

Elections and 501(c)(3) Organizations



Federal tax rules prohibit section 501(c)(3) organizations from participating or intervening in a political campaign in support of or in opposition to a candidate for elected public office. However, organizations may lobby, educate voters, encourage voter registration and participation, and advocate for issues in a nonpartisan manner.

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Introduction

The following is quoted directly from the [Internal Revenue Service \(IRS\) website](#):

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Certain activities or expenditures may not be prohibited depending on the facts and

circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a nonpartisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a nonpartisan manner.

On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.

This guide provides information about how 501(c)(3) nonprofits (referred to throughout as “organizations”) may participate in nonpartisan election-related activities. It does not explain the rules governing the election-related activities of 501(c)(4) organizations; for more information on those, see the IRS publication [Political Campaign and Lobbying Activities of IRC 501\(c\)\(4\), \(c\)\(5\), and \(c\)\(6\) Organizations](#).

All examples provided in the guide are quoted verbatim from the IRS publication [Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501\(c\)\(3\) Organizations](#) as of April 2019 (and are valid going back to 2010 or earlier).

Prohibited Election-Related Activities

501(c)(3) organizations may not engage in any activities that favor or oppose one or more candidates for public office. Below is a list of prohibited activities (some of which are described in more detail in subsequent sections).

Organizations may not:

- Endorse (explicitly or implicitly) a candidate or political party. Organizations may not support or oppose a candidate, or tell members or non-members which candidate they prefer. This applies to specified candidate or political party, and to unnamed candidates or parties that generally subscribe to particular issue positions or have particular characteristics.
 - Make direct or indirect contributions to political campaigns, including to a candidate, political party, political action committee (PAC), or other section 527 political organization.
- Make verbal or written public statements of position in favor of or in opposition to any candidate for public office.
- Distribute statements prepared by others that favor or oppose any candidate for public office.
- Allow a candidate to use an organization's assets or facilities if other candidates are not given an equivalent opportunity. Organizations may not use any of their resources to pay for or participate in a partisan event.
- Conduct research on an issue in order to provide it to a particular candidate or party (whether or not it is requested by a candidate or party).
- Target voter-education efforts to a precinct based on the political party or candidate the precinct is likely to support.
- Conduct partisan efforts to increase voter registration and turnout. Activities with the goal of increasing voter registration and turnout may not be targeted towards groups or geographic areas with the intention of influencing the outcome of an election or targeted based on where a close race is.
- Conduct any candidate or partisan fundraising.

Organizations should note that these prohibited activities can occur without explicitly mentioning the name of a candidate or political party. For example, showing a picture of a candidate or referring to distinctive features of a candidate's platform or biography are still prohibited activities.

Permitted Election-Related Activities

501(c)(3) organizations may engage in the following activities (some of which are described in more detail in subsequent sections).

Organizations may:

- Provide publicly available information to all candidates or parties, either upon request or at the organization's initiative.
- Issue press releases or post information on their websites describing their nonpartisan voter outreach plans and strategies. Organizations may share their plans with candidates so long as share them with all candidates in a particular race or all political parties in a jurisdiction.
- Share research on issues of general concern, as long as the research is made generally available to the public (e.g., posted on an organization's website) or is offered to all candidates in a race or all viable political parties in a jurisdiction.
- Solicit support from all political parties or candidates for a particular office for an organization's advocacy efforts on a particular issue.
- Support litigation brought by a party or candidate that, in the independent judgment of the organization, furthers an issue of interest. In doing so, the organization must avoid showing support for the party or candidate and should affirmatively state its neutrality.
- Encourage voter registration and turnout in a way that does not favor a particular candidate or party and does not have the intention of influencing the outcome of the election.
- Contribute money to committees supporting or opposing ballot initiatives or referenda. Organizations must include such contributions in their calculations of lobbying costs.

Get Out the Vote Efforts

Organizations may participate in activities that encourage citizens to register for and vote in elections (commonly referred to as "get out the vote" or GOTV) as long as these activities remain nonpartisan. Organizations may:

- Target their efforts towards a group that is historically disadvantaged or towards geographic areas with historically low voter turnout.
- Refer to issues that do not make obvious the organization's preferred position.

Organizations may not:

- Target their efforts towards any ideological group such as conservatives, liberals, Republicans, or Democrats.
- Target their efforts based on where a close race is.
- Target their efforts towards an area or group with the intention of influencing the outcome of an election.
- Coordinate voter outreach efforts with candidates, parties, PACs, or other 527 groups, even if the 501(c)(3) itself otherwise follows nonpartisan guidelines.
- Tailor their efforts to mesh with those of partisan entities or share voter outreach strategies with one candidate or party only.

