



AOR 1999-02  
(SUPPLEMENT &  
BACKGROUND)

January 27, 1999

N. Bradley Litchfield  
Associate General Counsel  
Federal Election Commission  
999 E Street NW  
Washington, DC 20463

Dear Mr. Litchfield:

Per your request in your e-mail, below are the questions you asked and the responses I have provided. If you have any other questions, please feel free to give me a call at your convenience at (425) 670-5630. Thanks for all your help!

1) Confirm whether your forum program would include appearances by candidates for the U.S. House of Representatives and U.S. Senate. Would such appearances occur in 1999 or 2000, or both.

Both.

2) Describe the employee group that would attend these lunch forums and the attendance policy. In other words, will all Premera employees be invited to attend? Or will the invitees be limited to only certain categories of employees? If the latter, describe the categories that will be included and excluded from the invitations. Will employee attendance be voluntary or will attendance be directed by corporate managers or supervisors?

All employees would be invited to a "bipartisan forum". Employee attendance would be strictly voluntary during their lunchtime hour. No forum will be held outside the lunch hour so as to disrupt their work schedules.

3) Describe the process that will be used to determine which Federal candidates will be invited. Your response should include the job title or corporate position of the Premera official who will make the final decision as to which candidates are invited. Explain what steps Premera will take to assure that all candidates for a given Federal elective office (US Congress) are invited and that each invitee has a similar opportunity for his/her forum appearance.

We would ask employees for their input as to who they would like to hear from. The candidates with the highest interest shown by employees would first be selected. A letter would then go out to the candidate's opponent offering him/her the same opportunity to appear at a separate forum. Jack McRae, Senior Vice President and myself would be the final decision makers with regards to who comes, however, the employees really make the choice through their input.

4) Describe and explain the process and steps Premera will take to assure that each forum event is solely a "non-partisan issues" discussion that will not involve any form of campaign activity by either Premera personnel or the participating Federal candidates or their campaign personnel. Your answer should address activities such as soliciting or collecting campaign contributions or contribution pledges, recruiting campaign volunteers or campaign staff, seeking other forms of campaign assistance from Premera employees who attend the events.

Flyers would be posted throughout the campus announcing the candidate forum stating it is a non-partisan event with the purpose of educating employees on relevant issues and not a campaign-related forum. The flyer would NOT list any campaign language such as "Re-Elect" or "Elect". If campaign signs are used to post around the campus advertising the forum, the "elect or retain or re-elect" portion would be literally cut off the sign so there would be no reference to a campaign. The candidate would be told in writing that no campaign literature would be accepted and no contributions could be solicited while on campus.

Again, thank you for your assistance.

Sincerely,



Barbara Mehlert  
Public Affairs Administrator



**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

January 14, 1999

Ms. Barbara Mehlert  
Public Affairs Administrator  
Premera Blue Cross  
P.O. Box 327  
Seattle, WA 98111-0327

Dear Ms. Mehlert:

This responds to your recent letter to the Federal Election Commission (FEC) regarding the permissibility of "candidate forums" that your corporation would like to hold on its campus. You indicate that candidates from both parties would be invited to speak to employees during "lunch hour sessions." Moreover, you write that candidates would speak about non-partisan issues, and no election materials would be available to employees at the sessions.

Under FEC regulations, corporations are generally prohibited from making contributions or expenditures in connection with a federal election or campaign. The law nevertheless allows corporations to pay for certain election-related communications. For example, a corporation may sponsor an appearance by a candidate or the candidate's representative. However, the rules governing the appearance vary according to who attends the event. The three types of audience are:

- \*The restricted class of the corporation (see definition in *Campaign Guide*, pp. 14-15);
- \*Other employees and their families; and
- \*The general public.

**Appearances Before Restricted Class**

If only members of your corporation's restricted class are invited to attend the "candidate forums," both the candidate and the corporation may expressly advocate the election or defeat of the candidate, other candidates or the party. The candidate may also solicit and accept contributions before, during or after the appearance. Because the candidate will speak only to the restricted class and express advocacy is allowed, the corporation may grant or deny other candidates and parties the opportunity to appear, as the organization desires.

