



Political Campaign Activities and Electioneering:

What Can Your § 501(c)(3) Do in This 2020 Election Year?

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To provide free legal assistance to community-based nonprofits that serve low-income or disadvantaged individuals. We match eligible organizations with volunteer lawyers from the leading corporations and law firms in Atlanta who can assist nonprofits with their business law matters.

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- In order to be a client of Pro Bono Partnership of Atlanta, an organization must:
 - ✓ Be a 501(c)(3) nonprofit.
 - ✓ Be located in or serve the greater Atlanta area.
 - ✓ Serve low-income or disadvantaged individuals.
 - ✓ Be unable to afford legal services.
- Visit us on the web at www.pbpatl.org
- We host free monthly webinars on legal topics for nonprofits
 - ✓ To view upcoming webinars or workshops, visit the Workshops Page on our website
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§ 501(c)(3) Political Activities

- Background – Rules differ for different exempt organizations:
 - ✓ § 501(c)(3): charities, schools, churches, foundations
 - ✓ § 501(c)(4): social welfare organizations
 - ✓ § 527: political committees
- Many organizations groups have a (c)(3), a (c)(4) and a 527 to serve different functions, i.e., education, lobbying and political campaign activity.

Political Campaign Activity

Absolute Prohibition for § 501(c)(3)s

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

Political Campaign Activity Includes:

- Attempting to influence political campaigns through direct and indirect candidate support
- Activities include contributions to candidates or PACs; participation in campaigns; making public statements for or against candidates; supporting a political party, etc.

Political Campaign Activity Includes:

- On public statements (verbal or written), the IRS looks to a number of factors on whether this is political campaign activity or issue advocacy:
 - ✓ Whether it identifies a candidate;
 - ✓ Whether the timing coincides with an election cycle;
 - ✓ Whether it targets voters in a particular election;
 - ✓ Whether it identifies a candidate's position; etc.
- IRS will also consider whether the public statement was made, or appears to have been made, on behalf of organization.
- Executives and Leaders of 501(c)(3)
 - ✓ Can participate in the political process independent of organization
 - ✓ Clear disclaimer that “titles and affiliations of each individual are provided for identification purposes only”

Political Campaign Activity Includes:

- Providing use of 501(c)(3)'s office space, equipment (e.g. copiers), donor lists to political candidates
- 501(c)(3)s employees cannot use work-issued telephone number, email address, office address, or organization's name when talking with candidates or participating in a political campaign
- 501(c)(3)s - No political campaign signs at office - in employee cubicles and political buttons or other materials may be restricted from the workplace
- **BEST TO HAVE A POLICY!**

Political Campaign Activity (cont.)

- If conducted in a nonpartisan manner, and depending on facts and circumstances, some political activities are permissible
 - ✓ Encouraging Voter Involvement (voter registration, get-out-the-vote drives)
 - ✓ Voter Education (presenting public forums, publishing voter education guides/legislative scorecards)
- If the IRS finds evidence of bias that would either favor or oppose on candidate (or group of candidates) over another, such activities will constitute prohibited participation or intervention

Voter Registration

- Must be non-partisan and not screen voters
- Cannot:
 - ✓ Register only voters who will vote for a certain candidate or party
 - ✓ Register only voters who will vote for a certain issue
 - ✓ Use registration lists to identify unregistered voters to target a specific political party
 - ✓ Select an area to canvas because a certain candidate is favored in that area
 - ✓ Define subgroups by ideological criteria
 - BUT CAN:
 - Focus on specific minority groups tied to discrimination (race, gender, language, poor, unemployed)
 - Focus on subgroups that share common problems (e.g. farmers)
- Must contemporaneously document reasoning for specific voter registration drives

Get Out the Vote

- Cannot name candidates when encouraging people to vote
- Must be non-partisan and not screen voters
- Cannot Help Get to the Polls:
 - ✓ Only people who plan to vote for a certain candidate or party
 - ✓ Only people who will vote for a certain issue

Candidate Forums or Debates

- Revenue Ruling 2007-41
- Must invite all legally qualified candidate
- Questions must cover a broad range of issues
- Questions must be presented by nonpartisan, independent panel of experts
- Each candidate receives equal opportunity to present views
- Must have moderator to enforce rules of debate or forum

Legislative Scorecards

- 501(c)(3) may distribute politicians' voting records (a/k/a legislative scorecards). Rev. Rul. 78-248; Rev. Rul. 80-282.
- Activities *not* prohibited:
 - ✓ Annual distribution of voting records
 - ✓ Voting records on major legislative issues
 - ✓ Publication has no editorial opinion
 - ✓ Content and structure not imply approval or disapproval of legislators or their voting records

Legislative Scorecards (cont.)

- Other activities not prohibited:
 - ✓ Send questionnaire to candidates on wide variety of issues
 - ✓ Public responses in voter guide
 - ✓ Select issues based on importance to electorate

Legislative Scorecards (cont.)

- Prohibited political activities:
 - ✓ Questionnaire containing questions that evidence bias on issues
 - ✓ Voter guide focuses on issues important to organization
 - ✓ Guide emphasizes one area indicating its purpose is not non-partisan voter education



For More Information:

If you would like more information about the services of Pro Bono Partnership of Atlanta, contact us at:

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