



Guidelines for “Political Activities” by Churches and Pastors

The following legal overview and guidelines summarize the requirements of the Internal Revenue Code as they apply to churches and pastors.¹ We encourage you to share them with your colleagues. As guidelines, they may not address every situation that you face and should not be construed as legal advice.² Churches and pastors, however, may request legal advice free of charge regarding a particular situation by contacting Alliance Defending Freedom at 1-800-835-5233 or www.AllianceDefendingFreedom.org.

<i>Political Activity</i>	<i>Church</i>	<i>Pastor³</i>
1. Discuss the positions of candidates on issues	Yes	Yes
2. Endorse or oppose candidates	No	Yes
3. Financial contributions to candidates	No	Yes
4. In-kind contributions to candidates	No	Yes
5. Independent expenditures supporting or opposing candidates	No	Yes
6. Contributions to political action committees (PACs)	No	Yes
7. Payment of expenses for attendance at a caucus or state/national political party convention	No	Yes

¹ Although churches are subject to the rules of the Federal Election Campaign Act (“FECA”) as well as those of the Internal Revenue Code (“IRC”), FECA generally does not impact churches. Because the IRS has concluded that section 501(c)(3) absolutely prohibits any political campaign activity, activities regulated under FECA are already prohibited by the IRC.

² Particularly, state laws may be more restrictive than these guidelines, and therefore, in applying them to specific situations regarding state candidates or state elections, an attorney should be consulted.

³ Acting as an individual rather than an official church representative. Pastors and priests, acting as individuals and not as official church representatives, have the same rights as all other American citizens to involve themselves in political activity. Therefore, they have much greater latitude in this area than do churches.

