

Civic Engagement and 501(c)(3)'s

Election Activity Do's and Don'ts for 5-1(c)(3) Organizations:

Election years provide a window of opportunity for nonprofit activists. Supporting election-related activities is an effective way for foundations to strengthen democracy by broadening the civic dialogue and giving a voice to underrepresented communities. 501(c)(3) public charities and public foundations may proactively initiate ballot measures or react to measures proposed by others. Ballot measures allow voters to propose and enact laws. They include ballot initiatives, constitutional amendments, bond measures, and referenda. Public and private foundations may support public charity grantees that engage in these activities. Efforts to influence ballot measures are considered lobbying, and public charities and public foundations may engage in a limited amount of lobbying.

Even though public charities and public foundations **cannot** support or oppose *candidates for public office*, they can urge voters to support or oppose particular *ballot measures*. The IRS considers ballot measure work to be a *lobbying* activity because members of the voting public act as legislators when they vote “yes” or “no” on the legislation proposed in ballot measures. **Therefore, public charities and public foundations may propose ballot measures, collect signatures so a ballot measure can be certified, challenge the certification of a proposed ballot measure, and encourage voters to support or oppose a ballot measure.**

Permissible Election Activities Checklist:

501(c)(3) public charity organizations are strictly forbidden from engaging in any political activity in support of or in opposition to any candidate for public office. The IRS will consider all of the facts and circumstances surrounding an activity to determine whether the activity violates this prohibition. However, c3 organizations can engage in nonpartisan voter education activity and in a limited amount of lobbying.

501(c)(3)s MAY:

- engage in limited lobbying, including work on ballot measures
- conduct nonpartisan public education and training sessions about participation in the political process
- educate all of the candidates on public interest issues
- publish legislative scorecards (with certain restrictions)
- prepare candidate questionnaires and create voter guides (with certain restrictions)
- canvass the public on issues
- sponsor candidate debates (with certain restrictions)
- rent at fair market value mailing lists and facilities to other organizations, legislators, and candidates (with certain restrictions)
- conduct nonpartisan get-out-the-vote and voter registration drives
- establish a controlled 501(c)(4) organization
- work with all political parties to get its positions included on the party's platform (with certain restrictions)

501(c)(3)s MAY NOT:

- endorse candidates for public office
- make any campaign contributions
- make expenditures on behalf of candidates
- restrict rental of their mailing lists and facilities to certain candidates
- ask candidates to sign pledges on any issue (tacit endorsement)
- increase the volume or amount of incumbent criticism as election time approaches
- publish or communicate anything that explicitly or implicitly favors or opposes a candidate

Election Activities of Individuals Associated with 501(c)(3) Organizations:

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 using their available leave time. However, leaders and volunteers may not use the facilities, equipment, personnel, or other resources of the organization to provide support or oppose a candidate or campaign.

Here are some election activities that c3 associated individuals may not engage in:

- The director of an organization cannot make statements biased for or against candidates for public office during an event sponsored by the organization or in any of its publications.
- An employee of an organization cannot wear a political button at a public event or function when acting on behalf of the organization.
- An employee may not give the organization's mailing list to a candidate.

An organization can help to protect itself from violating these laws by:

- Requiring officers or employees acting as individuals engaged in partisan political activity to clearly state that they are acting in their individual capacity, not on behalf of the organization, and that any reference to their work for the organization is made only for identification purposes.
- Notify employees of their limitation on use of their staff time and office facilities. Time sheets should reflect that an employee took leave to participate in partisan activity.
- Disavowing any partisan actions of officials or employees that appear to be authorized by the organization, taking steps to ensure such actions are not repeated.

Foundation Support for Election-Related Activities:

Public and private foundations may support nonpartisan election-related activities! The key is not to fund or engage in projects that appear to support or oppose candidates for public office.

These are some of the election-related activities foundations may support:

- Public education and training sessions about participation in the political process
- Candidate education on public interest issues
- Candidate debates and forums
- Nonpartisan get-out-the-vote drives
- Nonpartisan voter registration drives (with certain restriction for private foundations)
- Canvassing the public on issues

Foundations may also support ballot measure work through specific project grants.

As 501(c)(3) organizations, foundations may not:

- Make campaign contributions
- Make expenditures on behalf of candidates
- Endorse candidates for public office
- Communicate anything that explicitly or implicitly favors or opposes a candidate

Note: This handout provides general guidelines only, and is intended to serve as an overview. Because the application of law is fact-sensitive and context is critical, it should not be relied upon as legal advice. Organizations should consult with their attorney to receive guidance on special rules governing their conduct.

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