



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, EMPLOYEES AND VOLUNTEERS¹

Section 501(c)(3) organizations are prohibited from participating in political campaign activity and risk their exemption for violations of this rule. What about their board members, staff and volunteers? Nonprofit board members, employees and volunteers (which for the rest of this article, we will reference all three groups collectively as “BE&V”), are 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 campaign 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 BE&V may participate in political activity as individual citizens without putting the §501(c)(3) they work with 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 office. Common prohibited political campaign activities include attempting to influence political campaigns through direct or indirect candidate support, providing contributions or in-kind support 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. Bea, 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 Bea, a longtime volunteer, in Tuesday’s election for town council.” The

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: 5/18/2026

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organization conducted prohibited campaign activity and intervened in the political campaign on behalf of its longtime volunteer.

- *Example 2:* For years, Jim has been a vocal supporter of mental health services and funding for such services. Jim is now running for mayor. A §501(c)(3) organization provides free mental health resources to low-income individuals. Should the organization invite Jim to be the featured speaker at its upcoming event, which occurs one month before the mayoral election? Having Jim as the featured speaker would likely be considered prohibited campaign intervention, even if Jim is invited only because of his advocacy for mental health issues and he does not mention his campaign as part of his speech. However, if a §501(c)(3) organization provides equal opportunity and time for each candidate to speak on a wide variety of issues that are important to the electorate, such event will likely be considered to be an educational candidate forum and not prohibited campaign intervention. See our article on [Candidate Forums](#).
- *Example 3:* A §501(c)(3) human services organization leases space that it uses primarily for its own activities. The organization makes its facilities available to other nonprofits, but not to individuals or for-profit entities, without charge on an as-available basis when they otherwise are not in use. Sue Smith is a long-time volunteer with the organization who is now running for city council. Sue has asked to use one of the organization's meeting rooms to hold a training session for campaign volunteers on a day when it otherwise is not being used. If the organization allows Sue to use the conference room, it has provided in-kind support to a candidate for public office, which is prohibited under §501(c)(3).

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 BE&V Participate in Political Activities?

The prohibition on §501(c)(3) organizations' involvement in political activities is not intended to restrict individual political free speech or expression by the BE&V of such organizations. BE&V may, in their individual capacity, support or oppose a candidate for public office. However, BE&V must be careful not to make partisan comments in any official organization publications or while serving in their official capacity with the organization. When representing the organization, it is essential that BE&V clearly indicate that their comments are their own personal opinions and do not represent the views of the organization, particularly when the person holds a leadership position

within the organization. Because the details matter when dealing with the political activity prohibition, here are few examples as guidance.

- *Example 4:* The Executive Director of the Anytown Free Clinic, a nonprofit healthcare organization, attends a political fundraiser for a Congressional candidate in the district where she lives. The Congressional candidate supports many positions that would help the Clinic achieve its charitable mission. She pays for the ticket with her own personal funds, and the event is not scheduled during her typical work hours. However, she wears a nametag provided by the Clinic that identifies her as its Executive Director. Wearing her official nametag may cause the Executive Director to be viewed as attending the political fundraiser in her official capacity, rather than in her personal capacity. Because the Executive Director is viewed as an official spokesperson of the Clinic by virtue of her position, her attendance may be viewed as an endorsement of the Congressional candidate by the Clinic and constitute prohibited campaign intervention. She may still attend the fundraiser in her individual capacity but should not wear her nametag.
- *Example 5:* Robert is employed as the Volunteer Coordinator of a §501(c)(3) organization and has a personal Instagram page that he frequently uses to promote the organization and its volunteer events. Robert starts to post his support for one candidate and his opposition for another on his personal Instagram page. This is unlikely to be an issue because Robert’s personal Instagram page is not an official communication channel of the organization and Robert is unlikely to be viewed as an official spokesperson of the organization.
- *Example 6:* A §501(c)(3) organization’s Board Chair is asked to add her name to an endorsement of a candidate for governor in a digital ad running across local news platforms. The persons placing the ad have asked to include that she is the Board Chair of the 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 the Board Chair may allow the inclusion of her Board Chair title and the name of the organization. Otherwise, this may constitute prohibited campaign intervention by the organization.

In addition to expressing their personal views, BE&V may run for public office. BE&V cannot exploit their association with a §501(c)(3) organization in any way that indicates an endorsement or provides financial or in-kind support. BE&V may include their association with a nonprofit organization as part of an official campaign resume

However, if the relationship is mentioned in any campaign literature or communication, it must be clear that no endorsement or support is being provided by the organization, similar to the free speech discussion above.

BE&V running for public office generally should not be permitted to use the organization's facilities, equipment or other resources (including, for example, computers, copiers, conference rooms, phones, e-mail accounts, and mailing lists) for campaign activities, except in very limited circumstances where the facilities, equipment or resources are available to the public on a non-discriminatory basis. In addition, it is important that BE&V not conduct any campaign activity while BE&V is "on the clock" and serving in their official capacity with the organization. Below are some examples to consider.

