

NONPROFIT NONPARTISAN POWER

The 2022 Voter Engagement Toolkit

[Checklist] Staying Nonpartisan: Permissible Election Activities for 501(c)3 Nonprofit Organizations

The federal tax code contains a single sentence that defines the prohibition of partisan political activities by 501(c)(3) charitable organizations. It states 501(c)(3) organizations are “prohibited 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.”

When activities are considered partisan political activity depends on the “facts and circumstances” in each situation. What is clear is that there’s still a lot a 501(c)(3) can do on a nonpartisan basis to promote voter and civic engagement as part of its charitable and educational mission during the election season.

Permissible Nonpartisan Activities - with common examples

The IRS affirmatively states that **501(c)(3) organizations may conduct voter engagement** or connect with candidates on a nonpartisan basis. This includes encouraging voter participation, educating voters, and talking to candidates about issues. 501(c)(3) organizations may:

1. Conduct or Promote Voter Registration

- a. Conduct a voter registration drive at your nonprofit or in your community.
- b. Encourage people to register to vote in your communications, on your website or at events.

2. Educate Voters on the Voting Process

- a. Provide information on when and where to vote - such as finding their poll location, getting an absentee ballot or contacting their local election office for help.
- b. Remind people of registration or election deadlines and dates.

3. Host a Candidate Forum

- a. Sponsor a candidate forum with other community partners for all the candidates.
- b. Encourage your community to attend your forum or another candidate forum sponsored by a trusted partner.

4. Create a Candidate Questionnaire

- a. Submit questions to all the candidates in a race of interest to your nonprofit.
- b. Use Nonprofit VOTE’s fact sheet or Bolder Advocacy’s fact sheet on creating a candidate questionnaire for specific guidelines to follow to remain nonpartisan.

5. Distribute Sample Ballots or Nonpartisan Voter Guides

- a. Provide nonpartisan information about who and what is on the ballot.

6. Continue Issue Advocacy During an Election

- a. Continue your regular advocacy or lobbying activities during the election period, as long it is related to pending legislation on issues you have a history of working on and not timed or otherwise structured to influence how people vote.

7. Support or Oppose a Ballot Measure

Unlike candidates for office, nonprofits may take sides on a ballot measure. IRS rules treat this as a lobbying activity, not electioneering.

- a. Educate the public on your position within your normal lobbying limits.
- b. Have your board take a position for or against a question on the ballot.

Note: If you plan to make a significant investment of staffing and funds on ballot measure advocacy, review the state’s campaign spending disclosure laws regarding ballot measures.

8. Encourage People to Vote

- a. Send reminders to your staff, clients and constituents about voting in the next election and why voting is important.
- b. Nonprofits may conduct any type of get out the vote activity to encourage people to vote as long as it’s about participating as a voter and not suggesting who to vote for.

Prohibited Partisan Activities

The partisan prohibition means a **501(c)(3) organization** or a staff member speaking or acting on behalf of the nonprofit **may not**:

- Endorse a candidate.
- Make a campaign contribution or expenditure for or against a candidate.
- Rate or rank candidates on who is most favorable to your issue(s).
- Let candidates use your facilities or resources, unless they are made equally available to all candidates at their fair market value - such as a room commonly used for public events.

The main principle for being nonpartisan is to conduct voter engagement and education in the context of your educational and civic mission and not in a way intended to support or oppose a specific candidate. So if you hold a candidate forum or offer to brief the candidates on issues of importance to your organization, make sure you treat the candidates equally. When you do voter registration or remind people to vote, do it in the context of the importance of voting – encouraging active citizenship and giving voice to the communities you serve.

What does it mean to rank or rate a candidate?

Anything that indicates which candidates you think are better or worse on your issues could be seen as a partisan endorsement. This would include things like giving candidates letter grades (A, B, C, etc.), but even commentary that compares candidates’ views to yours is a problem. Take, for example, a voter guide you create to publicize where candidates stand on an issue that also includes your organization’s position on the issue. This would tell the voter which candidates you believe gave the “correct” answer. When you circulate or publicize a nonpartisan guide giving candidate positions, keep your opinion out of it. Let voters use the information presented to make their own decisions.

