

Legal Alert: Political Activity of Nonprofit Corporations

With the political campaign season upon us, The Law Project would like to remind our not-for-profit clients again about the legal restrictions on the political activity of tax-exempt organizations.

The federal tax code prohibits 501(c)(3) tax-exempt organizations 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.” This means that a tax-exempt organization may under no circumstances make direct or indirect contributions to political campaigns or parties or make any public statements of position, written or verbal, in favor of or in opposition to any candidate for public office or their party.

Other activities are not absolutely forbidden but must be conducted in a completely nonpartisan manner. Such activities include:

Voter Registration Drives: Nonprofit organizations may conduct voter registration and get-out-the-vote drives so long as there is no evidence of partisanship. This means that communication with potential registrants must make no mention of any candidate or party and that all applicants, regardless of political affiliation, must be given an equal opportunity to register.

Voter Guides: Much like voter registration drives, a nonprofit organization may publish or distribute voter guides only in a completely neutral and nonpartisan manner. This means that the guide must exhibit no bias or preference for any candidate or party. All candidates and their positions should be displayed in an identical manner, and all candidates must be given an equal opportunity to participate.

Hosting Candidates at Organizational Events: Candidates may be invited to speak at a nonprofit organization’s event only if their opponents are given an equal opportunity to participate. Moreover, the nonprofit organization and its representatives may not make any statement expressing support or opposition to any candidate or party, either at the event or in any promotional material, and no political fundraising may take place.

Business Transactions with Candidates: As a rule, be very wary of any direct contact with candidates for public office. Even a business transaction with a candidate, such as the leasing of office space, might subject your organization to IRS scrutiny.

The Law Project understands that politics is often intimately connected to the charitable missions of nonprofit organizations such that avoiding the political arena altogether might be impossible. However, given the dramatic consequences of noncompliance—violation of the applicable restrictions could result in the denial or revocation of your tax-exempt status—we encourage our nonprofit clients to tread lightly and to err on the side of caution when engaging in any activity that could be considered “political” in nature.

Can The Law Project help my organization?

The Law Project is a project of the Chicago Lawyers’ Committee for Civil Rights under Law, Inc. The Law Project matches eligible nonprofit organizations with pro bono legal counsel. For additional information about issues involving tax-exempt organizations, please contact us at tlp@thelawproject.org or 312.939.3638, or visit us online at www.thelawproject.org.

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