a "League debate" should apply.

PREPARING FOR A DEBATE OR FORUM

Some Useful Operating Rules

All statements, publications and letters relating to public League activities should be written by or checked with your League's president, who will receive inquires concerning them. All statements and official letters should carry the name of your League president and/or the appropriate Director(s) (such as VP or Director for Voter Service) as designated by your president or board.

Check with the state office when you wish to invite a statewide personality to your community. This is a **must**.

Carefully document your debate plans. Keep copies of all communication in your files.

ROLE OF LEAGUE VOLUNTEERS: MODERATORS, TIMEKEEPERS and OTHERS

Moderators

The moderator has the responsibility for enforcing the time limits, ground rules and format that were agreed to by the candidates. (This may include enforcing rules of audience behavior.)

The moderator may have the responsibility for:

- Conducting the coin toss or number drawing to determine the order of questions
- explaining the ground rules to the audience
- introducing the candidates
- asking the questions (or re-phrasings of the questions) that audience members have submitted in writing

If possible, make sure your moderator is not from the town in which the election is being held. If you are from a multi-town League, you can often find a suitable League-trained moderator among your members; if not, a list of trained and available moderators is available from the LWVCT office. The list is usually updated at the beginning of each election season and is available by e-mail, mail, fax, or phone.

Try to meet with the moderator/panel at a last-minute briefing just before the debate (and never earlier than the day before). Review the format for the last time and make sure everyone has the schedule and the issues to be covered, along with any changes in ground rules or arrangements. If possible, allow time for an abbreviated run-through of the debate segments and a rehearsal of introductory remarks, explanations of rules, etc. (If you are using a panel, panel members should decide the order in which they will ask questions.) Moderators, panel members, and representatives of the debate sponsors can discuss last-minute issues, potential follow-up questions and anticipated problems. If the moderator is going to be allowed to interrupt the candidates if she believes the candidates are straying from the subject, go over the ground rules for such interruptions.

Timekeepers

Especially if you are televising or taping the debate, work out unobtrusive ways of alerting candidates to their time limits, such as lights on podiums out of sight of the audience.

Other Volunteers

Depending on the nature of the debate, additional League volunteers may be needed to assist with tasks such as ushering, taking tickets, handling audience questions, screening for campaign materials, and assisting with voter registration.

Orienting Volunteers

If possible, arrange time for orientation and a site walk-through. At a minimum, make sure

someone is on hand to answer questions and adjust job assignments as needed. Before the day of the debate or forum, provide volunteers with whichever of the following is needed:

- Name tags.
- Tickets or credentials for entrance to the site.
- Locations and costs of parking; public transportation schedules.
- Detailed debate schedule, including exact times to report, where and to whom.
- Written instructions for task, time on duty.
- Clothing guidelines, if any.
- Phone numbers for emergencies.
- Eating places or other facilities near the debate site.

ABOUT AUDIENCES

Most League debates take place in front of a “live” audience, although this is not a League requirement. If a debate is to include an audience, your League needs to decide:

- Who will be invited
- The role of the audience
- What the audience should be asked to do and told to expect

Who will attend?

What are your audience selection criteria: ticket only; by invitation; free entry? If ticket-only, fix the number of tickets each candidate will get for staff, supporters and family.

Audience Role

Will you be taking questions from the audience? If so, will they be asked by the audience member (“open mike” format) or the moderator? Will they be solicited beforehand? If the questions are written, will they be screened? If you are taking written questions from the audience, you will need: cards and pencils for submitting questions, and a table and seating for the volunteers who collect or screen questions. If you are going open-mike, you will need wide aisles and floor microphones, and a way to get questioners to the mikes with as little disruption as possible.

Audience Expectations

Decide on your rules governing audience reaction: will the audience be asked to refrain from applauding or in other ways demonstrating support or nonsupport for a candidate? Will you demand complete audience silence? No booing, cheering or whistling? Applause only?

The LWVCT has a policy that no campaign banners, signs, literature handouts or other campaign paraphernalia are allowed in the debate hall. If campaign materials are to be allowed in the lobby, all candidates must be provided equal space. Please make sure that the candidates know this beforehand, especially if the ban includes candidate-logo T-shirts, and announce it to the audience as they arrive.

THE PRESS

All news releases about the debate should be handled by the League and sent simultaneously to all local media and to all the candidates. If you have co-sponsors, press releases may have to be cleared by the League and all co-sponsors before release.