For more information, see Nonprofit Vote's collection of resources designed to help organizations conduct nonpartisan [voter registration](#) and [GOTV efforts](#).

GOTV Examples

The IRS provides two examples of allowed and prohibited GOTV efforts:

Example 1

B, a section 501(c)(3) organization that promotes community involvement, sets up a booth at the state fair where citizens can register to vote. The signs and banners in and around the booth give only the name of the organization, the date of the next upcoming statewide election, and notice of the opportunity to register. No reference to any candidate or political party is made by the volunteers staffing the booth or in the materials available at the booth, other than the official voter registration forms which allow registrants to select a party affiliation. **B is not engaged in political campaign intervention when it operates this voter registration booth.**

Example 2

C is a section 501(c)(3) organization that educates the public on environmental issues. Candidate G is running for the state legislature and an important element of her platform is challenging the environmental policies of the incumbent. Shortly before the election, C sets up a telephone bank to call registered voters in the district in which Candidate G is seeking election. In the phone conversations, C's representative tells the voter about the importance of environmental issues and asks questions about the voter's views on these issues. If the voter appears to agree with the incumbent's position, C's representative thanks the voter and ends the call. If the voter appears to agree with Candidate G's position, C's representative reminds the voter about the upcoming election, stresses the importance of voting in the election and offers to provide transportation to the polls. **C is engaged in political campaign intervention when it conducts this get-out-the-vote drive.**

Issue Advocacy and Voter Education

Organizations may conduct issue advocacy (defined as an organization communicating its views on policy issues that are related to its charitable purposes), including [lobbying](#), during an election campaign and on issues that divide candidates in an election for public office. However, organizations must avoid any advocacy that functions as political campaign intervention.

Issue advocacy crosses the line into prohibited partisan activities if it:

- Not only communicates an organization's views on the issues, but tells the audience how to vote based on those issues (or references voting or an election).
- Compares the organization's views with those of the candidates.
- States or compares the candidates' views on an issue.
- Includes any message favoring or opposing a candidate, even if the statement does not expressly tell an audience to vote for or against a specific candidate.
- Expresses approval or disapproval for one or more candidates' positions or actions.

Organizations should consider all the facts and circumstances to determine if advocacy communications constitute political campaign intervention. Key questions to consider include:

- Does the communication identify one or more political candidates?
 - A statement can identify a candidate by name or by other means such as showing their picture, referring to political party affiliation, or other distinctive features of a candidate's platform or biography.
- Is the issue raised in the context of how it distinguishes candidates?
- Is the communication part of an ongoing series of communications by the organization on the same issue that is independent of the timing of any election?
- Are the timing of the communication and identification of the candidate related to a non-electoral event, such as a scheduled vote on specific legislation by an elected official who also happens to be running for office?
- Is the communication delivered close in time to the election?

Voting History

Many organizations publicize the way an elected official voted on an issue of concern to the organization and state whether this vote supported or opposed the organization's views. Although this is a valid advocacy technique, organizations should be careful when using it during an election season. It is only permitted if an organization can show that publicizing and either praising or critiquing a voting record is part of its regular activities and there is a track record of those activities during a non-election year. Organizations must be careful to not increase these activities close to an election, or to devote particular attention to the voting record of an elected official who is also a candidate.

Lobbying During an Election

All organizations, regardless of whether or not they choose to come under [501\(h\) rules](#), must take extreme care that none of their lobbying activities are related to

elections. Organizations may lobby during an election, but must take care to not engage in—or appear to engage in—partisan activities. Organizations may continue to lobby incumbent elected officials who are running for reelection, but must avoid any reference to reelection campaigns.

Issue Advocacy Examples

The IRS provides three examples to illustrate allowed and prohibited issue advocacy during an election:

Example 1

University O, a section 501(c)(3) organization, prepares and finances a full-page newspaper advertisement that is published in several large-circulation newspapers in State V shortly before an election in which Senator C is a candidate for nomination in a party primary. Senator C represents State V in the United States Senate. The advertisement states that S. 24, a pending bill in the United States Senate, would provide additional opportunities for State V residents to attend college, but Senator C has opposed similar measures in the past. The advertisement ends with the statement “Call or write Senator C to tell him to vote for S. 24.” Educational issues have not been raised as an issue distinguishing Senator C from any opponent. S. 24 is scheduled for a vote in the United States Senate before the election, soon after the date that the advertisement is published in the newspapers.

