



## Issue Advocacy vs. Electioneering

Nonprofits may continue their normal lobbying and advocacy activities in the months leading up to an election, and they may wish to take advantage of the heightened level of voter awareness by making sure their issues are discussed by candidates for office. Nonprofits cannot, however, make statements or issue communications that seem to favor or oppose particular candidates. Nonprofits' voter education efforts must be limited to their own policy and program agenda, not on candidates' views on that agenda.

The Internal Revenue Service advises nonprofits to avoid any communications that could be considered partisan, especially during an election year. Nonprofits are never permitted to ask an audience to vote for or against a specific candidate or political party. They are permitted to refer to elected officials in their issue advocacy, even if that official is running for election, as long as they only refer to that officials' current office and do not reference his or her candidacy for the same or any other position.

Nonprofits that spend over \$10,000 in a given election season for a broadcast advertisement that mentions an individual who is a clearly identified federal candidate within 30 days of a primary or 60 days of a general election must report to the Federal Election Commission the dates and amounts of disbursements made for the communications, and the name and address of each person who made a donation of \$1,000 or more which was used to pay for the ads.

The IRS provides [detailed guidance](#) with 21 examples to help nonprofits understand and comply with prohibitions on engagement in partisan political activity. The IRS specifically looks at all of the following factors when determining whether a nonprofits' communication violates those prohibitions:

- ✓ Whether the statement identifies one or more candidates for a given public office;
- ✓ Whether the statement expresses approval or disapproval for one or more candidates' positions and/or actions;
- ✓ Whether the statement is delivered close in time to the election;
- ✓ Whether the statement makes reference to voting or an election;
- ✓ Whether the issue addressed in the communication has been raised as an issue distinguishing candidates for a given office;
- ✓ Whether the organization has a past record of advocating or communication on the issue, independent of election periods;
- ✓ Whether the communication is a response to an external event, such as an imminent vote on legislation, other than the election;
- ✓ Whether the timing of the communication and identification of the candidate are related to a non-electoral event such as a scheduled vote on specific legislation by an officeholder who also happens to be a candidate for public office.

\* Throughout this document, the term nonprofit refers only to organizations recognized by the IRS under section 501(c)(3) of the tax code. Different rules apply to nonprofits that are exempt under other sections of the tax code.

*This document provides general guidance only and should not be relied upon as legal advice.*