The LWVCT strongly discourages the use of reaction shots during a televised debate. Panning of the audience before the debate is permitted to establish the context.

Use of flash cameras and/or motor driven cameras is strongly discouraged.

Place photographers and the press at a reasonable distance from the candidates and microphones to reduce distractions.

If possible, provide a press area near the entrance to the debate for arrival and departure photographs of the candidates and interviews after the debate if the candidates wish to speak to the press.

Members of the press may serve as moderators of League debates; even when a League member is serving as moderator, members of the press may serve as panelists presenting questions to the candidates.

DEBATES/FORUMS FOR STATEWIDE CANDIDATES

The overall coordination for any debate or forum involving candidates for state-wide office is the responsibility of the LWVCT. This includes candidates for Governor, Lieutenant Governor, Secretary of the State, Treasurer, Comptroller, Attorney General, and U.S. Senator. If a local League or a group of local Leagues wants to hold a debate/forum for candidates for statewide office, they **must** receive approval from the State Board and meet the criteria in the LWVCT's current "Eligibility" policy (see page 13).

DEBATES/FORUMS FOR CONGRESSIONAL CANDIDATES

Local Leagues are encouraged to co-sponsor U.S. Congressional debates with other local Leagues in their Congressional District or with other groups. They should meet the above standards and apply the LWVCT's candidate eligibility criteria, not their own local League criteria.

SPONSORING PRE-PRIMARY FORUMS

According to decisions by the FEC and the IRS, and supported by the courts, primary election debate sponsors can treat each party's primary as a separate election. That means that your League can limit participation in a pre-primary debate or forum to those candidates seeking the nomination of one party; opposing party, minor party or independent candidates need not be included. Also, you may hold a debate for the candidates in one party's primary election without any obligation to hold debates for other parties' primaries.

Recognizing that in many communities the primary races present the best opportunity to educate voters, and to eliminate any confusion that may have existed on the subject of local League sponsorship of pre-primary forums, LWVCT policy is as follows:

1. Local Leagues may sponsor forums or debates preceding primary elections for local, state Senate, state House, or US Congressional races.
2. When there is a contest in both, or multiple, parties, your League should offer to sponsor pre-primary forums for all parties. If one party turns you down, however, you are not barred from sponsoring a forum for the other party or parties. If there is a contest in only one party, it is appropriate to sponsor a single forum.
3. Your League should use this opportunity to educate voters about primary elections and where they fit in the general election process.
4. The nonpartisan stance of the League must be safeguarded at all times. Co-sponsorship agreements may be entered into only if nonpartisanship can be assured.

Contact the LWVCT office or LWVCT VP for Voter Service if you have questions or concerns.

PARTNERING WITH OTHER GROUPS

The decision to take on a co-sponsor or join a coalition of sponsors should be guided by *In League*, page 38: “Political power doesn’t depend on numbers alone, but combining forces is often an effective approach . . . Working with other organizations exemplifies cooperation, not bondage — keep your eye on the major overall goal.” In addition,

1. Verify that the goals of the co-sponsors are in accordance with League positions.
2. Know the leadership and have an understanding of how decisions will be made.
3. Consider the suitability of any proposed co-sponsor for the particular debate or forum. For example: the Republican Town Committee would be an acceptable co-sponsor for a pre-primary debate in which all the candidates are Republicans, but might not be an acceptable co-sponsor for a general election debate, even if the Democratic Town Committee is willing to be a co-sponsor with them: what if there are other parties’ candidates?
4. Whenever more than one other co-sponsor is proposed, make sure that all coalition members are in agreement as to suitability.

Clarify how your League will respond if a question arises about the suitability of the co-sponsorship arrangement.

Make sure assignments are understood beforehand: which organization gets the insurance? Which writes the PR? Which distributes the flyers, sends out the press kits, arranges broadcast, etc.?

If one of your co-sponsors is a TV or radio studio, make sure you know what the studio’s policies, if any, are for candidate inclusion (e.g., major party candidates only?) and make sure that those policies are compatible with your League’s policies. Do not assume that their policies from previous years are still in force this year; if there have been changes, your League board may have to decide whether to continue the relationship with the studio.

Contact the LWVCT office or LWVCT Voter Service VP if you have questions or concerns.

LEGAL CONSTRAINTS

NOTE: The following overview should not be construed as legal advice. State and local Leagues should consult their own tax and election law counsel to ensure that their debate plans are in accord with all applicable laws and regulations.

