

## 501(c)(3)S AND ELECTION-RELATED ACTIVITIES

### General Rule: No Electioneering

501(c)(3) organizations are strictly prohibited from intervening in a campaign for or against a candidate for elected public office. The rule applies to all elections – federal, state, local, even foreign, and even a small violation could potentially cause the organization to lose its 501(c)(3) exempt status.

This prohibition extends to direct or indirect support for a candidate. A 501(c)(3) may violate the restriction even if the organization does not expressly urge a vote for or against a particular candidate. The set of activities that will be considered impermissibly “political” for a 501(c)(3) is much broader than those activities regulated under federal or state election laws.

### Prohibited Activities

Among other things, a 501(c)(3) may not:

- give money or anything else of value (such as mailing lists) to a campaign for a candidate for office, a political party, or a political action committee;
- endorse a candidate for elected public office;
- publish or distribute statements for or against a candidate;
- allow any political party, campaign, candidate, or political committee to conduct activities in any 501(c)(3) office;
- Use 501(c)(3) copiers or computers to produce or distribute any communications that suggest support for or opposition to any political party, campaign, candidate, or political committee;
- conduct special research or prepare information for any political party, campaign, candidate, or political committee;
- allow staff to send any email from any organization email account that suggests support for or opposition to any political party, campaign, candidate, or political committee (including forwarding any such emails received from others);
- allow any representative of the organization to express support for or opposition to any political party, campaign, candidate, or political committee; or
- allow anyone acting as a representative of the organization in any public setting or media appearance to wear or display any political button or similar items suggesting support for or opposition to any political party, campaign, candidate, or political committee.

### **Special Rule: Ballot Measures**

In contrast to the rule for candidate elections, a 501(c)(3) **may** support or oppose an initiative, referendum, or similar ballot measure going before the voters.

However 501(c)(3)s must treat such activities as part of the limited amount of lobbying they may do under federal tax law, and 501(c)(3)s engaged in ballot measure work may be subject to registration and reporting requirements under state election laws.

### Permissible Activities

If a 501(c)(3) is careful to make sure that these activities do not indicate that the 501(c)(3) is supporting or opposing any candidate or party, a 501(c)(3) may:

- register voters;
- encourage registered voters to vote (“get out the vote” or “GOTV”);
- host candidate debates;
- inform voters of the candidates’ positions on the issues; and
- provide candidates with information about issues of importance to the 501(c)(3).

To determine whether or not any 501(c)(3) activity indicates support for or opposition to a candidate, the IRS examines all the relevant “facts and circumstances,” including not only the 501(c)(3)’s communication or activity, but also the context of that communication or activity...

<p style="text-align: center;"><b>“Good Facts”</b></p> <p style="text-align: center;"><i>A public communication or activity is more likely to be seen by the IRS as permissible if it:</i></p>	<p style="text-align: center;"><b>“Bad Facts”</b></p> <p style="text-align: center;"><i>A public communication or activity is more likely to be seen by the IRS as impermissible if it:</i></p>
<ul style="list-style-type: none"> <li>• Does not refer to a candidate, the election, or voting</li> <li>• Only refers to anyone running for office in that individual’s non-candidate capacity</li> <li>• Does not refer to any candidate’s character or qualifications for office</li> <li>• Does not treat any candidate differently from the treatment of other candidates</li> <li>• Does not comment on a candidate’s position on any policy issue</li> <li>• Describes the candidates’ positions on a broad range of issues</li> <li>• Is motivated by non-campaign events beyond the control of the organization (e.g. an imminent legislative vote)</li> <li>• Focuses on an issue that is not known to be one in dispute between the candidates</li> <li>• Addresses an issue central to organization’s mission</li> <li>• Is similar to previous non-electoral communications or activities by the 501(c)(3)</li> <li>• Is targeted for an audience selected for its connection or relevance to the organization’s mission (e.g. members of the organization)</li> <li>• Is done independently of any political candidate, campaign, or party</li> </ul>	<ul style="list-style-type: none"> <li>• Refers to a candidate, the election, or voting</li> <li>• Refers to someone as a candidate for public office</li> <li>• Refers to a candidate’s character or qualifications for office</li> <li>• Treats one candidate more or less favorably than another candidate</li> <li>• Compares the 501(c)(3)’s preferred policy position to the position of a candidate or multiple candidates (e.g. rating or scoring candidates)</li> <li>• Describes the candidates’ positions on just one or a narrow range of issues</li> <li>• Is done on the organization’s own initiative and timed to coincide with the election</li> <li>• Focuses on a “wedge issue” that divides the candidates</li> <li>• Addresses an issue tangential to organization’s mission</li> <li>• Is unlike any previous communications or activities</li> <li>• Is targeted to an audience selected for its relevance to the election (e.g. likely Democratic supporters)</li> <li>• Is done at the request or suggestion of a political candidate, campaign, or party</li> </ul>

**Personal Activities**

Despite these rules, staff members of 501(c)(3)s may be involved in the political process as individuals. Staff members may contribute to candidates, volunteer for candidates, serve as staff members or officers of campaigns, hold positions in political parties, or even run for office themselves if (i) they do so outside of work hours or while taking vacation or other leave, (ii) the activities do not involve the use of organization resources, and (iii) these activities do not interfere with any staff member’s duties to the organization. Staff members may display political buttons, signs, bumperstickers, or similar material in their personal workspaces as long as it would be clear to any observer that these materials are personal items and not endorsements by the organization. (Such items should not be visible to people outside the offices or in the lobby or other areas accessible to those outside the organization.)

Finally, in any situation where the personal political activities of any organization staff member might be misunderstood to represent political support by the organization for any political party, campaign, candidate, or political committee, any staff member involved must take whatever steps are necessary to prevent and correct such misunderstanding.

**This fact sheet is only a summary of the law and should not be used as a substitute for the advice of qualified counsel.**