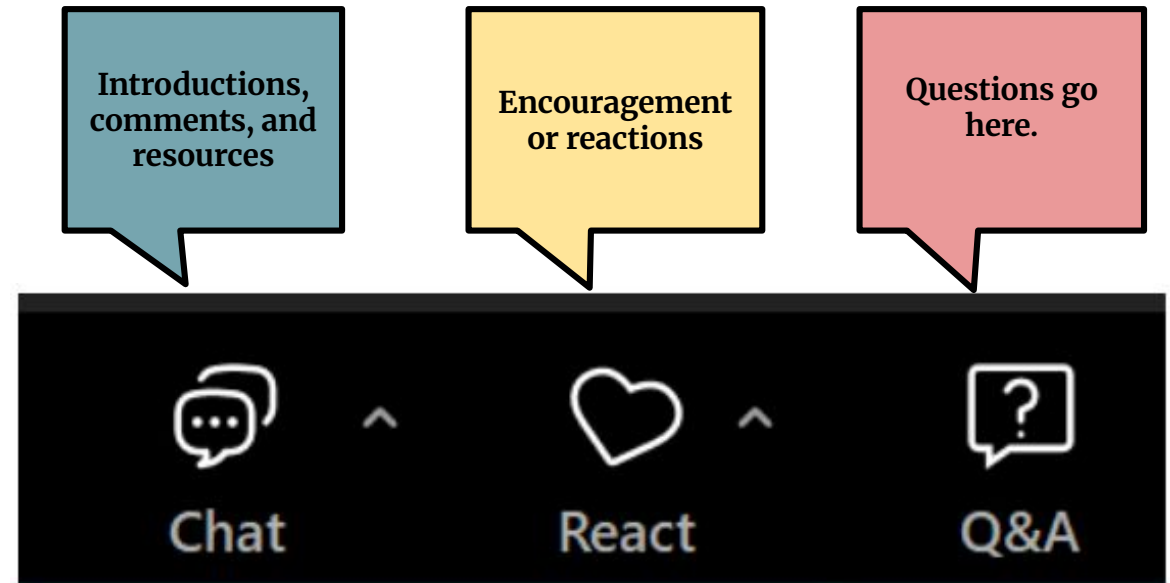


Staying Nonpartisan for 501(c)(3) Organizations: Operating Lawfully in a Political Environment

2-18-26

Announcements and Housekeeping

- Please put questions in the **Q&A section** of the webinar (not the chat, please) and they will be answered at the end of the presentation.
- A recording of the webinar will be sent within a week to everyone who registered, whether or not they attended.
- Closed Captioning available via Zoom



Agenda

- Welcome
- Housekeeping and Agenda Review
- Who is Nonprofit VOTE?
- Speaker Introduction
- Staying Nonpartisan for 501c3 Organizations
- Audience Q&A
- Call to Action
- Closing remarks

Who is **Nonprofit VOTE**?

Mission: Nonprofit VOTE equips our nation's nonprofits with nonpartisan tools and resources to help the communities they serve participate in voting and democracy.

Vision: We envision a diverse network of nonprofits across the United States with the skills, resources, and commitment needed to foster a **more inclusive democracy** where all voices are heard, particularly those currently underrepresented in the voting process.



[Nonprofit VOTE 2023-2024
Biennial Report](#)

This webinar is being recorded and the link will be shared.

Speaker



Stephanie Robbins,
Partner
*Harmon, Curran, Spielberg, and
Eisenberg Law Firm*

Disclaimers

- The presentation is given for informational purposes only.
- It is NOT
 - (1) provided in the course of and does not create or constitute an attorney-client relationship;
 - (2) intended as a solicitation;
 - (3) intended to convey or constitute legal advice; and
 - (4) a substitute for obtaining legal advice from a qualified attorney.

Agenda

- Review the Requirements of Section 501(c)(3)
- Discuss permissible nonpartisan political activity:
 - Issue advocacy
 - Voter guides
 - Legislative scorecards
 - Voter registration & GOTV
 - Candidate debates & forums
 - Candidate appearances
 - Ballot measures

A Section 501(c)(3) Organization...

