

## **ELECTION DO'S AND DON'TS FOR NON PROFIT 501(c)(3) ORGANIZATIONS**

***What can 501(c)(3) organizations do?*** Whether you're a seasoned advocate or completely new to advocacy, there's no reason to scale down your advocacy efforts during an election year. Advocacy and lobbying activities may take place during election season provided you follow the rules detailed below. You may engage in the following activities:

- Issue advocacy, as long as you do not attempt to intervene surreptitiously in a political campaign;
- Sponsor appearances by a candidate or public official:
  - If you invite them as a candidate, make sure you indicate no support or opposition to them at the event and that all other candidates are given equal opportunity to appear at the event as well;
  - If you invite them in a capacity other than as a candidate, you don't need to invite opposition, but make sure the event doesn't turn into a campaign appearance or fundraiser.
- Sponsor a debate between candidates as long as:
  - You invite all qualified candidates;
  - An independent panel prepares the questions;
  - The topics cover a broad range of issues, including those of particular importance to your organization;
  - Every candidate has an equal opportunity to speak;
  - The moderator is neutral and states at the beginning and end of the program that the views expressed are not representative of your organization.
- Try to persuade candidates to agree with you on issues and to take a public stand—but that is as far as you can go.
- Work to get your positions included on a political party's platform by:
  - Delivering testimony to both parties' platform committees;
  - Including a disclaimer in both oral and written testimony that the testimony is being offered for educational purposes only;
  - Reporting the testimony and any responses in your regularly scheduled newsletter to members.
- Operate a nonpartisan voter registration or get-out-the-vote drive. Note that get-out-the-vote activities must be designed solely to educate the public about the importance of voting and must not show any bias for or against any candidate or party.

### ***What can 501(c)(3) organizations NOT do?***

- Support specific candidates or parties in races for elected office, including:
  - Support or oppose a declared candidate or third party movements;
  - Conduct efforts to “draft” someone to run;
  - Conduct exploratory advance work.
- Endorse a candidate or contribute to a campaign with money or time:
  - Members can, of course, donate or volunteer on their own time.
- Contribute any cash or in-kind support:
  - Includes loans or paying to attend partisan political dinners;
  - An in-kind contribution is considered providing anything of value to a candidate, political party or political organization when you are not paid the fair market value in return.

- Send partisan political communications to their members or employees telling them how to vote.
- Sponsor joint fundraising events or solicitations with candidates or political group.
- Directly approach candidates and ask them to endorse your organization's agenda.

### ***Additional Information from the IRS***

Section 501(c)(3) provides a federal tax exemption to a charitable organization, so long as it “does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf (or in opposition to) any candidate for public office. The IRS also forbids such organizations from trying to prevent a public official from being re-nominated.

- **Candidate:** any individual who offers himself or herself, or is proposed by others, as a contestant for an elective public office.
- **Public office:** any position filled by a vote of the people at the federal, state or local level, ranging from the President of the United States to the local school board, and elective party offices, such as precinct committee persons and party nominations.

### ***Can an organization state its position on public policy issues that candidates for public office are divided on?<sup>1</sup>***

- An organization may take positions on public policy issues, including issues that divide candidates in an election for public office as long as the message does not in any way favor or oppose a candidate. Be aware that the message does not need to identify the candidate by name to be prohibited political activity. A message that shows a picture of a candidate, refers to a candidate's political party affiliations, or other distinctive features of a candidate's platform or biography may result in prohibited political activity.

### ***Can an organization post information on its website (or link to other websites) about a candidate for public office?<sup>2</sup>***

- A website is a form of communication. If an organization posts something on its website that favors or opposes a candidate for public office it is prohibited political activity. It is the same as if the organization distributed printed material, or made oral statements or broadcasts that favored or opposed a candidate.
- If an organization establishes a link to another website, it 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 site. Because the linked content may change, the organization should monitor the linked content and adjust or remove any links that could result in prohibited political activity.

*This document is intended to provide guidance on federal lobbying laws but is not legal advice and we would advise you to consult an attorney if you have specific concerns.*

*This information was adapted from the Alliance for Justice's series on non-profit and foundation lobbying and advocacy. Visit [www.afj.org](http://www.afj.org) for more information.*

<sup>1</sup> <http://www.irs.gov/charities/charitable/article/0,,id=179462,00.html>, accessed on June 25, 2008

<sup>2</sup> <http://www.irs.gov/charities/charitable/article/0,,id=179464,00.html>, accessed on June 25, 2008