Resources

- Nonprofits, Voting and Elections: A 501(c)(3) Online Guide to Nonpartisan Voter Engagement, located at nonprofitvote.org

- Federal Funds and Voter Registration: for organizations receiving Community Service Block Grants or AmeriCorps/National Service programs, located at nonprofitvote.org

If you have a question, contact Nonprofit VOTE at info@nonprofitvote.org or Bolder Advocacy at advocacy@afj.org. Or visit online:

- Nonprofit VOTE – nonprofitvote.org
- Bolder Advocacy – bolderadvocacy.org

Source: [Nonprofit VOTE](#)

[Checklist] Seven Reasons to Do Voter Registration

1. Get the Attention of Candidates

Communities with high registration and turnout rates are more likely to get attention from candidates and campaigns, including more frequent candidate appearances and campaign contacts (campaign literature, reminders to vote, etc.)

2. Build Community Clout

Office holders pay close attention to who turns out to vote. Communities with high turnout gain increased access to office holders and increased clout.

3. Create Community Advocates

Voters are more likely to become advocates for their community and to participate in the political process in other ways, for example, by volunteering for a political campaign or training to become a poll worker.

4. Build Community Leadership

As communities become mobilized to vote, leaders from within the community emerge, including those who will seek office.

5. Gain Representation that Reflects the Diversity of Your Community

Communities that register and vote are more likely to gain representation that reflects the diversity and interests of their community.

6. Reach Voters Whom No One Else Can

Because of the work you do, you have access to community members whom traditional campaigns are often unable to reach. Furthermore, you've earned your clients' and constituents' trust and respect, giving you the opportunity to reach them in a way that no one else can.

7. Create a Lifelong Voter

A registered voter is a likely voter. Typically, nine out of ten registered voters will turn out to vote in a presidential election. Voting is habit forming. Getting someone registered and helping them turn out to vote in one election dramatically increases the chance that they'll vote again.

Source: [Nonprofit VOTE](#)

[Guide] Dos and Don'ts: Federal Funds and Voter Registration

All 501(c)(3) organizations must follow the same IRS rule barring charities from conducting partisan political activities to support or oppose candidates while allowing nonprofits to conduct voter engagement and election activities on a nonpartisan basis. In a few special cases Congress has added stipulations on the use of certain federal funds to restrict voter registration activities. In contrast, the National Voter Registration Act of 1993 (NVRA) requires state agencies offering federal assistance like Medicaid or WIC to offer voter registration to those who sign up.

Federal Funds with Voter Registration Restrictions

Community Service Block Grants (CSBG)

Nonprofits who receive Community Service Block Grant funding, like Community Action Agencies:

CANNOT

- Use CSBG funds to pay for staff or materials to conduct voter registration.
- Use CSBG funds to provide rides to the polls.

CAN

- Use non-CSBG funds to do voter registration such as having staff or others not paid by CSBG funds help register voters, so long as it's not identified as a service of the agency. In this case, voter registration should be done outside of service delivery, for example, at a table or local event.
- Use CSBG or other funds to do any other kinds of nonpartisan voter engagement activities to promote voter education and voter participation such as reminding staff and clients about an upcoming election. However, it is recommended that CSBG funds used for nonpartisan election activity be limited and not done in a way to give public perception of the agency as being in any way involved in partisan politics.

Head Start

Head Start has similar restrictions to that of CSBG recipients, except Head Start had language added in 2007 to amend the Head Start Act to affirm a Head Start program's right to have outside groups do nonpartisan voter registration drives at their sites. A Head Start program:

CANNOT

- Use Head Start funds to conduct or have employees conduct voter registration activities.
- Use Head Start funds to provide rides to the polls.

CAN

- Have a nonpartisan organization or non-Head Start personnel do voter registration at Head Start facilities during all hours of operation.
- Do any other type of nonpartisan voter education, such as keeping parents and others informed about how, when, and where to vote.

Do CDBG funds have similar restrictions?