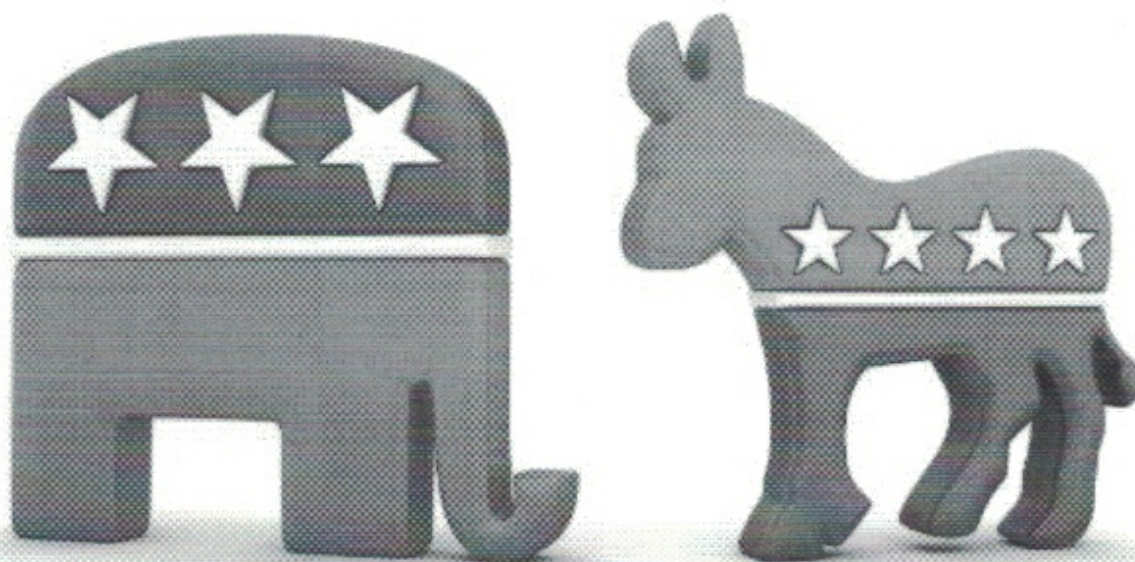


<i>Political Activity</i>		<i>Church</i>	<i>Pastor</i>
8.	Appearance of candidate at church meeting or service	Yes	N/A
9.	Non-partisan voter registration activities	Yes	Yes
10.	Non-partisan voter identification activities	Yes	Yes
11.	Non-partisan get-out-the-vote activities	Yes	Yes
12.	Non-partisan voter education	Yes	Yes
13.	Lobbying for or against legislation	Yes	Yes
14.	Expenditures related to state referendums ⁴	Yes	Yes
15.	Distribution of:		
	a. Candidate surveys or voter guides	Yes	Yes
	b. Voting records of incumbents	Yes	Yes
	c. Candidate campaign literature	No	Yes
16.	Distribution by others of political materials in church parking lots	Yes	N/A
17.	Rental of church membership lists at regular rates	Yes	N/A
18.	Rental of church facilities at regular rates	Yes	N/A
19.	Church publications:		
	a. Political ads at regular rates	Yes	N/A
	b. News stories about candidates or campaigns	Yes	N/A
	c. Editorials endorsing or opposing candidates	No	N/A

⁴ Lobbying activities may expose churches in some states to election law register and reporting requirements as a political committee. Many of these statutes are unconstitutional because they expose churches to intrusive regulations for a very small amount of lobbying. If you find your church exposed to such state election law requirements, contact Alliance Defending Freedom immediately so an attorney can review your situation.

CAN MY CHURCH ENDORSE A POLITICAL CANDIDATE?

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📅 January 15, 2020 | 👤 [Erik Stanley](#) | 📁 [Church & Nonprofit](#)

Every election season, churches find themselves caught in the midst of questions about what is permissible when it comes to political candidates. The current tax law limits what a church may do if it wants to maintain its tax-exempt status. In short, churches must not endorse or oppose candidates for public office if they wish to avoid endangering their tax-exempt status.

As a tax-exempt organization, a church is subject to a federal law passed in 1954 (popularly known as the Johnson Amendment) prohibiting 501(c)(3) organizations from becoming engaged in any political campaign activity. The law prohibits non-profit organization from engaging in activities that "participate in, or intervene in (including the publishing or distributing of statements), any political campaign on

behalf of (or in opposition to) any candidate for public office.”

The Johnson Amendment does not require a church to completely refrain from anything deemed “political.” For example, a church may engage in voter education practices—including providing forums for candidates to discuss their views—and may even distribute voter guides. But it must do so in a non-partisan fashion. The provision of a forum can’t be made in a way that is directly connected to official church functions, particularly if it shows bias in favor of (or against) a given candidate. Such bias might be shown by, for example, only inviting a favored candidate to the forum the church is holding, favoring one of the candidates in opening remarks at such a forum, or by doing political fundraising at the forum. Questions at the forum must be formulated and presented by an independent, nonpartisan panel, and must cover a wide range of issues, not just hot-button religious or political topics.

A church may also engage in advocacy in favor of or against issues but must be careful not to tie its advocacy to a particular candidate. In short, a church must avoid engaging in activities that directly endorse or oppose the campaign of any particular candidate for political office.

We know this area of the law can sometimes be confusing. [Provident Law’s](#) church and nonprofit attorneys are here to help answer questions and with establishing and crafting policies governing political activities. We recognize how essential tax-exempt status is for the maintenance and safeguarding of a church’s ongoing mission, and we stand ready to counsel and serve the churches of Arizona. [Contact us](#) to learn more.

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Churches Can Engage in Political Speech

Sep 21, 2020

WASHINGTON, D.C. – The chairman of the Federal Election Commission recently reaffirmed that non-profits, including churches and religious leaders, can engage in political speech, endorse candidates and host them on church property.

FEC chair Trey Trainor referred to the executive order, "[Promoting Free Speech and Religious Liberty](#)," signed by President Donald Trump on the National Day of Prayer, May 4, 2017.

Trainor said, "One of the first things he did when he came into office in 2017 was issue an executive order to the Department of the Treasury, telling them that they could no longer enforce that provision of the law and that religious organizations needed to be treated the same as every other organization. The Johnson Amendment is still on the books, but with lack of enforcement authority by the executive agency, it's a law that's not going to be enforced."