The Regulatory Framework

Candidate debates are regulated by federal and state election laws and regulations, and broadcast and cablecast debates are also subject to Federal Communications Commission (FCC) rules. Although each agency has its own rules, the body of rules and regulations must be considered in its entirety.

Key elements of the regulatory framework at the federal level include the following:

- The Federal Election Commission (FEC) regulates the conduct of corporate, labor and nonprofit organizations (including both 501(c)(3) and 501(c)(4) organizations) in federal elections.
- The Federal Communications Commission (FCC) regulates radio and television broadcasters and cablecasters.
- The Internal Revenue Service (IRS) regulates the campaign involvement of tax-exempt organizations such as the League and its Education Funds.

Federal Election Commission (FEC) Regulations

The Federal Election Commission was established to enforce limits on contributions to, or expenditures made on behalf of, candidates for federal office by individuals or groups. **The FEC rules apply only to candidates for federal office**, including U.S. Representatives.

Under most circumstances, providing a platform for a candidate to address the public or providing information about a candidate is considered to be a campaign contribution and therefore subject to the contributions or expenditures limit. However, tax-exempt, nonpartisan organizations, broadcasters, bona fide newspapers, magazines and other periodicals may stage nonpartisan debates (as defined by the FEC) without triggering campaign finance limitations. Organizations may use their own funds or accept donations from corporations or labor organizations for such debates.

FEC regulations define a debate as an event that

- includes at least two candidates;
- is staged in a way that does not promote or advance one candidate over another; and
- allows the candidates to appear concurrently, in face-to-face confrontations, with opportunities to respond to each other.

Federal candidate events that do not meet the FEC definition of “debate,” such as single candidate appearances (“empty chair debates”) or consecutive candidate interviews, may be considered as contributions subject to campaign finance limitations.

Federal Communications Commission (FCC) Regulations

The Federal Communications Commission regulates radio and television broadcasters and cablecasters. Under its regulations, any broadcaster or cablecaster that gives a candidate for any public office — federal, state or local — the use of its facilities must provide all other legally qualified candidates for the same office with equal opportunities for use.

Federal Communications Commission regulations apply only if your League's debate, forum, or other candidate event is being shown on broadcast or cable TV, and then only if the debate is something other than a "bona fide news event" (which includes debates to which the public is invited). This means that you usually have to worry about FCC regs only if you are doing an in-studio debate or set of interviews with no audience present, or if you have an otherwise public debate/forum with an exclusive taping contract and plan to exclude all other news coverage (by force if necessary), which would tend to take you out of the "news event" category.

If you are in this very limited class of debate/forum organizers, you have to offer the opportunity to participate to every candidate for the office or offices in your debate/forum, whether the candidate is from either of the major parties, any of the minor parties, or even of no party whatsoever. The FCC defines "candidate" as anyone

- who has announced an intention to run, and
- is qualified under the state Constitution to be elected, and
- meets any of the following tests:
 - has qualified for a place on the ballot or
 - (starting at least 90 days before any party convention) "makes a substantial showing that he or she is a bona fide candidate" or
 - has "publicly committed" to being a registered write-in and "makes a substantial showing that he or she is a bona fide candidate."

Please note that "bona fide candidate" apparently means "actually running." It does not mean "actually having a realistic chance to win."

The FCC regulations apply to the debate broadcaster, not the sponsoring organization. However, you should be aware of the restraints placed on broadcasters, including:

- debates must not be edited and must be broadcast in their entirety.
- debates should be broadcast live or reasonably soon after they take place.
- at least two candidates must appear in any debate.

Under FCC regulations, a broadcaster that permits a candidate for any public office — federal, state or local — to use its facilities must provide all other legally qualified candidates for the same office with equal opportunities for use.

Internal Revenue Service (IRS) regulations and policies

IRS rules apply to campaigns for public office at all levels of government. A violation of IRS rules can jeopardize the tax-exempt status of the responsible organization.

League membership organizations are designated 501(c)(4) by the IRS, and League education

funds, whether associations or corporations, are designated 501(c)(3). However: any League that co-mingles League and ed fund money, or that keeps separate books but uses money from its ed fund account to finance a debate, even partially, must abide by 501(c)(3) rules.

Current IRS rules for 501(c)(4) organizations permit Leagues to allow any candidates, including unopposed candidates and candidates whose opponents have failed to appear, to take part in debates, forums, “meet-and-greet” sessions or other campaign-season events or portions of events.

