

ELECTION ADVISORY

ISLAMIC CENTER AND NON-PROFIT ACTIVITIES DURING ELECTION SEASON

With the election season underway, many American Muslims, community organizations, and mosques are actively participating in election-related activities. Mosques, like churches and other related organizations, are considered 501(c)(3) public charities under the tax code, and must follow certain rules to maintain their special tax-exempt status.

A 501(c)(3) organization may engage in educational activity and to encourage civic participation. To help navigate your non-profit through these rules, Muslim Advocates and Alliance for Justice have put together this brief advisory on permissible and prohibited activity.

As a general rule, a mosque or other 501(c)(3) public charity:

1. May raise awareness for their issues of concern, educate the public about the candidates' views on a broad range of issues through candidate forums and questionnaires, educate candidates about issues important to their members, encourage individuals to vote, and engage in other non-partisan activities.
2. Cannot engage in any election related activity that supports or opposes a candidate for public office. Public charities should ask themselves if, considering all of the facts and circumstances surrounding their activity, it appears as if they are supporting or opposing a particular candidate. If so, it is likely impermissible activity for a 501(c)(3) organization.

PERMISSIBLE ACTIVITY	PROHIBITED ACTIVITY
Conduct nonpartisan public education and training sessions about participation in the political process.	Publish or communicate anything that explicitly or implicitly favors or opposes a candidate (forms of communication include khutbas, listservs and newsletters).
Educate candidates on issues important to their members.	Ask candidates to sign a pledge in support of a position on any issue.
Publish non-partisan legislative scorecards at the conclusion of each legislative cycle, reflecting on how legislators voted in the previous legislative session.	Increase the volume or amount of criticism of an incumbent running for re-election election time approaches.
Organize candidate appearances as long as it gives all candidates an equal opportunity to address an audience and is done on a nonpartisan basis.	Make any campaign contributions or sponsor fundraising events of candidates.
In regular course of business, rent mailing lists and facilities at fair market value to other organizations, legislators, and candidates.	Offer or restrict rental of mailing lists and facilities to certain candidates.
Conduct non-partisan get-out-the-vote (GOTV) and vote registration drives.	Allow mosque resources to be used to support or oppose candidates, including permitting candidates to distribute partisan campaign literature or display campaign signs on its property.
Establish a 501(c)(4), which may carry out <i>partisan political activities</i> , without jeopardizing its tax-exempt status as long as it is engaged primarily in non-electoral activities that promote social welfare.	Establish a political organization – often referred to as a Political Action Committee (PAC) or a 527 organization.

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Why should your organization follow the rules?

It is important to remember that 501(c)(3) public charities that support or oppose candidates for public office (thereby engaging in “political activity” or “partisan political activity”) could lose their tax-exempt status and/or face taxes on their political activity.

In addition to possible IRS scrutiny, 501(c)(3) organizations may also want to be sensitive to the fact that individuals or organizations may not like the work a 501(c)(3) is doing, and may take any opportunity to expose a 501(c)(3)’s perceived or actual transgressions. Staying in compliance helps to ensure that a 501(c)(3)’s limited resources are being spent on the important work they do, not on defending themselves.

There is no reason for organizations to put themselves at risk. By learning the rules for engaging in nonpartisan election-related activity, mosques and other related 501(c)(3) public charities can be effective advocates for their communities, without losing their tax status or incurring financial penalties.

HOW TO PREPARE YOUR ORGANIZATION:

Develop an internal organizational policy regarding staff time and resources and partisan politics.

- Require board members and key personnel to review resources on election-related activities for 501(c)(3) organizations.
- Staff should monitor organizational social media platforms and make sure that they are careful to remain nonpartisan.
- If you use volunteers in voter registration or Get-Out-The-Vote activities, make sure that volunteers are also aware of the election rules of public charities.