Even though the advertisement appears shortly before the election and identifies Senator C's position on the issue as contrary to O's position, **University O has not violated the political campaign intervention prohibition** because the advertisement does not mention the election or the candidacy of Senator C, education issues have not been raised as distinguishing Senator C from any opponent, and the timing of the advertisement and the identification of Senator C are directly related to the specifically identified legislation University O is supporting and appears immediately before the United States Senate is scheduled to vote on that particular legislation. The candidate identified, Senator C, is an officeholder who is in a position to vote on the legislation.

Example 2

Organization R, a section 501(c)(3) organization that educates the public about the need for improved public education, prepares and finances a radio advertisement urging an increase in state funding for public education in State X, which requires a legislative appropriation. Governor E is the governor of State X. The radio advertisement is first broadcast on several radio stations in State X beginning shortly before an election in which Governor E is a candidate for reelection. The advertisement is not part of an ongoing series of substantially similar advocacy communications by Organization R on the same issue. The advertisement cites numerous statistics indicating that public education in State X is under-funded. While the advertisement does not say anything about Governor E's position on funding for public education, it ends with "Tell Governor E what you think about our under-funded schools." In public appearances and campaign literature, Governor E's opponent has made funding of public education an issue in the campaign by focusing on Governor E's veto of an income tax increase the previous year to increase funding of public education. At the time the advertisement is broadcast, no legislative vote or other major legislative activity is scheduled in the State X legislature on state funding of public education.

Organization R has violated the political campaign intervention prohibition because the advertisement identifies Governor E, appears shortly before an election in which Governor E is a candidate, is not part of an ongoing series of substantially similar advocacy communications by Organization R on the same issue, is not timed to coincide with a non-election event such as a legislative vote or other major legislative action on that issue, and takes a position on an issue that the opponent has used to distinguish himself from Governor E.

Example 3

Candidate A and Candidate B are candidates for the state senate in District W of State X. The issue of State X funding for a new mass-transit project in District W is a prominent issue in the campaign. Both candidates have spoken out on the issue. Candidate A supports for the new mass-transit project. Candidate B opposes

the project and supports State X funding for highway improvements instead. P is the executive director of C, a section 501(c)(3) organization that promotes community development in District W. At C's annual fundraising dinner in District W, which takes place in the month before the election in State X, P gives a lengthy speech about community development issues including the transportation issues. P does not mention the name of any candidate or any political party. However, at the conclusion of the speech, P makes the following statement, "For those of you who care about quality of life in District W and the growing traffic congestion, there is a very important choice coming up next month. We need new mass transit. More highway funding will not make a difference. You have the power to relieve the congestion and improve your quality of life in District W. Use that power when you go to the polls and cast your vote in the election for your state senator."

C has violated the political campaign intervention prohibition as a result of P's remarks at C's official function shortly before the election, in which P referred to the upcoming election after stating a position on an issue that is a prominent issue in a campaign that distinguishes the candidates.

Voter Guides

Voter guides are documents (usually pamphlets or other short documents, often in chart form) intended to help voters compare candidates' positions on a set of issues. Although generally considered a voter-education activity, preparing or distributing a voter guide may violate the prohibition against political campaign intervention if: the guide focuses on a single issue or narrow range of issues, the questions are structured to reflect bias, or an organization outlines its position on one or more issues in the guide so that its positions can be compared to the candidates' positions.

In order to *not* constitute political campaign intervention, the voter guide must:

- Present the structure and content of the questions in a clear, unbiased manner.

- Present the questions in the guide in an identical manner to which they were posed to the candidates.
- Provide all candidates a reasonable amount of time to respond to the questions.
- Provide candidates a reasonable opportunity to explain their position if given limited choices for an answer to a question (e.g. yes/no, support/oppose). Any explanation should be included in the voter guide.
- Present the candidate's answers exactly as given by the candidates. Answers cannot be edited and they must appear in close proximity to the question to which they respond.
- Provide equal coverage to all candidates for a particular office.
- Address enough questions and subjects to sufficiently encompass most major issues of interest to the entire electorate.

In assessing whether a voter guide is unbiased and nonpartisan, organizations should consider every aspect of the guide's format, content, and distribution.

Public Events

Organizations may invite candidates to participate in events either in their current official capacity (i.e., as non-candidates) or as candidates, as long as the organizations do not engage in partisan activities.

Speaking and Participating as Non-Candidate

Organizations may invite candidates to participate in an event (including speaking) based on their current capacities or job titles rather than their status as candidates. For example, a candidate may be invited as an incumbent elected official, an expert on a given topic, or a celebrity. Organizations must take care to show that the invitation was made to the person in their current capacity, not as a candidate, and organizations should clearly indicate the capacity for which the individual was invited.