IRS rules provide that 501(c)(3) organizations “may not participate or intervene, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.” However, a 501(c)(3) organization may sponsor nonpartisan voter education projects, such as voters’ guides and debates, provided certain rules are followed. The guiding principle for such debates is that there be fair and impartial treatment of all candidates, from the moment the invitations are sent out to the close of the debate, with nothing that promotes or advances one candidate over another.

IRS regulations governing 501(c)(3) organizations prohibit

- any “single candidate forum,” i.e., any event at which a candidate appears and speaks without opposition. This absolutely prohibits “empty chair” debates, although it does not prohibit debates where two or more candidates appear, even if one or more other candidates for the same office are not present. One note: this rule applies race by race, so that in multi-candidate debates where candidates for two or more positions will be on stage at the same time, each candidate in the debate must have at least one opponent on the stage; you cannot have two candidates for the 34th district and one for the 35th, even if all three would have gotten the same questions in strict rotation.
- any forum or event at which the candidates are treated unequally.
- any forum or event at which the questions (or comments) show the organization’s bias. This includes
 - any event in which the questions are limited to a single subject
 - any event in which the questions, however broad in scope, include a statement of or reference to political positions taken by the League or any co-sponsors.

For purposes of all IRS rules, a person is considered a candidate once it becomes apparent to the public at large that he or she is running for office, even if the person has not yet declared an intention to run, and even if the person has declared that he or she will not run even if nominated.

Whatever the legal rules, each League must sponsor and conduct debates in such a way as to avoid creating the impression that it favors one candidate over another.

CANDIDATES: ELIGIBILITY and COMMUNICATIONS

The overall coordination for any debate or forum involving candidates for state-wide office is the responsibility of the LWVCT. This includes candidates for Governor, Lieutenant Governor, Secretary of the State, Treasurer, Comptroller, Attorney General, and U.S. Senator.

Eligibility

For U.S. Senate, U.S. Congressional District, and CT Constitutional Office Debates

Adopted by the LWVCT/LWVCTEF March 9, 2010; ratified March 13, 2012

The overall coordination for any debate or forum involving candidates or potential candidates for statewide office is the responsibility of the LWVCT/LWVCTEF. This includes candidates for Governor, Lieutenant Governor, Secretary of the State, Treasurer, Comptroller, Attorney General, and U.S. Senator. If a local League or a group of local Leagues wants to hold a debate/forum for candidates for statewide office, they must receive approval from the State Board and meet the following criteria:

- have commitments from all qualified candidates per the current revision of the LWVCT/LWVCTEF Criteria to Determine Candidate Eligibility.
- have use of an adequate facility at minimal or no cost
- have funding to cover expenses (e.g., from a co-sponsor)
- be able to provide television coverage, either live or taped
- maintain control over the form and rules according to LWVCT guidelines.

Please note: criteria for televised in-studio debates with no audience are different. Please contact the LWVCT office if you are arranging such a debate or forum.

1. Ballot access

All candidates who have achieved ballot access in accordance with Connecticut election statutes will be considered.

2. Evidence of campaign being waged (current information to be provided not later than the 7th day after the primary date or the date of ballot access, whichever is later)

a. candidate's availability to the public as evidenced by, e.g.,:

- HQ open to the public during business hours (9:00-5:00 or as otherwise publicized), location publicized
- campaign phone (cell or land line) and e-mail address, publicized
- dedicated candidate-specific website or web page
- actual and planned in-district campaign appearances including appearances at community functions, coffee-type meetings, mall visits, etc.
- publications, including platform
- yard signs (where permitted)
- distribution of campaign literature

b. volunteers and/or paid staff, including a campaign manager (provide contact information)

- c. campaign treasurer (provide contact information)
- d. campaign spending to date

3. **Evidence of financial support** (current information to be provided not later than the 7th day after the primary date or the date of ballot access, whichever is later)
- for gubernatorial or US Senate candidates, campaign contributions of at least \$50,000, of which at least 1/3 is raised in-state
 - for US Congressional candidates, contributions of at least \$15,000, of which 1/3 is raised in-district
 - The total contributions received will be verified via candidate response, via state filings with the SOTS/SEEC and via other public sources such as Open Secrets and the National Institute of Money in State Politics (Top National Donors Project).

The vetting committee will consist of the LWVCT President, VP for Voter Services and the LWVCT board-appointed liaisons to the US Congress debates.

