
Political and Legislative Guidelines for Churches and Pastors

Every day, critical moral issues are addressed through the legislative and political processes, and yet many churches and pastors believe they cannot legally influence these debates. While government restrictions do impose certain limitations, there remains a great deal that churches and pastors can do to speak on the moral issues of our day.

The following "Do's" and "Don'ts" are based on requirements by the Federal Election Campaign Act and Section 501(c)(3) of the Internal Revenue Code. As they are general guidelines, it is always a good idea to seek legal advice as you make specific plans for your church.

Influencing Legislation

According to the Internal Revenue Code, pastors and churches may engage in activities designed to influence legislation, as long as the total sum of these activities do not reflect a "substantial part" of their church's overall activity in a given year.

While the IRS has not defined "substantial," court cases have applied percentage tests. Past rulings have held that expenditures of less than five percent of a 501(c)(3) organization's time and finances devoted toward activities intended to influence legislation were not "substantial," and, therefore, were permissible.¹ Most churches are 501(c)(3) organizations.

The IRS considers "legislation" to be any official act that makes public policy, including town councils, county commissions and the legislative branches of both state and federal governments. School boards are not included in this definition. The IRS defines "direct lobbying" as direct contact by an organization with members of a legislative body if the contact refers to specific legislation and reflects a view on such legislation. Though limited by the "substantial" test, such activity is also allowed.

"Grass roots lobbying" is far more common in churches and other non-profit organizations. Such activity is designed to influence legislation through the members of a constituency.

However, simply informing your congregation about the content or status of a legislative measure under consideration is not an attempt to influence legislation. In order for such communication to be considered a grass roots lobbying attempt, the IRS has determined that it must refer to a specific piece of legislation, reflect an opinion on that legislation and call the reader or listener to action.

"Grass roots lobbying" is allowed to the extent allowed by the "substantial" limitation. Activities that do not involve all three components are merely considered "education" by the IRS and, therefore, have no restrictions at all.²

Initiatives, Referendums, Ballot Questions and Propositions

Critical moral issues are increasingly being put to voters directly in the form of initiatives and referendums (also called ballot questions and propositions). This is not political activity but the making of law by popular vote. Thus, churches and pastors may speak freely about initiatives, referendums, ballot questions and propositions, including outright endorsement or opposition. Bulletin inserts, fact sheets and statements from the pulpit are also allowed. This activity is considered "direct lobbying," since the people you are attempting to influence-the voters-are the "lawmakers" in this case. However, the "substantial" restraint still applies.

Example 1: A church tells its congregation about specific abortion legislation moving through the state legislature, announces its opposition and urges the congregation to contact their state representatives and request that the bill be defeated. This is a permissible "grass roots lobbying" activity.

Example 2: The same church tells its congregation about specific abortion legislation moving through the state legislature and announces its opposition without urging them to contact their state representatives. This is merely educational activity; it may be done without limit.

Example 3: A pastor speaks about a specific state initiative from the pulpit, announces his opposition and urges members to vote against it in the general election. This is permissible "direct lobbying" activity. (As with grass roots lobbying, it may be done until all such activities for the year exceed the "substantial" limit.)

Political Activity and Elections

According to the Internal Revenue Code, a 501(c)(3) organization may "not participate or intervene in (directly or indirectly, including the publishing and distribution of statements) any political campaign on behalf of any candidate for public office." However, there are many ways for churches and pastors to affect positive change in elections by ensuring that church members have all of the information necessary to fulfill their civic responsibilities.

What a Church May Do

Conduct non-partisan voter registration/ education drives. Contact your local city clerk's office for information on registering voters in your church. Host candidate forums where all are invited and treated impartially.

Rent a church mailing list (at market value) to a candidate.

Publish an ad in the church bulletin for all who request, as long as the ad is purchased at the regular rate for all such ads.

Publish neutral news stories on political candidates, including information regarding public endorsements candidates have received from a variety of organizations.

Invite a political candidate to attend a church service or meeting. Remember that other candidates, regardless of party affiliation, must also be given the same opportunity should they request it and no church representative may endorse or solicit funds for any candidate.

What a Church May Not Do

Endorse a political candidate.

Contribute to political candidates or political action committees.

Make an outright donation of a mailing list to a political candidate.

Participate in fund-raising projects for political action committees.

Sell a political ad at a discount rate if no other advertisers are offered discounts.

Distribute candidate political statements. *Note: this is **not** the same as a voter's guide-see below.*

Pay to attend a caucus for a state or national political convention.

Make in-kind or independent expenditures in favor of or against candidates.

Voter's Guides

During election years, many churches make voter's guides available to their members. This is a permissible educational activity as long as the guides do not reflect a partiality, which could be misunderstood as an endorsement of a particular party or candidate. The following guidelines help ensure your guide is indeed "neutral."

Don't use a "comments" section in your voter's guide to clarify an incumbent's voting record. Doing so would indicate a bias. Let the candidate's voting record speak for itself.

Do not use percentage or plus or minus ratings of candidates to indicate whether a candidate voted "pro-family" or "anti-family." Do not use the ratings of other organizations. Political action committees may do this, but 501(c)(3) organizations cannot.

Do not skew the voting record of a candidate by having YES votes mean they voted for a pro-family position or NO votes meaning they voted against the family.

Keep the language neutral. Do not use such terms as "pro-family," "anti-family" or "baby killer" to describe candidates seeking office. Do not encourage your readers to vote for pro-family candidates, but encourage them to be involved. Everyone should be able to use your voter's guide to find candidates they like.

If candidates refuse to respond to your questionnaire, you may mention it in your guide and include their phone numbers so voters can ask them why they refused.

Do not mention any political action committee in the guide.

You are not required by law to publicize the voting records or ideologies of third party candidates unless there is a good chance the third party candidate is viable or in a position to win the election.

Questions asked of candidates must deal with a wide range of issues not just abortion, pornography and homosexuality. Be sure to include taxation, health care, foreign policy, the national defense and other topics of interest to provide a well-rounded view of the candidates.

A Special Note to Pastors

As private citizens, pastors have the same rights as all Americans. A pastor may even endorse candidates from the pulpit as long as it is absolutely clear that these opinions are those of a private citizen and not made on behalf of the church or its members.

Endnotes

¹ The IRS makes such rulings on a case-by-case basis. Both qualitative and quantitative factors are examined in such cases. Therefore, such percentage tests tend to be subjective and variable. It is recommended that you always seek legal counsel in planning activities designed to influence legislation. It is also advised that you keep records of the expenses incurred.

² There is an exception to this rule when it comes to mass media. Churches planning to use radio, television or newspaper campaigns within two weeks of a vote on specific, "highly publicized" legislation should seek legal counsel before proceeding.