HOLDING CANDIDATES ACCOUNTABLE

Often times, candidates for public office say things that are incorrect. Nonprofits may want to set the record straight. Representatives of 501(c)(3)’s may wish to consider the following:

- Focus on what was said (issue), not who said it (candidate).
- Best to use language similar to “During the recent X debate, statements were made about Y. We disagree because...”
- Avoid talking about candidate by name – instead of saying “Voters will not accept...”, consider “Americans will not accept”
- Consider adding a disclaimer, such as “As a 501(c)(3), we cannot endorse candidates.”

Public charities can criticize or praise the votes or official actions of incumbent legislators or executive branch officials. However, the IRS may view positive or negative comments about incumbent candidates as “intervention.” To avoid this determination, 501(c)(3) organizations should consider the following:

- Focus on official actions only
- Have a track record of working on the issue
- Include legislators not up for reelection
- Use non-partisan criteria

FREQUENTLY ASKED QUESTIONS

Q. An Imam delivers the khutba every Friday at the mosque and last week stated, “In order to do what is best for the country, we need to support Candidate X.” Is he allowed to make such statements?

A. *Leaders (e.g., board members, officers and imams) cannot make comments in support of or in opposition to candidates for public office in official organization publications or at official organization functions. Since the Imam made comments endorsing a candidate at the mosque in his official capacity, this statement of endorsement is clearly partisan activity and impermissible. Leaders of 501(c)(3) public charities can support candidates in their individual capacity—on their own time spent away from the organizations they serve. If such persons are identified as being associated with the organization during political activity, they must convey that their support is in an individual capacity and does not represent the views of the organization. To avoid any confusion, it is best if the 501(c)(3) is not mentioned at all.*

Q. Our mosque youth group is very passionate about participating in the election process, and we want to encourage this type of activity. May they use our paper and paints to create posters in support of a candidate if the posters are NOT hung on mosque property?

A. *No. Encouraging youth involvement in the political process is important, but this specific activity is not permissible. Hanging posters or distributing flyers in support of a candidate on mosque property by the youth group is definitely prohibited activity. In addition, since the youth group is affiliated with the mosque, it cannot use the mosque’s paper, paints or other property to create partisan materials in support of a specific candidate, even if it is not displayed on mosque property. A permissible alternative would be to help the youth group organize nonpartisan get-out-the-vote (“GOTV”) efforts, such as calling all members of the mosque reminding them of the date of the election and polling place hours.*

Q. Our 501(c)(3) public charity would like to invite a candidate to speak before our congregation or organizational meeting. What procedures must we follow?

A. *First, the 501(c)(3) can never express support of, or opposition to, the candidate at the event. Second, the specific steps to be followed depend on the capacity in which this person is invited to appear at the function. If the person is invited as a candidate, other viable candidates should be given equal opportunity to participate (at the same event or a comparable event). Additionally, no political fundraising should occur. If the person is invited to appear or speak in a capacity that is unrelated to his/her candidacy, it is not necessary to invite other candidates, but the organization should ensure that the event does not become a campaign appearance. The organization should inform the candidate of its 501(c)(3) public charity status and the limitations related to partisan activity in advance of any appearance. The closer the appearance is to an election, the more it looks like a candidate event requiring the appearance of all candidates.*

Q. I work at a public charity and frequently receive emails to my work account from friends advocating support for Candidate Y. I strongly support Candidate Y, and I use my work account to urge other friends and colleagues to do so as well. Is this type of activity permissible?

A. *No. The IRS does not allow 501(c)(3) groups to use organizational resources to send partisan political information. Therefore, using a public charity's e-mail system to distribute candidate campaign material is not allowed. Employees should use their personal e-mail accounts and their personal computers for any partisan political activity. Mosques and all other 501(c)(3) public charities should inform their staff, board members, and volunteers about these restrictions.*

REMEMBER..

When engaging in election-related activities, 501(c)(3) public charities and mosques must remember that while they can—and should—encourage the public to be informed on issues and exercise their right to vote, they cannot suggest how people should vote. None of their activities—whether voter registration, issue advocacy, educating the public about the candidates and issues, or more—can suggest which candidates or political parties are better, or otherwise indicate how people should vote on candidates.