



## 501(c)(3) ORGANIZATION

# ELECTION YEAR GUIDANCE IN BRIEF 2020

Nonprofit organizations that are tax exempt under Section 501(c)(3) are prohibited from engaging in any political activity.

Because even de minimis infractions can have serious legal repercussions for your organization, you should consult with legal counsel before engaging in any activity that involves an election, a candidate, or a political organization or party.

These guidelines highlight some of the important issues around election-year politics, but you may have other questions about this area. If you do, then please contact us.

**For 501(c)(3) organizations, the primary guideline is simple:**

**Do NOT engage in election activity at work.**

When you are at work – or using your organization’s resources – do not engage in any activity that supports or opposes any political party or any candidate for public office.

The actions of nonprofit organizations are receiving both increased scrutiny and publicity. Employees and board members need to be particularly careful that they not engage in any partisan or election activities that would jeopardize your organization’s tax-exempt status.

Please reach out to any one of us if you are unsure about these rules or need guidance with respect to a specific communication or activity.

### WHO IS A CANDIDATE?

Someone who holds themselves out as a candidate for public office, or is held out by others as a candidate for public office. Any public office – whether at the federal, state or local level – is included under this definition. For example, candidates for U.S. Congress, city councils, local school boards, and judicial positions are covered. Appointed officials, such as federal judges or a governor’s cabinet member, are not considered candidates, because they are not elected.

## NONPROFIT TEAM

Energy and passion around election work is important to our democracy. We are ready to assist everyone at your organization in participating lawfully in election activity.



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## YOU CAN: ✓

- » Engage in partisan political work on your own time (e.g., evenings, weekends, vacation time) and without using any organization resources. Do not identify yourself as an organization employee when engaged in partisan political activities in your capacity as a private citizen.
- » Use your personal social media accounts and email to express your individual views on your own time.
- » Provide the organization's views on policy issues to candidates, but you must make the information available to all candidates on the same basis.
- » Provide documents to a single candidate that asks for them, provided the documents are ones the organization makes available to the public generally and you do not modify or tailor the information specifically for the candidate.
- » Make public statements about the position of an incumbent elected official who is seeking re-election, so long as no reference to the election is made, the statement is part of an ongoing advocacy effort and not intended to affect the election, and the candidate's party affiliation is not included.

## YOU CANNOT: ✗

- » If identified with the organization, expressly or impliedly endorse the election or defeat of specific candidates, or a particular political party.
- » Provide organization meeting or office space to any candidate or group conducting election activity.
- » Use organization telephones, computers, printers, email, or any other company resources for any work for or against a candidate or campaign.
- » Use organization social media to like, friend, or tweet material from or about a candidate or campaign.
- » Distribute or forward candidate or campaign emails from your work email address.
- » Wear campaign t-shirts or buttons to work, meetings or events where you are associated with your work role or the organization.
- » Affix posters, election articles or campaign materials in your organization's office space.
- » When affiliated with your organization, or on work time, discuss the election, particular candidates, their platforms, campaign statements, or policy positions.
- » Coordinate any organization activities with a candidate's campaign or party.
- » Purposefully target the timing of communications or the distribution of any organization materials to benefit or harm any candidate's campaign.
- » Ask candidates to sign on to particular pledges committing them to organization-sponsored policies.
- » Work with or support a political organization (Political Action Committee "PAC" or a "527 organization") on work time or on behalf of the organization.