



March 2021

Political Activity for 501(c)(3) Organizations: Key Principles

Activity	Brief Definition	501(c)(3) – Charitable Purpose Organization
Lobbying¹	Attempting to influence legislatures (direct) or influence legislation by influencing the public (grassroots)	Limited. Must be “insubstantial” in relation to overall activity
Political Campaign Intervention	Influencing or attempting to influence the selection, nomination, election, or appointment of an individual to political office	Prohibited
Non-Partisan Advocacy	Conducting, in a non-partisan manner, activities intended to educate the public and help them participate in the electoral process	Unlimited, but context is important

Permitted Political Activity for 501(c)(3) Organizations²

- **Distribution or posting of non-partisan voter guides:**
 - May include links to other nonpartisan educational sites
 - Should cover a broad range of issues
 - Should refrain from judging the candidates or their positions
 - May provide information to the public about the positions taken by elected officials or candidates, without taking a position on their positions
- **Voter registration and get-out-the-vote drives that encourage people to register and/or vote, done in an unbiased manner:**
 - Without reference to any political party or candidate
 - Any services (e.g., transportation to polling place) should be offered to all regardless of political persuasion
- **Hosting candidate forums or debates, as long as:**
 - All candidates for the office are invited, even if some do not attend
 - All candidates are given an equal opportunity to speak
 - Multiple topics of interest to the public are covered
 - Questions asked are formulated and presented in a nonpartisan manner, e.g., by an independent nonpartisan panel

¹ The Political Activity summary does not contain specifics around lobbying.

² Charities Bureau [Guidance for Tax-Exempt Organizations on Political Activity and Lobbying](#), October 2020; [IRS Workshop: Political Campaigns and Charities: The Ban on Political Campaign Intervention](#)



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- The moderator and the forum's sponsors refrain from commenting on the questions, the answers or the candidates
- **Inviting candidates to speak in the role of candidate at the charity's event, as long as:**
 - All candidates given equal opportunity to speak at substantially similar events
 - The charity makes clear it neither supports nor opposes any candidacy
 - No political fundraising may occur at the event
- **Inviting a candidate to a charity's event in a non-candidate capacity (e.g., in his/her role as a current public official), as long as:**
 - The invitee is informed that it is not a campaign event and commits to not mention the election or their candidacy
 - The charity maintains a nonpartisan atmosphere at the event
 - None of the charity's representatives mention the campaign or the invitee's candidacy
 - No campaign activity occurs during the candidate's appearance
 - Any announcement concerning the candidate's appearance (such as an invitation) clearly indicates the capacity in which the candidate is to appear and does not mention his or her candidacy
 - For example, if the invitee is a public official, s/he should speak in his/her capacity as a public official, not as a candidate
- **Publication of voter records to report the activities of a body of lawmakers*:**
 - Should not comment on an election campaign
 - Should not provide an editorial opinion or imply approval or disapproval of a particular voting record
 - Should not identify an incumbent as a candidate in a campaign or compare an incumbent's positions with those of other candidates or the charity
 - Especially if published simultaneously with a political campaign and widely distributed or aimed at areas where campaigns are occurring
- **Collecting and disseminating candidate information through a candidate questionnaire:**
 - Should not phrase questions so as to suggest a preferred answer
 - Should send the questionnaire to all candidates for a particular office
 - Should publish all the responses without substantive editing
 - Should not compare responses to its own positions
- **Links to other websites in an educational context for informational purposes*:**
 - As long as the site to which the charity links is non-partisan and does not mention a particular candidate
- **Directors, officers or other charity officials participating or intervening in a political campaign acting in a private capacity, as long as:**



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- They make it clear they are speaking for themselves alone, and not on behalf of the charity
- They do not use the charity's financial resources, facilities or personnel in their efforts to support or oppose a candidate
- If they mention their position with the charity they state that they are not acting on behalf of the charity, and their affiliation is being acknowledged for identification only.
- Note: The social media activities of an individual are attributable to the charity when those activities are conducted during his/her hours of employment and/or they state or imply that statements are being made on behalf of the charity

Prohibited Political Activity for 501(c)(3) Organizations

- **Making or soliciting contributions for, on behalf of, or against any candidate for national, state or local public office or to a political organization***
- **Endorsing or opposing a particular candidate or political party or rating the candidates**
- **Making statements in support of, or in opposition to, a candidate or a political party:**
 - Includes orally, recorded, in writing, in-person, mail, email, text, social media or the internet
 - Includes publishing or distributing partisan campaign literature
- **Using the charity's resources — including office space, telephones, internet account, printers, employee time — to engage in political campaign activity or influence an election**
- **Selling or renting mailing lists, or leasing office space, to a political candidate or campaign (unless the organization's goods, services or facilities are equally available to all candidates in the same election and the fees charged to the candidate are the organization's usual rates and available to any candidate)**
- **Providing funds from a 501(c)(3) organization to a 501(c)(4) organization which engages in political activity without controls to assure that the funds are used solely for 501(c)(3) exempt activities, and not for political campaign activity**
- **Directors, officers or other charity officials endorsing a candidate at a charity's function or through the charity's official publications**

***Gray Areas**

- **A statement that does not explicitly urge audience to vote a specific way may implicitly support or oppose a candidate**
 - Bad factors:



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- The statement mentions candidate for public office,
- The statement expresses approval or disapproval of a candidate's position or actions,
- The statement invites the recipient to compare a candidate's position on an issue with the charity's own views, conjures a candidate by substituting party labels or code words (e.g., "conservative," "liberal," "pro-life, "pro-choice"),
- The statement is published during a political campaign, mentions voting or the election, or raises an issue on which the candidates disagree.
- Good factors:
 - The statement does not mention voting or an election,
 - The statement does not identify whether candidates agree with the charity's position
 - The statement is part of an ongoing series of communications on the same issue that are made irrespective of the timing of any election
 - The statement is related to an event other than the election, such as a scheduled vote on specific legislation
 - The charity has a pattern of substantially similar advocacy during non-election periods
- **Website links to campaign websites**
 - Acceptable only if there is a link to every candidate's official website, links are presented in an educational context and are for informational purposes only and are presented in a consistent and unbiased manner
- **Publication of voter records are more likely to be considered political campaign intervention, even without any statements that support or oppose a candidate, if they:**
 - Compile incumbents' voting records on *selective* issues and are distributed widely during a campaign.

This alert is for general information purposes and should not be construed as legal advice. If you would like information about this alert, please contact one of the firm's attorneys: Deborah Buyer, 212-225-8483 x1, deborah@deborahbuyerlaw.com
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