No. Unlike with CSBG funds, there are no restrictions on doing voter registration or any type of nonpartisan activity. A nonprofit funded by CDBG should follow the same rules that apply to any 501(c)(3) organization barring partisan, political activity to support or oppose candidates.

AmeriCorps and the Corporation for National and Community Service (CNCS)

AmeriCorps members and other recipients of CNCS funding are subject to the standard 501(c)(3) prohibition on partisan political activities for or against candidates. Additionally, while charging time to the AmeriCorps program or otherwise performing activities supported by the AmeriCorps program, CNCS supported personnel or service volunteers:

CANNOT

- Do voter registration during work hours or while performing work for the host organization.

CAN

- Make voter registration forms and information available on the premises for clients.
- Conduct any other type of nonpartisan voter education as undertaken by the organization where they are doing service.
- Do political activities in personal time outside of work and when not representing the organization they are assigned to.

Legal Services

Legal Services groups are the most restricted. Legal Service employees and volunteers are generally prohibited by the Legal Services Act (LSA) and related policies from conducting any kind of nonpartisan or partisan political activity or issue advocacy.

Federal Funds with Requirements to Do Voter Registration

The [National Voter Registration Act of 1993](#) requires several types of federally supported agencies—such as those that offer public assistance or primarily serve people with disabilities—to proactively offer the people they serve the opportunity to register to vote. These include nonprofit agencies like community health centers or food pantries that sign people up to receive Medicaid, WIC, food stamps and other federally funded public assistance programs.

See Nonprofit VOTE's [factsheet](#) on the National Voter Registration Act for more information.

Resources

- CAPLAW, [Election Year Refresher for Nonprofit Community Action Agencies](#)
- Legal Information Institute, [Prohibited uses of CDBG Funds](#)
- Corporation for National and Community Service, [Prohibited Activities](#)
- Legal Services Corporation, [Regulations CFR 45 Part 1608](#)
- Nonprofit VOTE, [National Voter Registration Act Factsheet](#)
- Department of Justice, Civil Rights Division, [National Voter Registration Act \(NVRA\) FAQ](#)

Source: [Nonprofit VOTE](#)

[FAQ] HIPAA and Civic Engagement at Health Centers

This fact sheet is provided for guidance only. It is not a legal opinion.

What is HIPAA? HIPAA is the federal Health Insurance Portability and Accountability Act of 1996. The primary goal of the law is to make it easier for people to keep health insurance and protect the confidentiality and security of healthcare information. For health centers, protecting patient health information is also a legal requirement under the Health Insurance Portability and Accountability Act (HIPAA).

What does the Privacy Rule protect? The HIPAA Privacy Rule protects the confidentiality of identifiable health information, including personal and demographic data, that relates to:

- the individual's past, present or future physical or mental health or condition,
- the provision of health care to the individual, or
- the past, present, or future payment for the provision of health care to the individual, and that identifies the individual or could be reasonably used to identify the individual and their personal information.

What are the HIPAA issues when doing voter registration? Voter registration cards and information are not subject to HIPAA regulations. A center's ability to copy voter registration data to later contact a registered voter is a matter of their state's election law. There is no law or rule in New York State prohibiting photocopying or retaining information from completed registration applications. A voter's date of birth, signature, full or partial Social Security Number and driver's license number should be removed before copying any application.

How does HIPAA affect collecting advocacy or pledge to vote cards? Voter and civic engagement is a voluntary, opt-in activity. Patients voluntarily provide contact information for this purpose. It is okay for health centers to ask patients to fill out a pledge to vote or advocacy card and to track the data for follow up and program evaluation. It's a good policy to restrict what staff have access to the list. Please see the 2nd bullet below regarding sharing of the list with a civic engagement partner.

How does HIPAA apply to creating a civic engagement database used for advocacy, education or program evaluation? HIPAA prohibits the use of your electronic health records (EHR) or other patient database for activity related to your civic engagement program. You should not use patient data from the patient's record to fill out voter registration forms or add to your database. Only use information you received directly from the patient on their voter registration form, voter pledge or advocacy card or other civic activity.

A civic engagement database may include staff, family, community members as well as patients.

