

Commenting on Candidates and Campaigns

How 501(c)(3)s Can Respond During an Election Year

Candidates for public office sometimes say things that are incorrect, or with which nonprofits disagree, and nonprofits may wish to set the record straight. While 501(c)(3) organizations may continue to [engage in education and advocacy to promote their issues](#) during the election season, they are strictly prohibited from supporting or opposing candidates for public office. So how can 501(c)(3) organizations respond to candidates or political parties and remain nonpartisan? By being very deliberate and careful with their statements.

Commenting on a Candidate or Party in the Context of an Election

501(c)(3) organizations that want to comment on candidate or political party statements need to be careful. The IRS has provided little guidance on how to handle such communications. A 501(c)(3) should have a good reason to speak up in these situations—like correcting a factual error—and the subject should be one that is important to the organization.

For example, imagine that a candidate makes the following statement: “Cigarettes are neither addictive nor unhealthy.” A 501(c)(3) health organization that is working on a campaign to prohibit smoking in bars and restaurants may want to correct this statement. The 501(c)(3) should determine who will speak for the 501(c)(3) and think through how to phrase its response—both what to say and what to avoid saying.

Representatives of a 501(c)(3) should:

- Focus on what was said (the issue), not who said it (the candidate).
- Decide who will speak publicly on behalf of the 501(c)(3) organization, so that non-designated staff will not inadvertently say something inappropriate.
- Script responses before talking to reporters.
- Avoid talking about a candidate’s qualifications or whether someone is a good or bad candidate.
- Avoid discussing a candidate’s record; commenting on a candidate’s record is very close to commenting on a candidate’s qualifications or whether he or she should be elected.
- Avoid talking about voters and making references to the election. For example, instead of saying “Voters will not accept...” say, “Americans won’t accept.....”
- Avoid identifying the candidate by name. It is better to say: “During the recent Republican debate, statements were made about X. We disagree...”
- Be very cautious if a reporter asks about which candidate is better on the 501(c)(3)’s issues, or whether the 501(c)(3) agrees with a statement a candidate made.
- Issue a disclaimer (“As you know, we’re a 501(c)(3) and can’t endorse candidates”) in a one-on-one conversation or in a press release.

It is permissible to monitor information about what candidates say and do during the campaign. The risk for 501(c)(3) organizations arises when they communicate something that could be perceived as attempting to influence voters. Organizations can gather information, but must be careful about using that information publicly, including in communications with allies, coalition partners, and members.

A 501(c)(3) organization may want to urge all candidates to take a stand or act on an issue, without commenting on specific candidate statements. For example, a 501(c)(3) organization may want to urge both major party candidates in the presidential race to take more forceful action on the issue of illegal guns and violence. A 501(c)(3) making this kind of communication should be careful to avoid criticizing any candidate, and should focus on the need for all candidates to take action.

Commenting on a Candidate or Party in the Context of a Lobbying Campaign

501(c)(3) organizations can engage in issue advocacy. This may include criticizing, praising, or even mentioning legislators who happen to be running for office or even, in certain instances, referencing political parties. For more information on how to ensure a 501(c)(3)'s comments about incumbent office holders are legal, as well as to learn more about whether these communications may be considered "electioneering communications" under election law, see our fact sheet "[Praising and Criticizing Incumbents.](#)"

Below are examples of issue-focused statements or comments that mention policy matters and party affiliation, and which are generally acceptable for 501(c)(3) organizations:

- "Despite public outcry, the Senate Majority Leader refuses to bring sensible gun control legislation to the floor."
- "We take issue with many of the provisions of the 'Pledge to America' put forth by Republican leadership in Congress."
- "Please thank Senator Smith for her recent vote on legislation to maintain funding for affordable housing." (Statement made while Senator Smith is in office as well as a candidate for re-election.)

If a 501(c)(3) organization wishes to respond to a candidate's public statement, the organization should work with an attorney to minimize the risk of appearing to support or oppose candidates. This fact sheet does not provide legal advice, but instead provides tips on how to minimize the risk.

The information contained in this fact sheet and any attachments is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code. Alliance for Justice publishes plain-language guides on nonprofit advocacy topics, offers educational workshops on the laws governing the advocacy of nonprofits, and provides technical assistance for nonprofits engaging in advocacy. For additional information, please feel free to contact Alliance for Justice at 866-NPLOBBY.