

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

August 13, 2021

# Voter History Month

Get involved!

- Follow us on Facebook, Twitter, and Instagram
- Use the hashtag #VoterHistoryMonth
- Next Wednesday is the anniversary of the 19th amendment- use our themed social profiles and resources.

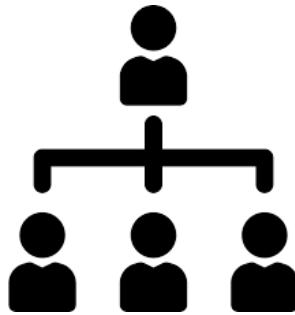


# Why is staying nonpartisan a good thing?



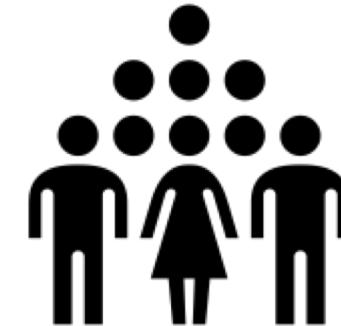
## For Individuals

Charitable nonprofits provide a place where people can escape the toxic partisanship



## For Organizations

Keeps focus on our missions instead of promoting politicians



## For Society

Prevents elections from being flooded with secret, tax deductible campaign contributions through nonprofits.

# Poll Time

What type of activities do you have the most questions or concerns about?

- Voter registration & education
- Working with candidates
- Talking about candidates
- Issue advocacy and messaging
- What you can do outside of work

# Agenda

## What we will cover:

- Voter registration & education
- Working with candidates
- Talking about candidates
- Messaging around issues and ballot measures
- What you can do outside of work



Today's Presenter

**David A. Levitt**

Principal  
Adler & Colvin

# Internal Revenue Service Restrictions

501(c)(3) organizations are permitted to conduct certain voter education activities (**including the presentation of public forums and the publication of voter education guides**) if they are carried out in a non-partisan manner. In addition, section 501(c)(3) organizations may encourage people to participate in the electoral process through **voter registration and get-out-the-vote drives**, conducted in a non-partisan manner.

-IRS Factsheet “Election Year Activities and the Prohibition on Political Campaign Intervention for Section 501(c)(3) Organizations”

# Voter Registration & Education

Helping people participate in elections

# Helping people participate in elections



- Voter registration drives
- Voter education, including sharing state or county information about the voting process
  - Finding polling places
  - Early voting dates
  - How to vote by mail
- Rides to the polls programs

# Helping people participate in elections

## How to keep your efforts nonpartisan:

### DON'T

- Express support or opposition to any candidate or party, including wearing campaign swag
- Suggest which party to affiliate with during registration
- Turn anyone away due to their politics
- Give anything of value as incentive to vote (ex. raffle tickets only given to those registering to vote at an event)

### DO

- Follow all local and state rules regarding registration drives
- Get accurate information from election officials (#TrustedInfo2020)
- Train all staff and volunteers participating in how to remain nonpartisan

# Helping people participate in elections



If a voter asks me a question about parties or candidates while I'm assisting them, can I give my personal opinion if I make it clear that I'm not speaking on behalf of my organization?

# Engaging with candidates

Working with, and talking about,  
candidates for office

# Working with candidates



## Main strategies

Treat all candidates equally when you:

- Invite them to events at your organization
- Share your policy ideas or research
- Ask questions at their events or forums
- Host a candidate forum
- Conduct a candidate questionnaire

# Staying Nonpartisan When Engaging Candidates

## Invitations to your organization

- In a non-candidate capacity:
  - Invitation issued solely for reasons other than their candidacy
  - No mention of their candidacy
  - No campaign materials allowed
- In a candidate capacity:
  - Remind audience it is a nonpartisan event and not an endorsement
  - Invite all candidates to the same event, OR
  - Provide equal opportunity (similar time, venue, presentation format)

# Staying Nonpartisan When Engaging Candidates



## Share policy or research

- Equally available to all candidates
- Don't conduct research for a campaign or share private info like donor lists

## Asking a question at a forum

- Pose question to all candidates
- Question should not imply a correct answer

# Working with candidates

## Candidate Forums

- Cover a broad range of issues
- Invitations to all viable candidates
- Each candidate should be given equal time to present their view on issues
- Candidates are not asked to agree with specific positions or platforms
- Moderator stays neutral and does not imply approval or disapproval of candidates

### **Tip! Set the Tone**

You can ask audience members to check their campaign/partisan materials at the door and to respectfully refrain from excessive exuberance for or against candidates.