Local Level

Local Leagues may choose one of the following options to use in local elections:

1. All the candidates running for a particular office will be invited to participate in a debate or forum.
- or
2. To be invited to participate in a debate or forum, candidates must have achieved ballot access in accordance with Connecticut election laws (this excludes write-ins).
- or
3. To be invited to participate in a debate or forum, candidates must meet the LWVCT/LWVCTEF candidate eligibility criteria.

Whichever option your League chooses, the criteria must be applied as objectively as possible. The decision should be made at least ten days prior to the debate or forum (in accordance with the LWVCT/LWVCTEF standard for state-wide debates/forums.)

Candidate selection decisions must be made in a clear, fair and reasonable way, including:

- Establish your League's official selection criteria. (You should realize that, even if you use objectively applied selection criteria, you may be challenged by uninvited candidates and may face objections ranging from protest rallies through complaints to federal or state agencies to lawsuits. This is one of the reasons why the LWVCT offers DSO insurance.)
- Adopt the criteria by Board motion before any candidates have been invited.
- Include in the motion a statement that the candidates must meet all the criteria to be eligible, and make sure your membership, the candidates and the media are told.

If other candidates seek an invitation, the burden of proof is on them to establish eligibility. You may request information to support a candidate's claim to eligibility.

Criteria should be reviewed and readopted for each debate. Once criteria have been adopted, stick to them and apply them consistently. The criteria are not negotiable; do not yield to pressure to change or waive them to accommodate particular candidates.

The LWVCT strongly discourages the use of substitutes or stand-ins for candidates. If your League is an exception to this rule, make it clear who may qualify to substitute and under what circumstances.

Communicating

As soon as possible once the debate or forum has been decided upon, invite all candidates who are clearly eligible under your criteria. Ideally, you should notify the candidates' campaign chairs and the town committee chairs at the same time or very shortly thereafter.

The initial invitation may be by telephone, fax, mail, or e-mail, but if it is by phone, it must immediately be followed by a confirming letter, whether the candidate has accepted or not. ("Dear Candidate Jones: Thank you for agreeing to participate . . ." or "Dear Candidate Jones: We hope you will be able to participate . . ." or "Dear Candidate Jones: We regret that . . .") If it is sent by fax or e-mail, a confirming letter may be helpful but is not strictly necessary. If the date has not been firmly set, the candidates must be given a (limited) range of choices. A sample letter is included at the back of this booklet.

Your initial written communication should include date(s), place, time, format, driving and parking instructions, and, where appropriate, a statement of the candidate selection criteria.

If there are questions from any of the candidates, it is best to hold initial discussions with each candidate (or staff) separately and under conditions of confidentiality. If you can, start with the strongest (or most difficult) candidate. Once you have an agreement with him or her, you can bring it to the other candidates for approval or modification.

If you have to have a face-to-face meeting with any candidate or staff, develop an agenda for the meeting but be flexible. Start with the major issues — date, format, content (if limited), questioners. Once you agree on the essentials, the details may never become an issue.

If one or more candidates want assurances about the ground rules or details of the debate, such as the setting, audience, use of notes, arrangements for news coverage, etc., provide them with a (written) description of your plans and discuss possible modifications.

If the candidates disagree, try to bring them together to work out an agreement. The negotiating team should be present to protect your League's interests and goals and to ensure that the debate will be fair and impartial.

The final result of such negotiations should be either

- a written agreement signed by each candidate (even if all prior discussions were with the campaign staff) and your League's president, or
- a letter addressed to the candidate directly (with copy to his or her staff if necessary),

signed by your president, setting forth the agreed terms and ending with a statement such as: “if this is not acceptable to you, you must notify me at [email address]or [phone number] not later than [date]. Otherwise we will expect your participation subject to the above terms.”

This agreement may be as general or specific as necessary. It should be considered a public document and, if appropriate, made available to the news media. If you cannot reach agreement on a debate that meets your League’s goals and is fair, impartial and informative, you may decide to withdraw sponsorship. Be sure that the candidates know that if you decide to withdraw, you will make a public announcement of your decision and the reasons for it.

After negotiations, keep the candidates informed about arrangements not included in the agreement, such as ticket distribution, debate furniture, photo opportunities, press coverage, etc. If there are objections, you will still have time to make adjustments.

If possible, each candidate and/or his/her staff members should have access to the site before the debate with time enough to check on the lighting, acoustics and set design, including backdrop and lectern/desk placement. All candidates must be given equal access.