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You should be aware that corporations must report disbursements for communications to the restricted class if:

- 1) the communication (e.g., appearance by candidate) contains express advocacy (candidate advocacy); and
- 2) the costs for all candidates running in the same election aggregate over \$2,000.

If the above criteria are met, the corporation must report the costs of the communications on FEC Form 7. Please see p. 49 of the *Campaign Guide* for detailed information on this reporting requirement.

#### **Appearances Before All Employees**

If, on the other hand, your corporation invites all employees to the "candidate forums," the candidate is permitted to expressly advocate his/her election, but the corporation may not; nor may it encourage its employees to do so. Furthermore, while attending the event, the candidate may solicit but may *not* accept contributions before, during or after the appearance.

The corporation also must allow other candidates for the same office to appear, if they request to do so. For example, if a candidate for the House or Senate is allowed to make an appearance at your corporation, all other candidates for that seat must be given a similar opportunity, upon request. If a Presidential or Vice Presidential candidate is allowed to make an appearance, all candidates for that office meeting the pre-established objective criteria for candidate debates under FEC regulation §110.13 must be given a similar opportunity, upon request.

#### **Appearances Before the General Public**

Under certain circumstances, a corporation may sponsor an appearance by a candidate before the general public. If your corporation wishes to invite individuals who are not corporate employees to a "candidate forum," the speaker must not appear in his capacity as a federal candidate but rather as a current federal officeholder or as a lecturer. Neither the speaker nor the corporation may expressly advocate the election or defeat of any clearly identified candidate. In addition, they may not solicit contributions before, during or after the event. While the speaker must avoid references to his campaign, he may speak about issues of interest to your corporation, including legislative issues. Finally, the corporation need not provide other candidates with similar opportunities to speak because the speaker is appearing in his/her professional capacity rather than as a candidate.

#### **Lunch Served at Candidate Appearances**

You also ask whether the corporation may purchase lunch for those employees who attend the "candidate forums." FEC regulations do not specifically address the issue of meals and refreshments served during a candidate appearance. However, on its face,

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lunch served during the "candidate forum" appears to represent an expense connected directly to the event itself. Accordingly, such "communication" costs could be paid for by the corporation sponsoring the event.

Please note that your question regarding lunch may be more appropriate for an advisory opinion request. The "guidance" provided by this correspondence is intended to be strictly informational and is not legally binding. Only the Commission, via the advisory opinion process, has the authority to issue a legally binding opinion. See the enclosed brochure for guidance on requesting an advisory opinion.

I hope this information is helpful. If you need further assistance from the FEC's Information Division, please contact me at 1-800-424-9530 (press #1).

Sincerely,



Erica H. McMahon  
Public Affairs Specialist



# Premera Blue Cross

An Independent Licensee of the Blue Cross and Blue Shield Association

December 29, 1998

Federal Election Commission  
999 E. Street, N.W.  
Washington, DC 20463

As a Corporate, I realize it is a violation to contribute funds from a corporate account unless there is a separate PAC set up.

My questions are:

1. As a corporation, are we allowed to hold "candidate forums" on our campus? Candidates from both parties would be invited to our campus during a lunch hour to speak about non partisan issues. It would be a strictly bi-partisan event where no election material would be present. The speaker or current elected official would be the only one present, as we would rotate speakers.
2. If so, if we bought lunch for the employees who chose to attend the forum during their lunch hour, are we in violation of any FEC rules?

I would greatly appreciate a written response to these questions.

Thank you.

Barbara Mehlert  
Public Affairs Administrator



Premera Blue Cross  
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Barbara Mehlert  
Public Affairs Administrator

7001-220th S.W.  
Building 3, M.S. 355  
Mountlake Terrace, WA 98043-2124  
P.O. Box 327, Seattle, WA 98111-0327

425-670-5630  
Fax 425-670-5635  
barb.mehlert@premera.com

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