- *Example 7:* For the last five years, a §501(c)(3) organization has allowed individuals or companies to rent out its donor list for a fee. Carol, a board member of the organization, is running for mayor and asks if she can rent the organization's donor list. The organization can rent out the list to Carol as long as it regularly rents out the list to others and it rents the list to her for the same price. The organization must make the donor list available to Carol's opponents on the same basis if asked to do so but need not proactively offer the list to her opponents.
- *Example 8:* Jerimiah is running for state senate. He works for a §501(c)(3) organization. He decides to hold his candidate team meetings at the organization's office after hours, since the CEO doesn't seem to mind when other employees use the office for their personal activities after hours. In addition, his team uses the phones while there to make campaign calls. If the CEO of the organization is aware of these activities and does not inform Jerimiah to stop, it constitutes prohibited campaign activity by the organization. In general, nonprofit organizations should have a policy in their employee handbook prohibiting personal use of company property.
- *Example 9:* Amanda is the CEO of a §501(c)(3) organization and decides to run for state senator. She publishes a full-page ad in the community's newspaper, paid for by her campaign committee, listing the names of prominent community and business leaders 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 organizational publication,

and states that her title and affiliation is for identification purposes only, the ad does not constitute prohibited campaign intervention by the organization.

- *Example 10:* LaTonya, the Board Chair of a §501(c)(3) organization, is running for Lieutenant Governor. She asks if she can submit a paid political advertisement to the organization's monthly newsletter. If the organization has never accepted paid advertisements in the newsletter, it should not agree to publish this advertisement, even if LaTonya pays fair market value for it. However, if (1) the organization normally accepts paid advertising and accepts the advertisement on the same basis as 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 the organization may not be violating the political campaign prohibition. A less risky alternative would be for the organization to have a policy stating that it will not accept paid political advertisements, even if it does accept other advertisements.

Tips For Organizations To Avoid Prohibited Political Campaign Activity When Working with BE&V

Here are some general questions to consider to ensure that an organization does not engage in prohibited political campaign activity:

1. Is this activity, facility, equipment or resource realistically available to all candidates on an equal basis?
2. Is the facility, equipment or resource being used 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?
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. Engaging in new activities that provide a forum for candidate communications or allowing the use of an organization's facilities, equipment or resources in new ways to candidates for public office may inadvertently be viewed as prohibited political intervention by an organization.

Section 501(c)(3) organizations need to remain vigilant regarding the prohibition on political campaign activities. An organization's employee handbook and volunteer policies should both contain a section addressing prohibited political campaign activity,

and this topic should be included when training or orienting new BE&V. Below are some specific guidelines to help guide organizations and their BE&V in navigating prohibited political campaign activities.

General BE&V Guidelines

1. While serving in their official capacity with the organization, BE&V should not engage in written communications or conversations with other board members, staff, volunteers, clients, donors or other third parties about political candidates or campaign-related topics or solicit campaign donations (both monetary and in-kind).
2. If BE&V utilize their personal vehicles for official organization activities, they should not have political bumper stickers or magnets on their vehicles when they are being used for such purposes.
3. BE&V should not wear any campaign-related paraphernalia, including buttons and t-shirts, while serving in their official capacity with the organization and should not post campaign-related signs in their workspaces.
4. BE&V should not use organizational resources (space, equipment, work hours etc.) to participate in political campaign-related activities.

BE&V Running for Public Office Guidelines

1. BE&V may not use any organizational resources (office space, equipment, work hours, etc.) for their campaign-related activities.
2. BE&V may not use their organization-issued telephone number, email address, or office mailing address to send or receive campaign-related communications.
3. BE&V may not use the organization's name in any political campaign communication, except as part of a resume or other communication that lists their entire work and/or volunteer history and that does not present the affiliation as a direct or indirect endorsement.
4. BE&V may not make any public statements or approve any campaign literature that indicates the organization's support for their candidacy.
5. If the BE&V running for office regularly speaks at events on behalf of the organization, carefully review the events, including the location, audience and topic, as the election draws near. It may be prudent to have another organizational representative speak at such events during the time period leading up to the election when regular campaign activity is occurring.
6. BE&V may not ask other employees, volunteers, clients, donors or other third parties to contribute time or money to their campaign while serving in their capacity with the organization. However, BE&V may solicit such support on their personal time using their personal resources if they so choose. When the candidate is an organizational leader or has a supervisory relationship

within the organization, a prudent policy may also prohibit them from soliciting donations of time or money from other BE&V even on their own personal time.

7. The organization's Board of Directors should be made aware when BE&V are running for public office. The organization's Executive Director or CEO (or in the case of an ED/CEO running for office, the Board Chair) should initiate a conversation with the BE&V running for office. The discussion should address how the campaign may impact their ability to continue in their role with the organization, both during the campaign and if they are elected to office. It should also include a review of the rules prohibiting political campaign intervention that are needed to protect the organization during such individual's candidacy.
8. The §501(c)(3) may consider offering the employee a voluntary, non-paid leave of absence for the duration of the campaign on the same basis as any employee requesting similar leave for other purposes.