CANDIDATES: ON-STAGE BEHAVIOR

In general, the League does not try to regulate what the candidates do or say during a debate or forum, with the following exceptions:

1. Candidates should not be allowed to have their assistants distribute position papers, “fact sheets” or political literature during a debate, even if the material relates to an answer that the candidate is giving. Candidates should be told beforehand that such literature may be placed on tables outside the debate room, and that they may refer to its availability, but not more.

2. Each League has to decide whether or not to let candidates bring visual aids (printed graphics and/or charts) and/or live electronic devices (computers, iPads, smart phones, etc.) onto the stage. If the decision is “no,” all candidates should be told so at the time they’re invited. If the decision is “yes,” all candidates should be given a list of conditions as soon as those conditions are set, preferably in the letter or email inviting the candidates to participate.

The LWVCT has adopted the following:

LWVCT Policy on Use of Electronic Devices During Debates

approved by the LWVCT/LWVCTEF board March 13, 2012

Candidates may be allowed to use electronic devices during any debate or forum sponsored by the LWVCT or LWVCTEF, provided that:

- the moderator and all participating candidates must agree to their use;
- the devices are silent and do not block the audience’s view of any other participant (candidates or moderator);
- the devices do not interfere with any recording equipment that the debate sponsors have arranged; and
- the devices are used in a way that does not impair decorum.

If these conditions are met, the audience and the press must be informed that use of electronic devices has been permitted.

The conditions for using electronic devices should be set out in the letter or email inviting the candidates to participate. A candidate’s agreement to the use of electronic devices does not obligate that candidate to use such a device himself/herself.

The deadline for agreement or disagreement should be the same as the deadline for agreeing to the debate itself.

The LWVCT does not require local Leagues to follow this policy. If a local League or consortium of Leagues wants to bar the use of electronic devices, it may do so; if it wants to use a variant of the LWVCT policy it should have its own policy approved by its board or by the consortium’s debate-planning committee in advance of any debate(s), and it should provide a printed or emailed version of its policy to all candidates and to any members of the press or public who request a copy.

“EMPTY CHAIR” DEBATES

Based on guidelines adopted in August 2003 by the LWVUS EF

Sometimes only one candidate in a contested election accepts a debate invitation, or a candidate in a two-party race cancels a debate appearance after agreeing to participate, leaving the debate with only one participant, often called an “empty chair” debate. **If only one candidate accepts the invitation, the debate should be canceled.**

Cancellation is also the most prudent course of action when one candidate in a two-party race fails to appear at the event or backs out shortly before the debate. Leagues need to consider whether and how to proceed should they find themselves in an empty chair debate situation. The degree of risk and the options available to Leagues vary depending on the office being sought by the candidates (federal vs. non-federal) and the IRS designation of the sponsoring organization.

Legal Considerations — A Review

FEC:

For debates involving candidates for federal office, FEC rules apply. FEC regulations treat empty-chair events as prohibited campaign contributions. However, FEC rules do allow educational institutions, such as universities and League education funds, to sponsor “candidate appearances” that also involve members of the public. Any League that contemplates hosting a “single candidate appearance” (empty chair debate) in connection with a federal election is strongly encouraged to seek formal guidance from the FEC or from an attorney specializing in FEC practice.

FCC:

FCC regulations permit broadcast or cable coverage of empty-chair events if you can clearly demonstrate that all candidates who are considered “eligible” under FCC regulations were invited to participate.

IRS:

501(c)(4) Leagues and groups of Leagues may sponsor empty-chair events without losing their tax exemptions; 501(c)(3) education funds may not.

When Your League Is the Sponsor (and Not Using Education Fund Money)

Whatever the IRS, FCC or FEC rules, League nonpartisanship policy still applies. Under very limited circumstances a League may sponsor a state or local candidate event involving only one candidate. However, the LWVCT believes that the most prudent course of action is to not host empty-chair debates.

In considering such an option, the League needs to ensure that the event would not violate any state or local election laws; no tax deductible funds (including ed fund contributions) are being

used; and the event would not damage the League's nonpartisan reputation by creating the impression that the League favored one candidate over another.