Organizations must ensure that:

- The individual is chosen to speak solely for reasons other than candidacy for public office.
- The individual speaks only in a non-candidate capacity.
- Neither the individual nor any representative of the organization makes any mention of either their candidacy or the election at the event (or in communications announcing the event).
- No campaign activity occurs in connection with the candidate's attendance.
- The organization maintains a nonpartisan atmosphere on the premises and at the event.

An organization should document the reason for inviting the candidate and should refrain from working with the candidate's campaign staff while organizing the event. Organizations are also recommended to send a letter to the candidate explaining the nonpartisan limitations of the event and asking them to not mention the election.

Political candidates may, of course, choose to attend public events sponsored by an organization, such as lectures or concerts. This would not, by itself, cause the organization to be engaged in political campaign intervention. However, if the candidate is publicly recognized by the organization, the organization should take all the precautions to ensure nonpartisanship discussed above.

Speaking and Participating as a Candidate

A public forum involving several candidates for public office may qualify as a nonpartisan educational activity. However, the hosting organization must take steps to ensure that it indicates no support for or opposition to the candidates and provides all candidates an equal opportunity to participate in either the same event or a comparable one. (All candidates need not accept the invitation; in public announcements of the event, it should be noted that all candidates were invited and one (or more) declined. The IRS will evaluate whether an event was comparable based on all the facts and circumstances, including its time and place, expected audience, and attractiveness of the venue.)

When an organization invites several candidates for the same office to speak at a forum, it should ensure that:

- Questions for the candidates are prepared and presented by an independent, nonpartisan panel.

- Topics discussed by the candidates cover a broad range of issues that are of interest to the public and that the candidates would address if elected to the office sought.
 - In an open meeting where questions from the public are allowed, organizations are not responsible for the nature of the public's questions, but the moderator should try to assure balance.
- Each candidate is given an equal opportunity to present their views on the issues discussed.
- Candidates are not asked to agree or disagree with positions, agendas, platforms, or statements of the organization.
- The moderator's comments on the questions do not imply approval or disapproval of the candidates.
- Introductions of each candidate include no comments on their qualifications or any indication of a preference for any candidate.

Organizations may publish information from such events if: (1) it is published in a regularly published organizational newsletter that is distributed only to members and (2) candidates are given equal opportunity to reply.

Collaboration with Non-501(c)(3) Organizations

501(c)(3) organizations may work with non-501(c)(3) organizations (including 501(c)(4) organizations) on election-related activities as long as the work is non-partisan. 501(c)(3) organizations may not do anything through other organizations, either directly or indirectly, that they may not do on their own. Any joint written or oral communications must be nonpartisan and the locations for joint activities must be determined using nonpartisan criteria. The non-501(c)(3) organizations may continue their own allowed partisan activities, but these must be completely separate from the activities conducted with 501(c)(3) organizations.

501(c)(3) organizations may not share any voter registration list or other data collected during these joint

activities with partisan organizations. They may, however, accept lists collected from these activities from the partisan organizations, as long as that information will not be used for partisan activities.

Business Activities

The question of whether an activity constitutes intervention in a political campaign can also arise in the context of an organization's business activities, such as selling or renting mailing lists or leasing office space to candidates. In this context, some of the factors to consider include:

- Whether the good, service, or facility is available to all candidates in the same election on an equal basis.
- Whether the good, service, or facility is available only to candidates and not to the general public.
- Whether the fees charged to candidates are at the organization's customary and usual rates.
- Whether the activity is an ongoing activity of the organization or whether it is conducted only for a particular candidate.

Business Activity Examples

The IRS provides two examples to help organizations understand conducting business activities in the context of election activities:

Example 1

Museum K is a section 501(c)(3) organization. It owns an historic building that has a large hall suitable for hosting dinners and receptions. For several years, Museum K has made the hall available for rent to members of the public. Standard fees are set for renting the hall based on the number of people in attendance, and a number of different organizations have rented the hall. Museum K rents the hall on a first come, first served basis. Candidate P rents Museum K's social hall for a fundraising dinner. Candidate P's campaign pays the standard fee for the dinner. **Museum K is not involved in political campaign intervention** as a result of renting the hall to Candidate P for use as the site of a campaign fundraising dinner.

