



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

POLITICAL ACTIVITIES OF NONPROFIT BOARD MEMBERS AND EMPLOYEES¹

Section 501(c)(3) organizations are subject to stringent rules regarding political activity. What about their staff and board members? Nonprofit staff and board members are often times passionate individuals, driven to serve their communities and interested in local issues. In their interest to serve or to further certain causes, they may find themselves involved with political activity, such as running for office or campaigning for candidates. In this article, we review the federal prohibitions on §501(c)(3) political activities, and provide guidelines on how staff or board members may participate in political activity as individual citizens without putting the §501(c)(3) at risk.

Can a §501(c)(3) Organization Participate in Political Activities?

All §501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of or in opposition to any candidate for elective public office. Common prohibited political campaign activities include attempting to influence political campaigns through direct and indirect candidate support, providing contributions to candidates or Political Action Committees (PACs), participating in campaigns, making public statements for or against candidates, and supporting a political party. A written or oral endorsement of a candidate by a §501(c)(3) organization is strictly forbidden. This prohibition is not limited to federal candidates and officeholders and applies to all state and local candidates. Below are a few examples addressing this prohibition.

- *Example 1:* A §501(c)(3) organization sends out a weekly newsletter that contains articles of interest, its thrift store hours, information about its community outreach programs and spotlights of longtime volunteers. A longtime volunteer is running for a seat on the town council. A week before the election, the organization publishes a message in its weekly newsletter saying, “Lend your support to a longtime volunteer in Tuesday’s election for town council.” The organization conducted prohibited campaign activity and intervened in the political campaign on behalf of its longtime volunteer.
- *Example 2:* For years, Jim Jones has been a vocal supporter of mental health services and funding for such services. Jim is now running for mayor. Your §501(c)(3)

¹ This article focuses only on the Internal Revenue Code and its rules and regulations and does not address the Federal Election Campaign Act Rules. It also does not address lobbying or advocacy.

Dated: 4/28/2022

www.pbpatl.org

© 2022 Pro Bono Partnership of Atlanta, Inc. All rights reserved

organization provides free mental health resources to low-income individuals. Should you invite Jim Jones to be the featured speaker at your upcoming event? No, it would be considered prohibited campaign intervention if you invite him and not the other candidates. However, if a §501(c)(3) organization provides equal opportunity and time for each candidate to speak, it is considered educational and non-political. See our article on [Candidate Forums](#).

- *Example 3:* A §501(c)(3) healthcare organization maintains a website containing information of medical staff, directions to nearby healthcare facilities, and descriptions of various healthcare programs. On the bottom of one page on its website, it describes a new treatment program and includes a section of links to other sites titled “More Information.” One link leads to a page from a national newspaper’s website that praises the treatment program. The page provides no reference or direct links to candidate information or election activities. However, another page of newspaper’s website contains a list of editorials published by the newspaper containing candidate endorsements for an upcoming election. The organization has not intervened in prohibited campaign activity because the link was provided in furtherance of its exempt purpose of educating the public about the healthcare programs, and nothing about the link indicated that the organization was favoring or opposing any candidate.

For more information about the political activity proscription for §501(c)(3) organizations, watch our webcast [Political Campaign Activities and Electioneering](#).

Can a §501(c)(3) Organization’s Employees and Board Members Participate in Political Activities?

The prohibition of §501(c)(3) organizations’ involvement in political activities is not intended to restrict individual political free speech or expression by leaders or employees of such organizations. A §501(c)(3) organization’s board member or employee may, in his or her individual capacity, support or oppose a candidate for public office. However, organization leaders and employees must be careful not to make partisan comments in any official organization publications or at organizational functions. Further, it is strongly encouraged that leaders and employees clearly indicate their comments are their own personal opinions and are not intended to be representative of the organization’s beliefs. Because the details matter when dealing with the political activity prohibition, here are few examples as guidance.

- *Example 4:* A pastor has a column in his weekly church pamphlet titled “My Views.” The church is a §501(c)(3) organization. Two weeks before the local election, the pastor published in his “My Views” column, “It is my personal opinion that Candidate C should be reelected.” The pastor paid for the column with his personal funds for that particular

week. Because the pamphlet is an official publication of the church, it constitutes campaign intervention by the church even though he paid for his portion of the pamphlet.

- *Example 5:* Robert, the Volunteer Coordinator of your §501(c)(3) organization, has a personal Instagram page that he frequently uses to promote the organization and its volunteering events. Robert starts to post his support for one candidate and his opposition for another on his Instagram page. This is potentially an issue because Robert's Instagram page could be viewed as part of the organization. In this case, the organization and the political activities are not being kept separate. Robert can set up two Instagram accounts – one focused on the organization's activities and the other one personal. On his personal account, Robert can list where he works but not promote its activities, and post whatever politically related topics he chooses.
- *Example 6:* Your §501(c)(3) organization's Board Chair is asked to add her endorsement of a candidate for governor in a full-page ad to be published in your city's newspaper. The persons placing the ad have asked to include that she is the Board Chair of your organization as well as her business title and company. If the ad says, "Titles and affiliations of each individual are provided for identification purposes only," then your Board Chair may allow the inclusion of her Board Chair title and the name of your organization. Otherwise, this will constitute organizational campaign intervention.
- *Example 7:* You, as CEO of a prominent, local §501(c)(3) organization, are asked to speak at a campaign event for a neighbor running for the school board. You are not introduced as the CEO of your organization, and you do not mention it. However, you are wearing your large name badge that clearly identifies you as CEO of your organization. This could be considered prohibited political activity as it is not clear whether you are acting in your capacity as CEO of your §501(c)(3) organization because you are wearing your name badge.