Leagues can reduce their risk by observing the following guidelines:

- The League board should have adopted relevant policies and rules well in advance of any debate. These policies should include provisions about empty chair debates.
- Cancel the debate if only one candidate agrees to your League's offer to participate.
- An empty chair debate may be conducted only if one or more candidates pull out of a scheduled debate after agreeing to participate, and rescheduling is not feasible. (In this situation your League could also choose to cancel the debate.) The closer to the scheduled debate that the candidate cancels his/her appearance, the stronger the argument is that going forward with the debate is not a partisan political activity.
- If the candidate cancels well enough in advance of the debate to allow the sponsoring League to make other arrangements without charge or penalty, the League should make every effort to see if the debate can be rescheduled.
- In announcing that a candidate has canceled his/her participation, the League should present the factual reasons given by the candidate, if any, without any editorial comment. If no reason is given by the candidate, the League should simply state that it was contacted by the candidate or his/her campaign and told that the candidate would not be able to appear at the debate; the League can also state that the candidate provided no reason for canceling his/her participation.
- To maintain a clear record, the League should correspond in writing or e-mail with candidates concerning invitations to appear at debates, attempts to accommodate each candidate's schedule, confirmation of scheduled debate appearances, confirmation of the cancellation of a debate appearance, and attempts, if any, to reschedule a canceled appearance. You should make and keep paper copies of all e-mail correspondence.
- If the League board decides to proceed with an empty chair debate, the League should maintain, to the extent practicable, the debate format. The League must prevent the debate from turning into a candidate appearance that has the look, feel and content of a campaign rally for the only candidate attending the debate. The moderator and other panelists, therefore, should ask nonpartisan questions, the length of the candidate's response should be limited, and: if possible, the moderator and other panelists should act as devil's advocate, asking probing questions and follow-up questions.

If Your Ed Fund Is the Sponsor or You're Using Ed Fund Money

For debates sponsored by 501(c)(3) organizations — and by 501(c)(4) organizations using money sourced from any 501(c)(3) organization — for candidates for federal, state or local office, the IRS considers “empty chair” events to be prohibited electioneering activity. Education funds or Leagues using education fund money, whether that money is held by the LWVUS or by a League's own separate education fund, can therefore **never** hold empty chair debates, and can never invite an unopposed candidate to participate in a multi-candidate debate or forum.

A CHECKLIST

Before the debate:

- Has a location been chosen and confirmed (place, time, any restrictions)? Sub-questions:
 - Accessibility. Is the site convenient for the expected audience and the media? Is it accessible for the physically disabled? Is there sufficient parking? Public transportation? If the debate is to be televised, can television equipment be brought in? Is the site available at least 12 hours before the debate so broadcasters can set up?
 - Security. Is the location secure (in an area where demonstrations or other disruptions are unlikely)? Can all entrances be monitored or safely secured? Are any potentially disruptive activities occurring at the site or nearby (athletic events, labor disputes/picketing, construction, political rallies?) Can demonstrators outside the site be heard or seen from inside? Can they block access? Will the site provide security guards as needed? Is there an additional charge?
 - Cost. Is the site fee or low-cost?
- Insurance. Who is responsible for liability insurance? Is there an additional charge? (A hotel or convention center probably carries its own insurance; a university or library might want to add a “rider” to an existing policy to cover the debate.) If your League is responsible for getting one-day insurance, have you called the LWVCT to arrange it?
- Have all the candidates been invited?
- Does the invitation clearly state all the conditions and limitations of the event?
- Have you received commitments from all (or enough of) the qualified candidates?
- Once each candidate has accepted or refused, have you sent a confirming letter (or fax or e-mail)?
- Have you chosen who will
 - design and produce materials
 - answer inquiries
 - make fundraising calls (if needed)
 - help with news releases and press conferences
 - distribute flyers and posters
 - stuff and address invitations
 - design, produce and distribute tickets and programs

Who will check the work?

- Has the pre-debate work been finished?
 - Materials ready
 - Flyers posted
 - Tickets sent out

- League staff organized and ready
 - Stop-watches and timer cards on hand
 - Audience question cards and pencils available
 - Etc.
- if you are getting funding to cover expenses – e.g., from a co-sponsor – have you finalized the arrangements for receiving it?
 - if you are providing television coverage, either live or taped, have you finalized the arrangements?

