

Staying Nonpartisan During Voter Engagement



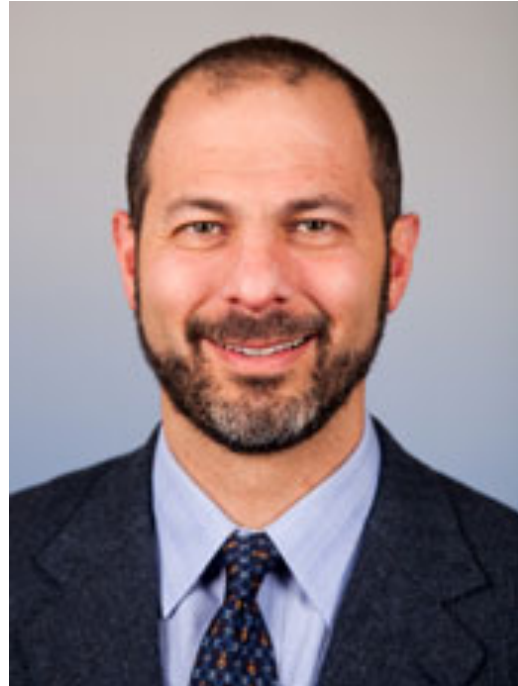
Rules for 501(c)(3) organizations

Have you signed up for NVRD yet?

National Voter Registration Day turns 10 this year! Celebrate our democracy and help more Americans register to vote by signing up as a partner and promoting voter registration on September 20th, 2022



Today's presenter



David A. Levitt
Principal
Adler & Colvin

Agenda

- Prohibition on Partisan Political Activity
- Nonpartisan Voter Registration
- Voter Education & GOTV
- Engaging Candidates
- Issue Advocacy
- Ballot Measures
- Staff Activities

This webinar is being recorded

We will send you the slides and video

Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

Partisan Campaign Activity



What nonprofits cannot do

A 501(c)(3) tax-exempt organization may not intervene in any political campaign on behalf of (or in opposition to) any candidate for public office.

*-1954 amendment to US Tax Code
(The Johnson Amendment)**

* The words “or in opposition to” added by Congress in 1987.



What that means

A 501(c)(3) organization may not:

- Endorse a candidate or support a political party
- Donate money or resources to a candidate or party
- Conduct any partisan election-related activity



What nonprofits can do


501(c)(3) organizations may conduct **nonpartisan voter engagement activities** designed to help the public participate in elections:

- Voter Registration
- Voter Education
- Candidate Engagement
- Get Out The Vote (GOTV)




Voter Registration


Charitable organizations can promote voter registration opportunities or conduct voter registration drives in compliance with state rules



This webinar is being recorded



We will send you the slides and video



Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

Common nonpartisan activities

Promote voter registration:

- Announce deadlines
- Provide information on where and when to register to vote

Conduct voter registration

- A table in your lobby, while clients fill out other paperwork, or during services
- Register staff and volunteers
- Partner with other nonprofits on voter registration drives



Voter Registration Guidelines

No endorsements: May not suggest which party to join. May say what it means to register as “unaffiliated”

Know your state’s rules:

- Party affiliation and closed or open primaries
- Eligibility requirements
- How quickly completed applications need to be returned
- Training requirements





Voter Education & Get Out the Vote (GOTV)

Charitable organizations can provide reminders to voters about deadlines and voting processes.

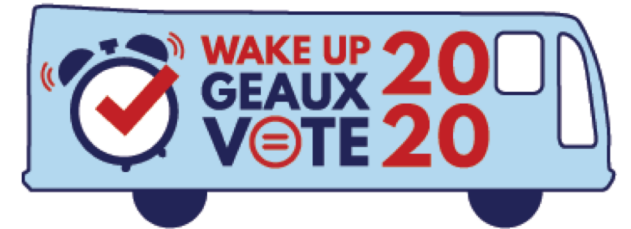
This webinar is being recorded

We will send you the slides and video

Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

Get out the vote by

- Making the election visible in your physical space
- Providing voter assistance, such as rides to the polls or info about election protection
- Conducting get-out-the-vote phone or text banks
- Reminding staff & constituents to vote in regular communications



**NEED A RIDE
TO THE POLLS
LAKE CHARLES?**



The process of voting

501(c)(3)s can educate voters on the process of voting:

- How to find your polling place
- When and where early voting is available
- How to apply for a mail ballot
- What ID is needed at the polls
- How to use a voting machine




On Election Day

- **Give staff time off:** To vote or do election-related activities
- **Rides to the polls:** No campaign materials on the vehicles
- **Election protection:** Share the phone & text hotline for trouble at the polls: 866-687-8683
- **Celebrate democracy:** Make Election Day special. Have a party!