# Working with candidates

## Questionnaires

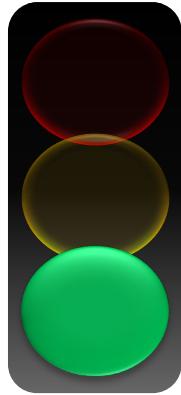
- Distributed to all candidates running for the same office
- Neutral questions
- Covers a broad range of topics
- Clarify meaning of questions, but don't coach candidates on how to answer
- Do not rank or comment on candidates' responses

**Help!**

Only one candidate responded to the questionnaire.

**What do we do?**

# Talking about candidates



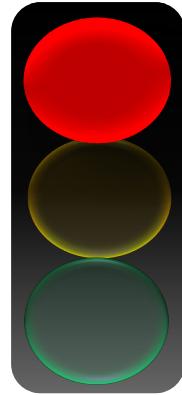
## Comparing?

It's okay to compare candidates in voter guides or candidate questionnaires. 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.

# Talking about 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?

# Messaging around issues & ballot measures

# Messaging about issues

## Factors to consider before putting out a statement

- When is it being released? Increasing advocacy activities only during election season could be seen as partisan effort
- What is your history of working on this issue?
- Does it mention or reference one or more candidates?
- Does it mention or reference voting or an election?
- Have the candidates been talking about the issue? Does it distinguish candidates?

“501(c)(3) organizations **may take positions on public policy issues**, including issues that divide candidates in an election for public office.” - (IRS)

## Messaging about issues



A candidate mentioned our issue and we want to leverage the news about their statement to bring attention to the work we are doing. Can we mention the candidate or their platform in a blog or tweet?

# Talking about issues AND voting



## Acceptable

It's time to speak out against racism, bigotry and police violence. On July 9 at 2pm ET, we're calling for justice by ensuring our communities register to vote to make their voices heard. 💪💪

Join the #VoteforJustice Twitter storm. [untdw.org/voteforjustice](http://untdw.org/voteforjustice) #VoteUnited

## NOT Acceptable

Bring #BlackLivesMatter to the ballot box! This November hold those in office accountable for police brutality and fight back against racism.

# Taking a stance on ballot measures



Ballot measures are about laws or constitutional amendments.

- **Ballot measure advocacy is generally lobbying**, influencing the passage or defeat of a law– not the election or defeat of a candidate
- 501(c)(3) public charities can work for or against a ballot measure
- Watch out for nexus to a candidate

# What you can do outside of work?

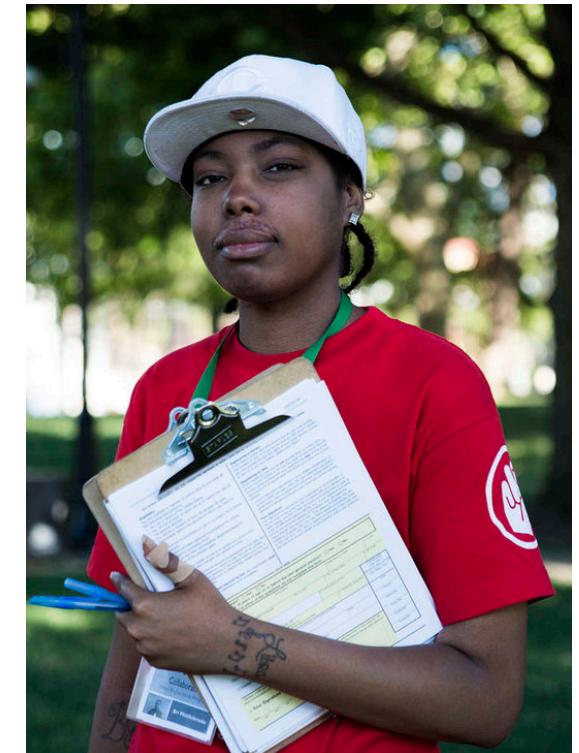
Personal time vs organization time

# 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

# Thank you!

**Please give us feedback on this webinar in the survey that will open when you exit Zoom.**

Special thank you to our featured speaker:

**David A. Levitt**

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