Example 2

Theater L is a section 501(c)(3) organization. It maintains a mailing list of all of its subscribers and contributors. Theater L has never rented its mailing list to a third party. Theater L is approached by the campaign committee of Candidate Q, who supports increased funding for the arts. Candidate Q's campaign committee offers to rent Theater L's mailing list for a fee that is comparable to fees charged by other similar organizations. Theater L rents its mailing list to Candidate Q's campaign committee. Theater L declines similar requests from campaign committees of other candidates. **Theater L has intervened in a political campaign.**

Activity by Organization Leaders

The prohibition of political campaign intervention is not intended to restrict leaders of organizations speaking for themselves on political matters. Nor are an organization's leaders prohibited from speaking about important issues of public policy. However, for their organizations to remain tax exempt under section 501(c)(3), leaders cannot make partisan comments in official organization publications or at official functions of their organizations. To avoid potential attribution of their comments outside of organization functions and publications, leaders who speak or write in their individual capacity are encouraged to clearly indicate that their comments are personal and not intended to represent the views of their organizations.

Websites

The IRS treats organizations' websites the same as any distributed printed material, oral statement, or broadcasts, and they are subject to all rules regarding election activities. One area of particular concern with websites are links to other webpages they may contain. If an organization establishes a link to another webpage, the organization is responsible for the consequences of establishing and maintaining that link, even if the organization does not have control over the content of the linked page. Because the linked content may change over time, an organization can reduce the risk of political campaign intervention by monitoring

the linked content and adjusting the links accordingly.

By themselves, links to candidate-related webpages do not necessarily constitute political campaign intervention. The IRS will take all the facts and circumstances into account when assessing whether a link produces that result, including (but not limited to):

- The context for the link on the organization's website.
- Whether all candidates are represented.
- Any exempt purpose served by offering the link.
- The directness of the links between the organization's website and the webpage that contains material favoring or opposing a candidate for public office.

Website Examples

The IRS provides three examples to help explain websites and election activities:

Example 1

M, a section 501(c)(3) organization, maintains a website and posts an unbiased, nonpartisan voter guide that is prepared consistent with the principles discussed in the voter guide section above. For each candidate covered in the voter guide, M includes a link to that candidate's official campaign website. The links to the candidate websites are presented on a consistent neutral basis for each candidate, with text saying "For more information on Candidate X, you may consult [URL]." **M has not intervened in a political campaign** because the links are provided for the exempt purpose of educating voters and are presented in a neutral, unbiased manner that includes all candidates for a particular office.

Example 2

Hospital N, a section 501(c)(3) organization, maintains a website that includes such information as medical staff listings, directions to Hospital N, and descriptions of its specialty health programs, major research projects, and other community outreach programs. On one page of the web site, Hospital N describes its treatment program for a particular disease. At the end of the page, it includes a section of links to other websites titled "More Information." These links include links to other hospitals that have treatment programs

for this disease, research organizations seeking cures for that disease, and articles about treatment programs. This section includes a link to an article on the web site of O, a major national newspaper, praising Hospital N's treatment program for the disease. The page containing the article on O's web site contains no reference to any candidate or election and has no direct links to candidate or election information. Elsewhere on O's web site, there is a page displaying editorials that O has published. Several of the editorials endorse candidates in an election that has not yet occurred.

Hospital N has not intervened in a political campaign by maintaining the link to the article on O's web site because the link is provided for the exempt purpose of educating the public about Hospital N's programs and neither the context for the link, nor the relationship between Hospital N and O nor the arrangement of the links going from Hospital N's web site to the endorsement on O's web site indicate that Hospital N was favoring or opposing any candidate.

Example 3

Church P, a section 501(c)(3) organization, maintains a website that includes such information as biographies of its ministers, times of services, details of community outreach programs, and activities of members of its congregation. B, a member of the congregation of Church P, is running for a seat on the town council. Shortly before the election, Church P posts the following message on its web site, "Lend your support to B, your fellow parishioner, in Tuesday's election for town council." **Church P has intervened in a political campaign** on behalf of B.

Additional Resources

The aforementioned IRS publication [Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501\(c\)\(3\) Organizations](#) provides a detailed overview of the topics covered in this guide. See the [IRS website](#) for up-to-date information about requirements for 501(c)(3) organizations.

For more information, see the National Council for Nonprofits [webpage on political campaign activities](#),

as well as the wealth of [tools and resources](#) from [Non-profit Vote](#) designed to help organizations conduct effective nonpartisan voter engagement.

The most recent version of this guide and related resources can be found online at <https://conservationtools.org/guides/76>

Elana Richman prepared the first edition (2010) of this guide, drawing heavily from the IRS publication [Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501\(c\)\(3\) Organizations](#) and guidance from the Alliance for Justice. [Nate Lotze](#) revised and updated the guide for the second edition (2019).

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