The executive order states it could no longer enforce that provision of the law and that religious organizations needed to be treated the same as every other organization, declares that it is the policy of the administration to protect and vigorously promote religious liberty, directs the IRS to exercise maximum enforcement of discretion to alleviate the burden of the Johnson Amendment, and provides regulatory relief for religious objectors to Obamacare's burdensome preventive services mandate.




"All executive departments and agencies shall, to the greatest extent practicable and to the extent permitted by law, respect and protect the freedom of persons and organizations to engage in religious and political speech," the order reads. "In particular, the Secretary of the Treasury shall ensure, to the extent permitted by law, that the Department of the Treasury does not take any adverse action against any individual, house of worship, or other religious organization on the basis that such individual or organization speaks or has spoken about moral or political issues from a religious perspective."

President Trump specifically mentioned "the imposition of any tax or tax penalty," as well as "the delay or denial of tax-exempt status; the disallowance of tax deductions for contributions made to entities exempted from taxation under section 501(c)(3) of title 26, United States Code; or any other action that makes unavailable or denies any tax deduction, exemption, credit, or benefit," as going against his executive order.

The Johnson Amendment, named for then-Senator Lyndon B. Johnson of Texas and enacted into law in 1954, restricted tax-exempt organizations, including churches and religious organizations, from endorsing or opposing candidates for elected office. However, no church has ever lost its tax-exempt status for engaging in political speech.

Liberty Counsel Founder and Chairman Mat Staver said, "We commend President Trump for protecting religious freedom. Pastors and churches should not be muzzled."

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"The Johnson Amendment has actually always been unconstitutional, and no church has ever lost its tax-exempt status for endorsing candidates that uphold biblical values. Its only purpose was to scare pastors into silence. However, churches cannot cower in fear to a non-existent bully and hide behind their nonprofit status. Elections are spiritual wars that threaten the Judeo-Christian foundation of America and Christians are called to be Lights in the culture," said Staver.

Liberty Counsel provides broadcast quality TV interviews via Hi-Def Skype and LTN at no cost.

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Legal Issues with Political Speech by Churches

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September 20, 2018 Church Law, Political

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Churches are sometimes tempted to lend their support to political candidates with whom they share common values or interests. But U.S. tax law restricts the kinds of political speech churches and other nonprofits can engage in. To preserve their tax-exempt status churches need to think carefully about how the rules against political speech may affect them.

For federal income tax purposes most churches qualify for exemption from tax under Section 501(c)(3) of the Internal Revenue Code.

1. Partisan speech.

Churches and other 501(c)(3) organizations have been prohibited from supporting specific political candidates since passage of the so-called Johnson Amendment in 1954. The Internal Revenue Code provides that, by definition, 501(c)(3) organizations do not “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.” In other words, taking an active role in a political campaign can negate a church’s tax-exempt status. If a church is determined to have violated this rule it may be required to pay income tax for every year it has failed to qualify for the exemption due to its political activities.

Activities that could risk violating the Johnson Amendment include most forms of material support for a specific political campaign. For example, a church should not organize volunteers to prepare a mailing for a candidate. Nor should a church solicit donations on behalf of a campaign. IRS guidelines indicate that a church can still engage in nonpartisan political activity without violating these rules. For example, a church can distribute nonpartisan voter information (such as a collection of statements by different candidates). A church can also host debates among candidates. A key focus in these examples will be whether a particular candidate is shown favor, or if the activity is truly neutral.

2. Lobbying.

A “substantial part” of a 501(c)(3) organization’s activities may not be directed at influencing legislation (including regulatory rulemaking). A church is allowed to take positions on issues that are important to it and its congregation. Such “issue advocacy” can even touch on topics that are central to a political campaign without running afoul of the rules. But the line between issue advocacy and candidate endorsement is often blurry, and churches need to think carefully about how their specific context may affect the appropriateness of devoting significant resources or time to an issue that may be construed as partisan.

