Staying Nonpartisan: Rules for 501(c)(3) Nonprofit Organizations

July 31, 2019
Founded in 2005, Nonprofit VOTE partners with America’s nonprofits to help the people they serve participate and vote. We are the leading source of nonpartisan resources to help nonprofits integrate voter engagement into their ongoing activities and services.
Agenda

What we will cover:

- Tax rules on nonpartisanship for 501(c)(3) organizations
- Nonpartisan voter registration
- Talking about candidates
- Issue advocacy & ballot measures
- What staff can do

What we will not cover today:

- Regulations for 501(c)(4) organizations
- Lobbying using the 501(h) test or insubstantial part test

Visit BolderAdvocacy.org for factsheets and training on the above topics

- In depth candidate engagement

Register for the Engaging Candidates Webinar on Aug 14th

Today’s Presenter
David A. Levitt
Principal
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A 501(c)(3) tax-exempt organization may not intervene in any political campaign on behalf of (or in opposition to) any candidate for public office.

-1954 amendment to US Tax Code (The Johnson Amendment)*

* The words “or in opposition to" added by Congress in 1987.
Poll Time
What a charitable organization CANNOT do

What that means:

A 501(c)(3) organization may not:

- Endorse a candidate or support a political party
- Donate money or resources to a candidate or party
- Conduct any partisan election-related activity
501(c)(3) organizations **may conduct** nonpartisan voter engagement activities designed to help the public participate in elections:

- Voter Registration
- Voter Education
- Candidate Engagement
- Get Out The Vote (GOTV)
Nonpartisan Voter Registration

REGISTER TO VOTE HERE.

eliminating racism empowering women

ywca

eliminating racism empowering women

ywca

Greater Pittsburgh
Common nonpartisan activities

Promote voter registration
• Announce deadlines.
• Provide info on where/when to register

Conduct voter registration
• A table in your lobby, at events.
• Register staff and volunteers.
• Conduct a voter registration drive.

Know your state’s rules on party affiliation and closed or open primaries
Q:

What is the best way to help someone find what party they best represent? Is there a website or test we can direct them to that will allow them to independently find that information?
Q: Can you step away from your area and say let me remove my Nonpartisan hat and give you my answer to your question?
Poll Time
Comparing?
It’s okay to compare candidates in questionnaires and voter guides. Keep your opinion out of it.

Criticizing?
Avoid making positive or negative statements about candidates. You may correct a factual misstatement related to your issue.

Ranking?
A charity may not publish rankings or ratings of candidates.
What can we say (or not say) about electeds who are also candidates? When do they become 'candidates' vs. electeds or public figures? Especially for incumbents?
Issue Advocacy and Ballot Measures
Factors to consider:

- Increasing advocacy activities only during election season could be seen as partisan effort
- History of work on an issue in the past is a good nonpartisan factor

“501(c)(3) organizations may take positions on public policy issues, including issues that divide candidates in an election for public office.” - (IRS)
Ballot measures are about laws or constitutional amendments

- Activity on ballot measures generally is lobbying. It’s influencing the passage or defeat of a law—not the election or defeat of a candidate.

- 501(c)(3) public charities thus may work for or against a ballot measure as a lobbying activity, but watch for nexus to a candidate.
How do we explain that we take positions on issues, but this is not a partisan behavior? People often equate nonpartisanship with neutrality on issues.

What about issues that have become partisan on state or national level?
What Staff Can Do
What staff can do

The Basic Guideline: Nonprofit staff are free to engage in partisan activities, such as supporting a candidate, on their own time (i.e., outside of work).

What to avoid:

- Using nonprofit resources including your paid time for partisan political purposes
- Being partisan when representing your nonprofit at or outside of work
What Staff Can Do

**What:**
- Volunteer on campaigns
- Attend political events
- Support your candidate
- Run for office

**When:**
- Personal time outside work hours
- On vacation
- On personal days
- On unpaid leave
Q:

If an employee of a non-profit who supports a particular candidate in an upcoming election has a picture taken of him/herself with that candidate in a group shot where the group has no connection with a campaign, could that be construed as partisan?
Poll Time
If I am the Executive Director of a nonprofit, should I stop my personal giving and personal support to candidates? If not, how do I handle this in media, social media, etc?
Audience
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RSVP for the rest of our Summer Series

Effectively Engaging Candidates at Your Nonprofit
8/14 @ 2pm ET http://bit.ly/engage_candidates

Running a Voter Registration Drive at Your Nonprofit
8/29 @ 2pm ET http://bit.ly/voter_drive

Supporting Young Voters: Youth Speak Out
9/12 @ 2pm ET http://bit.ly/young_voter