Immediately Before and During the Debate:

- Arrange a brief session, on site, with the candidates or their stand-ins to check the podiums, chairs, stools or other furniture, the positioning of the other candidates, the moderator, panelists and timekeepers. Check out any signals the candidates must see.
- Use this opportunity for the broadcaster and house staff to do last-minute checks on light and sound.
- Review ground rules and timing for the last time.
- Brief the candidates on arrangements for still photographs and news conferences. This is the time for the draw or coin toss that determines the order in which the candidates speak.
- Lobby or Foyer:
 - Open for staff (____ hours before debate)
 - Open for public (____ hours before debate)
 - Direction signs to auditorium, press table and press room, restrooms, cloakroom and telephones.
 - Tables for debate information and check-in.
 - Media table for sign-in, credentials check and distribution of press kits.
 - Table with information about your organization.
 - Locations for ushers.
 - Signs for auditorium doors.
 - Television monitors, if needed, for debate staff and volunteers who must remain in lobby.
- Debate Room:
 - Open at scheduled time (_____).
 - Air conditioning: if debate/forum is being televised, set at 60 degrees to compensate for lights.
 - Location of electrical outlets.
 - Location of house phone.
 - Nearest restrooms and public telephones.

- In-house sound system; sound technician.
- In-house lighting system; electricians and/or lighting technician.
- Placement of security personnel.

Room Set-up

a. On stage:

- A pitcher of water (no ice), glasses, napkins on a shelf in each podium or at each place at the table(s).
 - height and width of stage or platform as agreed
 - backdrop as agreed
 - podiums, stools or chairs, tables
 - microphones for candidates, moderator, panelists and others
 - (optional) Media platforms for still photos and television cameras
 - Seating
 - (optional) marked reserved seats for candidates' staff and family, debate staff, broadcast staff, timers, VIPs, news reporters
 - location of television cameras
 - television monitors - if site is very large and/or audience visibility is limited.
- If the moderator will introduce the candidates, have all the bios/introductions been provided?

After the debate:

- Is the room clean? If there is no janitor, have you picked up all the litter? Have you retrieved all League materials, including door signs, from the debate room, the lobby, and the pathways in?

SAMPLE INVITATION LETTER TO CANDIDATES
TO PARTICIPATE IN A DEBATE OR FORUM

[date]

[Mr.][Ms.][The Hon.] Joe Verbify
Verbify for Mayor
P.O. Box 000
Cityville, CT 06000-0000

Dear Candidate Verbify:

The League of Women Voters of the Greater Cityville Area will be hosting a debate at Cityville High School (Main Auditorium, off the West Entrance) for the candidates for Mayor of Cityville on [Tuesday, October x, 2014], starting at [7:30 p.m.] and ending not later than [9:00 p.m.]. [Candidates who meet the enclosed League of Women Voters of Connecticut candidate eligibility criteria will be invited to participate in the debate; please fill out the enclosed “Candidate Profile” and return it to us not later than {date}.] [All [five] candidates [who are on the ballot as of the filing deadline] are being invited to participate.]

The format will be [xxx] – for a more complete description, please see the enclosed sheet. The public will be invited and [will be asked to submit written questions to the moderator] [will be able to ask questions in an “open-mike” format]. The order of response will be determined by [a coin toss] [drawing numbers out of a basket]; please plan to arrive [between 7:15 and 7:30] so that you can participate.

The debate [is scheduled to be taped and will appear on Chanel xx][will be carried live by __. The[network][station] will also make the feed available to all local [and state] broadcast and cable media for their use.

Please contact the League at (203)(860) xxx-xxxx to accept or decline this invitation. In order to make the necessary preparations for the event, we are asking that you notify us of your decision no later than 4:00 p.m. on [September 12], 2014. Thank you for your cooperation and consideration. We hope you’ll be able to join us.

Sincerely,

[Name]
[President][Vice President/Director/Voter Service]

cc: campaign manager
party chair
LWV president

League of Women Voters Candidate Profile

as of _____ 2013

Candidate Name And Contact Info:	
Party Affiliation:	
Campaign Phone:	
Campaign E-Mail:	
Campaign Website:	
Campaign Headquarters Address:	
Campaign Manager Name/Address/Contact Info:	
Campaign Treasurer Name/Address/Contact Info:	
Other Campaign Officials (Please List):	
Approx. Number Of Volunteers And Staff:	
Position Papers/Platform (Or Links Thereto)	
In-District Campaign Appearances (Please List)	
Money Raised	
In-Kind Contributions Raised	
Campaign Disbursements	

submitted by candidate or authorized representative:

signature _____

name (print or type) _____

title (print or type) _____

Please submit this signed form to []
 by fax to [#]
 or by sending a PDF to x@lwvct.org