- **MUST** be organized and operated exclusively (i.e., primarily) for one or more tax-exempt purpose:
 - Religious
 - Charitable
 - Scientific
 - Testing for Public Safety
 - Literary
 - Educational
- **MAY** engage in insubstantial lobbying (i.e., attempt to influence legislation)
- **CANNOT** operate for the benefit of substantial private interests
- **CANNOT** participate or intervene in (directly or indirectly) any political campaign on behalf of or in opposition to any candidate for public office (i.e., political campaign intervention)
- **CANNOT** engage in substantial illegal activity or activity that is contrary to public policy

**A section 501(c)(3) organization MAY
engage in NONPARTISAN political
activity!**

Political v. Political Activity

- **Dictionary Definitions:**

- **Political** – “of or relating to politics or government” (Source: [Britannica](#))
- **Politics**, in part – “Activities that relate to influencing the actions and policies of a government” (Source: [Britannica](#))

- **IRS Definition:**

- Political Activity – “participat[ing] in, or interven[ing] in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office” (Source: [26 U.S.C. § 501\(c\)\(3\)](#))

A Section 501(c)(3) Organization...

- **MAY** engage in **NONPARTISAN** POLITICAL ACTIVITY
 - Issue Advocacy
 - Voter education
 - Voter registration/Get Out The Vote (GOTV)
 - Candidate Engagement
- **MAY NOT** support or oppose any candidate for public office
 - Endorse a candidate or support a political party
 - Donate money or resources to a candidate or party
 - Conduct any partisan election-related activity

IRS Facts and Circumstances

Good Facts

- No reference to candidates or elections
- External factor driving timing
- Broad range of issues
- History of similar work on issue

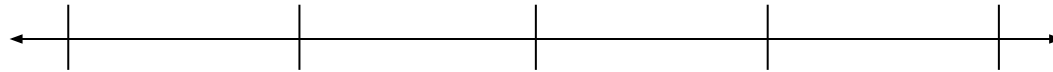
Bad Facts

- Reference to a Candidate
- Timing motivated by an election
- Politically motivated targeting
- Compare preferred position to candidate position
- “Wedge Issues”

(Source: [Rev. Rul. 2007-41](#))

Facts and Circumstances Spectrum

Campaign
Intervention



Nonpartisan
Issue Advocacy

What is issue advocacy?

- “Issue advocacy conveys information and educates.”
(Source: [FEC v. Wis. Right to Life, Inc.](#), 551 U.S. 449, 470 (2007))
- “An organization may be educational even though it advocates a particular position or viewpoint.”
(Source: [Treas. Reg. § 1.501\(c\)\(3\)-1\(d\)\(3\)\(i\)](#))
- The IRS evaluates the **method** an organization uses to develop and present its views, not the viewpoint or position of the organization. (Source: [Rev. Proc. 86-43](#))

Issue Advocacy

| Impermissible: | | Permissible: |
|--|---|--|
| Presents viewpoints or positions that are <u>unsupported by facts</u> in a significant portion of the organization's communications. | ➔ | Presents viewpoints or positions that are <u>supported</u> by facts in a significant portion of the organization's communications. |
| <u>Distorts</u> the facts that purport to support the viewpoints or positions. | ➔ | <u>Accurately</u> conveys the facts supporting the organization's positions. |
| Makes substantial use of <u>inflammatory and disparaging terms</u> and expresses conclusions more based on strong feelings rather than objective evaluation. | ➔ | <u>Objectively evaluates</u> the facts and shies away from inflammatory and disparaging terms. |
| Is not aimed at developing the public understanding and is not tailored to the public's background or training in the matter. | ➔ | Is <u>aimed at developing the public understanding</u> and is tailored to the public's background or training in the matter |

Issue Advocacy Risk Factors

- **Refers to candidates or voting in an upcoming election**
- Comparing the organization's preferred position to a candidate's position
- Expressing approval or disapproval of a candidate's positions or actions
- Advocacy on issues known to divide candidates for a particular office
- Timing close to an election (unless driven by external event outside of the control of the organization, such as a legislative vote)

(Source: [Rev. Rul. 2007-41](#))

Voter Guides

- Include all candidates
- Address broad range of issues
- Does not rate or otherwise compare candidates
- Don't suggest which position the organization favors on any issue (no bias or preference)