- Don't include a special field in your database that identifies the individual as a patient.
- You may share contact information with another civic partner to, for example, invite people to a forum or do nonpartisan voter education. If you do, you should request they not identify the list with your health center.
- Your health center may also use a civic engagement list to evaluate the success of your outreach program.

Please contact info@nonprofitvote.org for more information and guidance. Health care providers can contact vot-er.org to get a free healthy democracy toolkit to help their patients register to vote.

Source: [Nonprofit VOTE](http://NonprofitVOTE)

[FAQ] Nonprofits and Ballot Measures

Ballot measures ask voters to vote on laws, bonding issues, or constitutional amendments. New York State allows ballot questions or propositions to be put before the voters by legislative action.

Can a nonprofit take a position for or against a ballot measure?

Yes. Activity on ballot measures is lobbying – not electioneering. Ballot measure advocacy is an attempt to influence the passage or defeat of a law or constitutional amendment – not the election or defeat of a candidate. 501(c)(3) organizations are free to take sides on ballot measures as a lobbying activity, subject to normal limits on lobbying. If an organization is communicating with the general public about a ballot measure, it is considered Direct Lobbying (rather than Grassroots Lobbying) because the organization is speaking directly to the decision makers. This is important because there are different limits on the two types of lobbying, with grassroots lobbying being more restricted than direct lobbying. Ballot measure advocacy is more a first amendment right to advocate on issues than a matter of tax law. Any organization or individual is free to express their opinion for or against a proposed law or constitutional amendment.

What are common activities for nonprofits on ballot measures?

Your organization can engage in a range of activities related to ballot measures, such as: making an endorsement, communicating your position to the public, organizing volunteers to work on passage or defeat of an initiative, or hosting an educational forum or event. You can also distribute neutral educational materials designed to inform the public about both sides of the question.

How much can a 501(c)(3) nonprofit spend on lobbying?

Your spending limits depend on which federal test your nonprofit chooses to measure its lobbying and how much you anticipate to spend on lobbying in one year

1. Under federal law, if your nonprofit has elected to measure its lobbying under the 501(h) expenditure test, you will have clearer guidance and can do more advocacy. Under this test, you can spend as much as 20% of your annual budget on lobbying, including influencing ballot questions or legislation. Filing the 501(h) form is generally recommended for nonprofits that do any significant amount of lobbying and advocacy.
2. If your 501(c)(3) has not filed the 501(h) form, your lobbying falls under the “insubstantial part test.” In this case, you may only spend an “insubstantial” amount of money on lobbying efforts. “Insubstantial” is generally assumed to be 3-5% of annual spending.¹
3. In New York State, if a 501(c)(3) expects to spend \$5,000 or more lobbying they must register with the Joint Commission on Public Ethics.²
4. In New York City, if a 501(c)(3) expects to spend \$5,000 or more lobbying on New York City legislation they must register with the City Clerk Lobbying Bureau.³

Are there any spending limits for ballot measure advocacy?

There are no limits on spending on ballot measures, beyond the limits on lobbying discussed above. Some states require you to file an expenditure report if you devote substantial funds to ballot measure

¹ [Lobbying Under the Insubstantial Part Test](#), Bolder Advocacy.

² For more information, please see the Lawyers Alliance for New York’s [Advocacy](#) resources.

³ See footnote 2.

advocacy as, for example, a primary sponsor of a ballot measure or an active partner. Contact your state's campaign finance office for more information.

Staff Activity

There are no limitations to what nonprofit staff can do regarding ballot initiatives, except those set forth by the nonprofit itself as a matter of employee policy. As a matter of good policy, the decision to endorse or oppose a ballot measure should be made by the organization's Board of Directors.

Resources

- **Bolder Advocacy**, [*501\(c\)\(3\) Public Charities and Ballot Measures: An online toolkit*](#)
- **National Council of Nonprofits**, [*A Guide to taking the 501h-election*](#)
- **National Council of Nonprofits**, [*The Benefits-of-filing-the-501h-election*](#)
- **Bolder Advocacy**, [*Lobbying Under the Insubstantial Part Test*](#)

Source: [Nonprofit VOTE](#)