In addition to expressing their personal views, organization leaders and employees can run for an elected public office position. However, an organizational leader or employee must do so only in their own individual capacity and not in any way connected to the §501(c)(3) organization they lead or where they work. To ensure separation between the organization and the political campaign activity, the organizational leader or employee should avoid disclosing their organizational affiliation in any public information. If the relationship is mentioned in any public information, the organizational leader or employee must state the organization is only being named for identification purposes in the campaign or other materials and that no endorsement is being provided by the organization itself. This is similar to the free speech recommendations above.

It can get tricky when an organizational leader or employee who is running for office wants to use the organization's physical office or office equipment (including for example computers,

copiers, phones, and mailing lists) for campaign activities. In addition, it is important that an employee not conduct any campaign activity while the employee is “on the clock” for the organization. Below are some examples to consider.

- *Example 8:* For the last five years, your §501(c)(3) organization has allowed individuals or companies to rent out your donor list if they were willing to pay a certain amount of money. Carol, a board member of your organization, is running for mayor and asks if she can rent your donor list. Your organization can rent out the list to the board member as long as you regularly rent out the list to others, and you rent it to her for the same price.
- *Example 9:* Jerimiah is running for state senate. He works for your §501(c)(3) organization. He decides to hold his candidate team meetings at your office after hours since other employees have used the office for their personal activities after hours and the CEO doesn't seem to mind. In addition, often his team uses the phones while there to make campaign calls. If any leader of the organization is aware of these activities, it constitutes prohibited campaign activity by the organization. You should have a policy and procedure prohibiting such activities.
- *Example 10:* Amanda is the CEO of a §501(c)(3) organization and decides to initiate a campaign for state senator. She publishes a full-page ad in the newspaper, paid for by her campaign committee, listing the names of prominent community business people supporting her. She is identified in the ad as CEO of the organization and the ad states, “Titles and affiliations of each individual are provided for identification purposes only.” Because the ad was not paid for by the §501(c)(3) organization, is not otherwise an official organization publication, and states that her title and affiliation is for identification only, the ad does not constitute campaign intervention by the organization.
- *Example 11:* LaTonya, the Chief Operating Officer of your §501(c)(3) organization, is running for Lieutenant Governor. She asks if she can submit a paid political advertisement to your organization's monthly newsletter. Your organization has never published advertisements in the newsletter, and therefore, cannot publish the advertisement. However, if (1) your organization normally accepts paid advertising and accepts the advertisement on the same basis as the non-political advertising, (2) the advertisement identifies itself as paid political advertising, (3) the advertising is available to all candidates on an equal basis, and (4) the organization expressly states that it does not endorse the candidate, then your organization may not be violating the political campaign prohibition.
- *Example 12:* Maria, the Executive Director of your §501(c)(3) organization, regularly speaks to the local Rotary Club on behalf of the organization. She is now running for the City Council. The Rotary Club would like someone from your organization to speak about your mission of workforce development. You should have someone from the

organization other than Maria speak to the Rotary Club or it may be seen as political activity.

Tips For Your Organization To Avoid Political Campaign Activity

Here are some general guidelines to ensure your organization does not engage in prohibited political campaign activity, including when your leaders or employees are running for political office. When debating whether or not to conduct certain activities, ask:

1. Is this activity realistically available to all candidates on an equal basis?
2. Is the activity available to the general public and not only to candidates?
3. Is the fee charged to a candidate the organization's customary and usual rate? and
4. Is the activity an ongoing activity of the organization and not being conducted for the first time?

If you answered no to any of these questions, you may be at risk for conducting a prohibited political campaign activity.

Section 501(c)(3) organizations need to remain vigilant with the prohibition on political activities. Creating a policy regarding employees engaging in political activities is important. Training employees on what is permitted and what is prohibited is also critical to maintain your §501(c)(3) status. Below are some specific recommended guidelines to help guide your organization, employees and leaders when considering political campaign activities.

General Employee Guidelines

1. Employees should not engage in written communication or work-related conversation with staff, leadership or third parties about political candidates or campaign-related topics in the office.
2. If employees utilize their personal vehicles regularly for official organization activities, they should not have political bumper stickers or magnets on their vehicles.
3. Employees should not wear any campaign-related paraphernalia, including buttons and t-shirts, while at work and should not post campaign-related signs in their workspaces.
4. Employees should not use office resources (space, equipment, work hours etc.) for participating in political campaign-related activities.

Leader/Employee Running for Public Office Guidelines

1. The leader/employee may not use any office resources (space, equipment, work hours etc.) for their personal campaign-related activities.

2. The leader/employee may not use their work-issued telephone number, email address, or office address, or the organization's name in any political campaign communications or activities.
3. The leader/employee must avoid any public statements that might indicate the organization's support in this political campaign endeavor.
4. If the leader/employee regularly speaks at events on behalf of the organization, scrutinize the events including where they are located and the topic as the election draws near. It may be prudent to have another organizational representative speak at such events.
5. The leader/employee must not pressure other leaders, employees or volunteers to contribute time, money or effort in their work or individual capacity to support them as a candidate. However, those leaders, employees or volunteers may support the candidate on their personal time using their personal resources if they so choose.
6. The §501(c)(3) may want to offer the employee leave for the duration of the campaign on the same basis as any employee requesting leave for other purposes.