

NONPROFITS AND ELECTION-RELATED ACTIVITIES

Nonprofit¹ engagement in election-related activities can be quite complementary to legislative, regulatory and administrative lobbying for several reasons:

- Election-related activities can raise the visibility and recognition of your issues.
- Election-related activities are a key way to involve the people and community you serve.
- Election-related activities can be the first step toward building on-going relationships with elected officials that your organization will need to work with and influence later.



Nonprofits do not have to sit on the sidelines during a political campaign provided that they operate in a scrupulously nonpartisan manner. Nonprofits sometimes confuse working for the election of a political candidate with lobbying. These two kinds of activity are in fact very different.

It is perfectly legal (and highly appropriate) for a nonprofit to work for the passage of a particular piece of legislation, during a political campaign or at any other time. ***Working for the election of a particular candidate, however, whether at federal, state, or local levels, is strictly prohibited and is cause for the nonprofit to lose its tax-exempt status.***

While a 501(c)(3) group cannot work on behalf of or against candidates, there are a number of other election-related activities, such as those described here, that it can legally engage in. Use this resource to learn what your organization can and cannot do to support your legislative advocacy efforts during an election season. If you plan to engage in any of these activities, consult a nonprofit law attorney for further guidance.

¹Nonprofit, as used here, refers to 501(c)(3) charitable organizations, not including private foundations.

DO'S AND DON'TS FOR 501(C)(3)S DURING AN ELECTION SEASON:

>> SEVERAL DONT'S

- Don't lend space to candidates or a party. If you sell space or a mailing list, then it must be at fair market value and available for all candidates.
- Don't coordinate activities with a political campaign.
- Don't allow staff to contribute time at the expense of the organization. They must do so on their own time.

>> SEVERAL DO'S

- Do continue your normal lobbying activities during a legislative session.
- Do consider conducting nonpartisan election-related activities as discussed in this information sheet.

ELECTION-RELATED ACTIVITIES BY NONPROFITS

>> NONPARTISAN VOTER REGISTRATION

Nonprofits may want to participate in Get Out the Vote (GOTV)/voter registration activities to promote democracy and voting for all eligible citizens. Know the following rules before participating in GOTV:

- Ok to target a group that is historically disadvantaged.
- Not ok to target any ideological group such as conservatives, liberals, Republicans, or Democrats.
- Ok to target geographic areas with historically low voter turnout.
- Ok to target an area where your organization has the infrastructure to carry out the activities.
- Not ok to choose based on where a close race is.
- Ok to refer to issues that do not make obvious your organization's preferred position.
- Not okay to target or choose any area or group with the intention of influencing the outcome of an election.



>> CANDIDATE QUESTIONNAIRES

Nonprofits with a broad range of concerns can safely disseminate responses from candidate questionnaires. The questions must cover a broad range of subjects, be framed without bias, and be given to all candidates for an office. If a nonprofit has a very narrow focus, however, questionnaires may pose a problem. The IRS takes the position that a nonprofit's narrowness of focus implies endorsement of a candidate whose replies are favorable to the nonprofit's position on the topic covered in the questionnaire. The same problem arises when candidates are asked to respond to a nonprofit's position paper. Unless you are certain that your organization clearly qualifies as covering a broad range of issues, your organization should avoid disseminating replies from questionnaires.

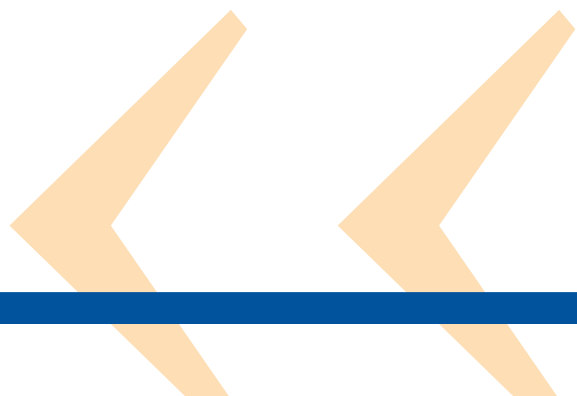
>> VOTING RECORDS

Many nonprofits follow the useful practice of telling their members how each member of a legislature has voted on a key issue. The IRS has several regulations on when and how 501(c)(3) nonprofits may distribute voting records. Such regulations include that voting records can be disseminated if such records have been published in a similar manner by the organization consistently throughout the year or legislative session. Voting records cannot be disseminated only during an election season. For more information, seek counsel from a qualified attorney before proceeding to distribute candidate voting records.

>> VOTER GUIDES

Voter guides provide information on the candidates running for office during an election season to help voters make informed decisions when casting their ballots. Voter guides published by a 501(c)(3) nonprofit should be completely nonpartisan. IRS law looks for bias in the format and content of what an organization includes in a voter guide. Again, the key is nonpartisanship. Also, be sure to check and comply with Federal Election Commission rules regarding voter guides and other election-related activities before engaging.

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>> CANDIDATE VISITS AND PUBLIC FORUMS

Nonprofits may invite candidates to meetings or to public forums sponsored by the organizations. The invitation must be extended to all legitimate candidates for an office. It is best to write to them all simultaneously and to use identical language in the invitations. It is not necessary that all candidates attend. If a candidate asks to visit your facility you may allow it but you should then invite the other candidates. Moreover, the candidate may not fundraise or campaign on the premises of your organization.

Even-handedness must be maintained in promoting and holding a public forum. Also, the forum must cover a broad range of topics and cannot just address one particular issue. The nonprofit should not state its views or comment on those of the candidates. If there is a question-and-answer period, each candidate must be given an equal opportunity to answer questions, and the moderator should strive to ensure balance. Speeches or other remarks by candidates at the forum may be published as news items in the nonprofit's newsletter, if it is published regularly and if its circulation is limited to the organization's normal distribution patterns.

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>> ISSUE BRIEFINGS AND CANDIDATES' STATEMENTS

Issue briefings for candidates must be extended to all the candidates running for a particular office. A candidate may publish a position paper or statement on the issue, but a nonprofit may not circulate the candidate's statement to the media, the general public, or the nonprofit's members until after the election.

>> TESTIMONY ON PARTY PLATFORMS

As part of a lobbying effort, nonprofits may testify before party platform committees at the national, state, or local levels. Testimony should be offered equally to both parties, and both parties' platform committees should receive copies of the testimony. Any account of the testimony and responses may be reported in the nonprofit's regularly scheduled publications.

>> MEMBERSHIP LISTS

The nonprofit may sell, trade, or rent its list to others, including candidates for office. If it does so, all candidates must be aware of the opportunity and be given the same access on the same terms. An organization that gives or lends its membership list to a candidate is in effect making an illegal campaign contribution. To stay within the law, the nonprofit must be paid fair value in return.