Candidate Engagement

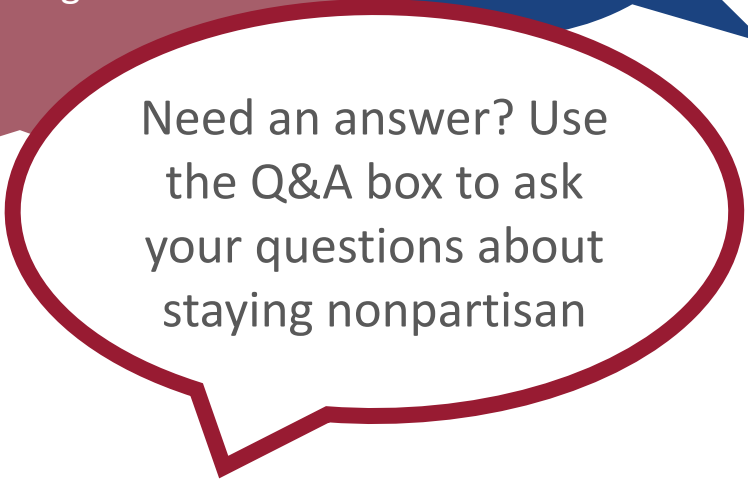
Your organization may engage candidates to educate voters about who is on the ballot or begin forming relationships with future office holders



This webinar is being recorded



We will send you the slides and video



Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

Candidate Appearances

- **Candidate vs. non-candidate capacity:** Keep their campaign/candidacy out of the event if they are appearing as an expert, person with experience, etc. at your event
- **Debates and forums:** Equal opportunity for participation to all viable candidates seeking the same office
- **It's a nonpartisan event:** Remind the audience and the candidates



Candidate Forums

- Cover a **range of issues** or topics
- Provide **equal opportunity** for the candidates
- **Do not imply** approval or disapproval of any candidate
- What if all the candidates do not attend?



Voter Guides & Questionnaires

- A **broad range** of issues
- **Not just yes or no**, if possible
- Send to **all the candidates**
- If a candidate doesn't respond, may list "no response" or use official statements from the candidate's website or other materials

Q: What could make it partisan?

A: If you telegraph a right or wrong answer when it's published

Before You Vote On November 7, Know Their Record on the Environment -- Presidential

Where do they stand?

Al Gore



Supports Sierra Club Position

George W. Bush

(Vice President)



Opposes Sierra Club Position

(Texas Governor)

✓ Supported stricter clean air health standards to protect children, seniors and others from soot and smog. Opposes weakening the Clear Air Act. (*Gore web site, 6/28/00*)

Clean Air




Weakened clean air health standards. (*Texas Natural Resources Conservation Commission Letter, 3/10/97*)

Comparing Candidates


- Comparing? It's **okay to compare** candidates in questionnaires and voter guides. Keep your opinion out of it.
- Criticizing? Avoid making positive or negative statements about candidates. **You may correct a factual misstatement** related to your issue.
- Ranking? A charity **may not publish rankings or ratings of candidates.**

Issue Advocacy & Ballot Measures


Nonprofits are permitted to conduct some lobbying. What's the difference between advocacy and partisan activity?



This webinar is being recorded



We will send you the slides and video



Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

Issue Advocacy

“501(c)(3) organizations **may take positions on public policy issues**, including issues that divide candidates in an election for public office.” - (IRS)

Factors to consider:

- Increasing advocacy activities only during election season could be seen as partisan effort
- History of work on an issue in the past is a good nonpartisan factor



Ballot Measures

Ballot measures are about laws or constitutional amendments

- **Activity on ballot measures generally is lobbying.** It's influencing the passage or defeat of a law— not the election or defeat of a candidate
- **501(c)(3) public charities thus may work for or against a ballot measure as a lobbying activity,** but watch for nexus to a candidate



What Nonprofit Staff Can Do

Nonprofit staff are free to engage in partisan activities, such as supporting a candidate, on their own time

This webinar is being recorded

We will send you the slides and video

Need an answer? Use the Q&A box to ask your questions about staying nonpartisan

What staff can do

What

- Volunteer on campaigns
- Attend political events
- Support your candidate
- Run for office

When

- Personal time outside work hours
- On vacation
- On personal days
- On unpaid leave

What to avoid

- Using nonprofit resources for partisan political purposes, including:
 - Organization-provided phones, laptops, printers
 - Work-related email and social media accounts
 - Your (paid) work time
- Being partisan when representing your nonprofit at/outside of work
 - Wearing campaign buttons, shirts, swag, etc.
 - Identifying yourself as an employee at your nonprofit when working on campaigns