The IRS guidance we’ve linked to above gives a number of parameters that can factor into the partisan character of issue advocacy. The parameters include the proximity to an election, any specific mention of a candidate’s position on the issue, and whether the issue is a key topic of the campaign. Given the stakes involved and the complicated factual analysis required to reach a reliable decision, churches that want to express themselves about issues that are central to ongoing political campaigns should consult with an attorney.

The Church Law Center of California is here to help

The Church Law Center of California provides legal counsel to churches regarding all aspects of organizational governance and compliance. We can help your church craft strategies that will give room for expression of politically charged opinions without risking the church’s tax exemption. Call us today at (949) 689-0437 or through our [contact page](#).



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POLITICAL AND LEGISLATIVE GUIDELINES FOR PASTORS AND CHURCHES

by Mathew D. Staver, Esq.

SUPPORTING OR OPPOSING CANDIDATES	CHURCH	PASTOR
Endorsing or opposing political candidates	No	Yes
Contributions to political candidate	No	Yes
In-kind and independent expenditures for or against political candidates	No	Yes
Contributions to Political Action Committees	No	Yes
Appearance of political candidate at church meeting or service	Yes	N/A
Introduction of political candidates at church	Yes	Yes
Political candidate to preach or read scripture (contributions should not be solicited & message should not urge people to vote for the candidate)	Yes	N/A
Voter registration programs and campaigns (non-partisan)	Yes	Yes
Distribution of candidate surveys and incumbent voting records (avoid editorial opinions)	Yes	Yes
Distribution in church parking lot of political statements and opinions on political issues (so long as no church endorsement)	Yes	N/A
Rent or loan church mailing lists to political candidates (list must be made available to all candidates on similar terms and prices)	Yes	N/A
Church bulletin political ads at regular price and news stories	Yes	N/A
Church bulletin editorial where the pastor or staff member endorses or opposes a candidate	No	No
Church bulletin editorial regarding political issues or two different church members take opposing views on a candidate	Yes	N/A
Use of church facilities by political candidates (if all other candidates are allowed or invited)	Yes	N/A
Fund-raising for candidates	No	Yes
Campaigning for candidates	No	Yes
Educate members of the public about viewpoints of candidates	Yes	Yes
Discuss church doctrine pertaining to candidate views such as abortion, homosexuality and marriage	Yes	Yes
Granting use of name to support a political candidate	No*	Yes*
Support or oppose judicial, department or cabinet appointments	Yes	Yes
Support or oppose judicial candidates	No	Yes
Support or oppose other political appointments of non-elected officials	Yes	Yes
SUPPORTING OR OPPOSING LEGISLATION	CHURCH	PASTOR
Use of church facilities by lobbying groups to discuss social issues	Yes	N/A
Rent or loan church mailing list to lobbying groups	Yes	N/A
Preach sermons on social issues and political issues and activism	Yes	Yes
Educate on political process and political/social/legislative issues	Yes	Yes
Petition drives supporting or opposing legislation or citizen initiatives	Yes	Yes
Support or oppose legislation unrelated to the church organization	Yes**	Yes
Support or oppose legislation that directly relates to the organization	Yes***	Yes
Encourage people to vote for or against legislation or citizen initiatives	Yes**	Yes
Lobby candidates to support or oppose legislation or citizen initiatives	Yes**	Yes
Distribute position papers supporting or opposing legislation or citizen initiatives	Yes**	Yes

*A pastor may include title and church affiliation in a personal endorsement along with the following recitals: "Title and affiliation for identification purposes."

**Churches and other 501(c)(3) organizations may support or oppose legislation so long as such activity comprises an insubstantial part of the overall operation. A 501(c)(4) organization may support or oppose legislation without any limitations.

***A church or any other 501(c)(3) organization may without limitation support or oppose legislation that directly affects the organizational structure and operation of the organization. For example, a church may without limitation oppose legislation attempting to repeal the tax-exempt status of the church.