

Keeping Nonpartisan During Election Season

Election Season: What All 501(c)(3)s Need to Know

Election years provide great opportunities for 501(c)(3) organizations. After all, what better way to participate in our civic society — our democracy — than voting? In the run up to elections, voters pay substantially more attention to public policy issues as they are explained and debated by the candidates running for office.

And while those candidates prepare and debate their positions, they are more likely to pay attention to organizations advocating on those causes. This represents a real opportunity for 501(c)(3)s to guide the candidates to focus on the issues that impact their constituents. Supporting election-related activities is an effective way for 501(c)(3)s to improve civic dialogue, strengthen democracy, give a voice to the underrepresented, and make an impact on important issues.

The opportunities are not unfettered, however. 501(c)(3) organizations — both private foundations and public charities/foundations — are absolutely prohibited from supporting or opposing candidates for public office. The law doesn't even allow cost-free activity, or forgive small, one-time offenses. Consequently, it is important that staff, board members, and volunteers understand what they can — and cannot — say and do when acting on behalf of an organization.

One more aspect to consider: because the IRS may ascribe the comments of invited guests speaking at your events to your organization, those guests should be asked to abide by these rules as well.

The Law

501(c)(3) organizations — whether private foundations or public charities — cannot "participate in, or intervene in... any political campaign on behalf of (or in opposition to) any candidate for public office." There is no comprehensive statutory or regulatory guidance on what counts as campaign intervention. Rather, the Internal Revenue Service uses a "facts and circumstances" test to decide whether a 501(c)(3) has supported or opposed a candidate for public office.

501(c)(3)s also cannot endorse candidates, favor, or oppose a candidate's views on issues, or compare a candidate's position with the organization's own views. This prohibition extends to their staff, trustees, and volunteers, and they cannot invite outside speakers to say or do anything to support or oppose candidates either.

But these prohibitions still leave a wide array of nonpartisan voter registration, get-out-the-vote, voter education, and voter protection activities available to keep 501(c)(3)s busy during election season.

EXAMPLES OF WHAT YOU CAN SAY AND DISCUSS:

- Discuss voter suppression efforts and the effect they will have on minority communities.
- Discuss voter ID bills.*
- Discuss ballot measures.¹
- Share updates on redistricting efforts.
- “We should conduct research (or discuss research findings) about what motivates young people to vote.”
- “Support Proposition C” or “We Oppose Ballot Measure 5” (which counts as lobbying, so only if you are with a public foundation/charity).

EXAMPLES OF WHAT YOU CANNOT SAY OR DISCUSS:

- “Vote for Candidate X.”
- “Candidate Y has the most realistic plan for balancing the state’s budget. The other candidates’ plans are regressive and simply provide benefits to corporations.”
- “We need to get out there to make sure Candidate Z wins.”
- Comparing the records or proposals of the various candidates.
- Discussing your individual activities supporting or opposing a particular candidate.

¹ Communicating a stance on legislation or ballot measures is potentially lobbying activity. Public charities and public foundations are allowed to lobby but are limited in how much they can do. Private foundations are assessed an excise tax on any lobbying work, so they typically avoid it. For more see Bolder Advocacy's [Being a Player](#).

Common Activities

	Private Foundations	Public Foundations and Charities	Outside Speakers at Public Charity or Foundation Event
Urging support for ballot measures	No	Yes (within lobbying limits)	Yes (but you should remind private foundations not to take action)
Supporting or opposing legislation	No	Yes (within lobbying limits)	Yes (but you should remind private foundations not to take action)
Endorsing candidates	No	No	No
Disparaging a candidate or political party	No	No	No
Discussing partisan activities of a political organization	No	No	No

Individual Partisan Activity When It Is Separate from a 501(c)(3)

The prohibition on partisan political campaign activity does not apply to the activities of officers, directors, or employees acting in their individual capacity. Staff may work on political campaigns outside work hours or can use their available leave time to do so.

However, staff, officers, board members, and volunteers may not use the facilities equipment, personnel, social media accounts, or other resources (such as organizational events) of the organization to provide support or oppose a candidate or campaign.