



## **Legal Alert: Midterm Elections Political Activity Reminder for Nonprofits**

As we enter the 2022 midterm elections, the Chicago Lawyers' Committee for Civil Rights kindly reminds all nonprofit organizations about the legal restrictions of political activity for tax-exempt organizations.

The federal tax code provides that 501(c)(3) tax-exempt organizations "may not participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office." This means that a tax-exempt organization may not make direct or indirect contributions to political campaigns or parties or make any public statements of position, written or verbal, in favor of or in opposition to any candidate for public office or their party.

Consequences of violation can result in a loss or denial of tax-exempt status. Partisan political campaign activities include endorsing a candidate, publishing a guide recounting voting records of legislators on a specific targeted issue(s), providing voting assistance (rides, babysitting, etc.) only to voters voting for favored candidates, making a campaign contribution or expenditure for or against a candidate, rating or ranking candidates on who is more favorable to a given issue(s), and letting candidates use your facilities and resources unless they are made equally available to all candidates at their fair market value.<sup>1</sup>

Certain activities are not prohibited but should be conducted in a nonpartisan manner. These activities include:

**Voter Registration Drives:** Nonprofit organizations may conduct voter registration drives so long as there is no evidence of partisanship. This means that communication with potential registrants must make no mention of any candidate or party and that all applicants, regardless of political affiliation, must be given an equal opportunity to register.

**Voter Guides:** A nonprofit organization may publish or distribute voter guides only in a completely neutral and nonpartisan manner. This means that the guide must exhibit no bias or preference for any candidate or party. All candidates and

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<sup>1</sup> <https://www.nonprofitvote.org/resource/staying-nonpartisan-permissible-election-activities-checklist-2/>

their positions should be displayed in an identical manner, and all candidates must be given an equal opportunity to participate.

Hosting Candidates at Organizational Events: Candidates may be invited to speak at a nonprofit organization's event only if their opponents are given an equal opportunity to participate. The nonprofit organization and its representatives may not make any statement expressing support or opposition to any candidate or party, either at the event or in any promotional material, and no political fundraising may take place.

Business Transactions with Candidates: As a rule, be cautious of any direct contact with candidates for public office. Business transactions with a candidate, such as the leasing of office space, might subject your organization to heightened IRS scrutiny.

Nonprofits should be aware of the difference between political activity, lobbying, and advocacy. 501(c)(3) organizations are permitted to engage in limited lobbying. See [link to lobbying legal alert?](#) Nonprofit organizations are permitted to engage in unlimited advocacy. Advocacy is defined as communications to the public and legislators on general topics of broad social, economic, or similar problems. Organizations cannot refer to specific legislation, ballot initiatives, or directly encourage recipients to act on specific legislation or ballot initiatives. Organizations can advocate on a particular topic position (e.g., gun violence prevention), policy, or executive order.

Given the serious implications of non-compliance with federal regulations, we encourage nonprofit organizations to be particularly vigilant when engaging in any activity that is political in nature. We understand that many nonprofit's charitable missions are interconnected with politics, so if your organization is conducting an activity related to the political arena, make sure you consult the IRS prohibitions in detail at <https://www.irs.gov/pub/irstege/rr2007-41.pdf>.

Chicago Lawyers' Committee for Civil Rights provides legal education and pro bono legal services to community-based organizations that meet our eligibility requirements by matching eligible nonprofit organizations with pro bono legal counsel. For additional information about issues involving tax-exempt organizations or to request pro bono legal counsel, please visit [www.clccrul.org](http://www.clccrul.org).

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