(Source: Rev. Rul. [67-368](#); [78-248](#); [80-282](#); [86-95](#))

Legislative Scorecards

| Do you want to...? | 501(c)(3): send to everyone | 501(c)(3): send to members | 501(c)(4): send to everyone |
|--|-----------------------------------|-------------------------------------|-------------------------------------|
| Rate or score the legislators or their individual votes? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Focus only on a few issues of key importance to your organization? | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| Time the release of the scorecard to coincide with the election? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Voter Registration & GOTV

- Voter Registration = helping people get on the voting rolls
- GOTV = any the organization does to get people to the polls to vote
- Select location and audience based on nonpartisan criteria

(Source: [Rev. Rul. 2007-41](#))

Candidate Debate & Forums

- Questions for the candidates prepared and presented by an independent non-partisan panel
- Topics discussed by candidates cover a broad range of issues
- Candidates given equal opportunity to present views on each of the issues
- Candidates not asked to agree or disagree with positions, agendas, platforms, or statements of the organization
- Moderator does not comment on the questions or otherwise express approval or disapproval of candidates

(Source: [Rev. Rul. 66-256](#); [Rev. Rul. 2007-41](#))

Candidate Appearances

Invited in capacity as candidates:

- Equal opportunity to participate extended to other candidates for same position
- Org does not indicate support for or opposition to candidate
- No political fundraising occurs

(Source: [Rev. Rul. 2007-41](#))

Invited in capacity as individuals (not as candidate):

- Candidate chosen to speak for reasons other than candidacy for public office and that capacity is clearly communicated
- Speaks in non-candidate capacity
- No mention to candidacy or election
- No campaign activity at event
- Nonpartisan “atmosphere”

Commenting on Candidate Statements

Good Facts:

- Uses candidate statement as opportunity to restate org's position
- Does not comment on candidate's position
- Issue is central to org's mission
- Org consistently comments on similar statements by other candidates and non-candidates
- Not a “wedge” issue
- Comment is in response to outside inquiry or news developments
- Timing based on event other than the election

Ballot Measures

- Section 501(c)(3) organizations can urge people to vote for or against ballot measures (initiatives, referenda, etc.)
- Considered direct lobbying under federal tax law
- **WARNING**: State election laws regulate ballot measure activities under state campaign finance laws
- Permits more partisan tactics
 - Messages that focus on single issue and state a position on that issue
 - Targeting communications to voters likely to vote the way the organization wants
 - Single topic events that don't present both sides of the issue

Resources

- [Staying Nonpartisan: Permissible Election Activities Checklist](#)
- [Nonpartisan Advocacy Planning Tool](#)
- [On the Frontlines of Democracy Report](#)
- [Engaging Candidates Webinar](#)

Audience Q&A

Please drop your questions into the zoom Q&A box.

Call to Action!

1. Go to vote.gov, Ballotready.org, or ballotpedia.org and find out if there are any primaries in your state this year. Some are happening as early as this month!
2. Add those dates to your personal and/or organizational calendar.
3. Amplify the primary dates (as well as the Tuesday November 3, 2026 General Election) to your nonprofit community!

Webinar Survey

Please take the webinar survey.

It will appear on your screen after the webinar.

These surveys help us evaluate our work and plan for future webinars.

1. What was your key takeaway from the presentation today?

Short answer (500 characters)

2. What topics or speakers would you like to see on a future webinar?

Short answer (500 characters)

3. Why would you recommend Nonprofit VOTE to a colleague?

Short answer (500 characters)

4. Do you have additional feedback to offer the Nonprofit VOTE team?

Short answer (500 characters)

5. What's your role at your organization?

- Executive Director
- Program Staff
- Communications Staff
- Development Staff
- Policy/Advocacy/Community Organizing Staff
- Administration/Operations Staff
- Volunteer
- Board Member
- Other

6. What type of organization are you representing today?

- National organization with or without local affiliates
- A state-based organization with or without local affiliates
- Local or regional organization with paid staff
- Local or regional organization with volunteers only
- Other

Thank you!

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Instagram, and now
Bluesky!



Contact us:

nonprofitvote.org and
info@nonprofitvote.org



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tools, and resources are free for all
to use, thanks to the generous
support of our network of
democracy champions!