



Get OFF the Sidelines & Get INVOLVED This Election Year

Local, council, district, and state PTAs have joined National PTA in speaking out for federal legislation that promotes the welfare of children and youth, such as school bus safety, school desegregation, and National PTA's most recent campaign, *Five Cents Makes Sense for Education*. People across the country have taken notice of the advocacy efforts of PTA!

By law, PTA members may engage in legislative activities on behalf of children and youth, and may educate the general public and policy makers about officially adopted PTA resolutions and position statements. As long as they remain strictly nonpartisan, PTA members may educate the general public about issues affecting children. To maintain PTA's status as a 501(c)(3) organization, National PTA may not campaign for or against candidates for federal, state, or local office.

Due to the important role that PTAs play in the legislative process, PTAs are often asked to become involved in the elections process. This often poses many questions about what is allowed under law. As a 501(c)(3) organization, National PTA must follow certain guidelines when playing a role in the elections process.

The following information has been provided by the Alliance for Justice and is designed to answer many of the questions PTAs are faced with regarding this matter.

What can PTAs do in an election year?

Why do nonprofits act with trepidation during an election year? Is it because they are worried any activity around an election is illegal? Is it because they misunderstand what they can do around an election so it is better to do nothing at all?

The tools of a nonprofit in an election year are often underused. While many nonprofits primarily focus on education and advocacy to promote their charitable mission, they often neglect to exercise an important organizational power - their ability to participate in certain election year activities.

Failure to use all of the tools in a nonprofit's toolbox counts as negligence at its highest price. It means that the important missions of nonprofits and the individuals most directly benefiting from those missions lose. An organization that spends all of its time educating the public on its issues while ignoring the electoral tools permitted by the IRS misses a tremendous opportunity to advance its cause. Do nonprofits think that if they sit on the sidelines candidates will magically discover their issues? Don't hold your breath.

Nonprofits can engage in a variety of permissible electoral activity depending on their specific tax-exempt status. Although 501(c)(3) organizations are the most restricted of all nonprofits, they do not have to wait passively on the sidelines during an election season. While 501(c)(3) organizations, also known as public charities, cannot do anything that supports or opposes a candidate for public office, they can engage in nonpartisan voter education activity. 501(c)(3)s can, for example, educate all of the candidates on the issues related to their charitable mission, register voters, encourage the public to vote, hold a candidate debate, and submit questionnaires to all candidates and create a voter guide based on the responses. So long as they do not appear to support or oppose a candidate when viewed in light of all of the facts and circumstances surrounding the activity, public charities can play a major role in elections.

In addition to nonpartisan voter education activities, 501(c)(3)s can support or oppose referenda, ballot initiatives, constitutional amendments, or bond measures. The IRS considers ballot-measure work to be lobbying and not electoral in nature. While the law does not allow charities unlimited lobbying, it does

allow organizations to campaign for or against a ballot measure so long as they do not exceed their organization's lobbying limits.

501(c)(4)s, also known as social welfare organizations, have even broader ability to engage in electoral activity. 501(c)(4)s can do everything that 501(c)(3)s can do, and they can also support or oppose candidates. For example, 501(c)(4)s can tell their members which candidates to vote for, distribute scorecards that rate candidates on issues important to the organization, create a political action committee, and, in some states, make contributions to state and local candidates.

As community leaders, it is important for nonprofits to engage in electoral issues. Just as advocacy and education are key components to championing their charitable missions, so, too, is election-related activity. Nonprofits are keenly aware of the problems within the constituency they serve, and they must use all the legally permissible tools within their power. If they do not seize this opportunity, they shortchange their constituency on important issues.

Permissible Election Activities

501(c)(3) public charity organizations are strictly forbidden from engaging in any political activity in support of or in opposition to any candidate for public office. The IRS will consider all of the facts and circumstances surrounding an activity to determine whether the activity violates this prohibition. However, 501(c)(3) public charity organizations can engage in nonpartisan voter education activity and in a limited amount of lobbying.

501(c)(3) may not

- Endorse candidates for public office.
- Make any campaign contributions.
- Make expenditures on behalf of candidates.
- Restrict rental of their mailing lists and facilities to certain candidates.
- Ask candidates to sign pledges on any issue (tacit endorsement).
- Increase the volume or amount of incumbent criticism as election time approaches.
- Publish or communicate anything that explicitly or implicitly favors or opposes a candidate.

501(c)(3) may

- Engage in limited lobbying, including work on ballot measures.
- Conduct nonpartisan public education and training sessions about participation in the political process.
- Educate all of the candidates on public interest issues.
- Publish legislative scorecards (with certain restrictions).
- Prepare candidate questionnaires and create voter guides (with certain restrictions).
- Canvass the public on issues.
- Sponsor candidate debates (with certain restrictions).
- Rent at fair market value mailing lists and facilities to other organizations, legislators, and candidates (with certain restrictions).
- Conduct nonpartisan get-out-the-vote and voter registration drives.
- Establish a controlled 501(c)(4) organization.
- Work with all political parties to get their positions included on the party's platform (with certain restrictions).

Note – This list provides general guidelines only and is intended to serve as an overview. Because the application of law is fact-sensitive and context is critical, it should not be relied upon as legal advice. Organizations should consult with their attorneys to receive guidance on special rules governing their conduct.

The Alliance for Justice is a national association of environment, civil rights, mental health, women's, children's, and consumer advocacy organizations. Since its inception in 1979, the Alliance has worked to advance the cause of justice for all Americans, strengthen the public interest community's ability to influence public policy, and foster the next generation of advocates. Contact the Alliance for Justice at: 11 Dupont Circle, 2nd Floor, Washington, DC, 20036; (20) 822-6070 by phone; or online at www.afj.org.

Taken from:

Our Children Magazine – January/February 2004

2/04 jtw