

Election Advisory for Mosques and Muslim Nonprofits

With the election season almost constantly 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. To help navigate the federal tax laws that govern the political activities of 501(c)(3) public charities, Muslim Advocates and Alliance for Justice issue this brief advisory on permissible and prohibited election-related activities. Please review this document and share it with others so that your mosque or other nonprofit institution can ensure its activities are consistent with the law. Groups engaging in election-related activity that does not appear *clearly* nonpartisan should contact Muslim Advocates or an attorney in their area to ensure that their activity is permissible.

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

- 1. Can 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 nonpartisan 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.

Why does it matter if our organization breaks 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.

General Guidelines

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.

Keeping the above in mind, a mosque or other 501(c)(3) public charity MAY:

- ✓ Conduct nonpartisan public education and training sessions about participation in the political process.
- ✓ Educate candidates on issues important to their members.
- ✓ Publish nonpartisan legislative scorecards at the conclusion of each legislative cycle, reflecting how legislators voted in the previous legislative session.
- ✓ Prepare nonpartisan candidate questionnaires and voter guides.
- ✓ Survey public opinion and hold focus groups addressing issues of concern.
- ✓ Organize candidate appearances as long as it gives all candidates an equal opportunity to address an audience and is done on a nonpartisan basis.
- ✓ Sponsor nonpartisan candidate debates.
- ✓ In its regular course of business, rent mailing lists and facilities at fair market value to other organizations, legislators, and candidates.
- ✓ Conduct nonpartisan get-out-the-vote (“GOTV”) and voter registration drives.
- ✓ Encourage the public to vote for or against a ballot measure (such activity is treated as lobbying by the IRS, and is therefore permissible).
- ✓ Establish a 501(c)(4): A 501(c)(4) organization may carry out *partisan political activities* without jeopardizing its tax-exempt status as long as it is engaged primarily in non-electoral activities that promote social welfare.

A mosque or 501(c)(3) public charity MAY NOT:

- ✗ Endorse candidates for public office.
- ✗ Make any campaign contributions or sponsor fundraising events for candidates.
- ✗ Make expenditures on behalf of candidates.
- ✗ Offer or restrict rental of their mailing lists and facilities to certain candidates.
- ✗ Ask candidates to sign a pledge in support of a position on any issue.
- ✗ Increase the volume or amount of criticism of an incumbent running for re-election as election time approaches.
- ✗ Publish or communicate anything that explicitly or implicitly favors or opposes a candidate (forms of communication include khutbas, listservs and newsletters).
- ✗ Establish a political organization—often referred to as a Political Action Committee (PAC) or 527 organization.

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, and as a board member of the mosque, what can the board of directors do to ensure the mosque’s 501(c)(3) nonprofit status has not been jeopardized?

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.

Either a board representative or staff member should inform all speakers at the mosque or public charity about the restrictions on partisan speech, and should consider announcing to the audience that opinions of speakers do not represent official positions of the organization. If any actions arise where comments are made in support of or in opposition to a candidate, a member should immediately take steps to stop this activity.

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 if they choose to do so. Mosques and all other 501(c)(3) public charities should inform their staff, board members, and volunteers about these restrictions.

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.

For any assistance, please contact the Muslim Advocates Program to Strengthen Muslim Charities at charities@muslimadvocates.org or (415) 692-1486.

For technical assistance and guidance concerning 501(c)(3) organizations and permissible election-related activity, please contact Alliance For Justice at advocacy@afj.org or toll-free at (866) 675-6229.

The information contained in this fact sheet is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code.