Nonprofits and Elections 2024: Why and How You Should Engage (and stay nonpartisan)

February 21, 2024
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She/Her
Policy Counsel
National Council of Nonprofits
1. This webinar will be recorded.
2. All participants except speakers are on mute.
3. Participants can use the Q&A to submit questions.
Disclaimer

Some of today’s presenters are attorneys. We are not your attorneys. We are not providing legal advice.

*This webinar is provided for informational purposes only and is neither intended to be nor should be construed as legal, accounting, tax, or financial advice.

*Please consult a professional (your attorney, accountant, tax advisor) for the latest and most applicable information for your situation.
Resources

- Recording of the Webinar
- Copy of Slides
- Links to Official IRS Guidance
- Trusted Resources
  - Ballotpedia
  - Bolder Advocacy
  - National Council of Nonprofits
  - Nonprofit VOTE
  - More
1. Elections Overview
2. Nonprofit Nonpartisanship as a Core Value
3. Nonprofits are Trusted Conveners
4. Permitted Nonpartisan Get Out The Vote Activities
5. Q&A
Elections Overview
Ben Williams
He/Him
Assoc. Dir. Elections & Redistricting
National Conference of State Legislatures
2024 Election Preview

Ben Williams
Associate Director, Elections & Redistricting

February 21, 2024
• Democrats flipped Virginia House

• Republicans flipped Louisiana Governor

• Abortion continues to be major issue post-*Dobbs*

• Democrats continue overperforming in off-cycle elections...so long as the area isn’t deep-red

Key Points: 2023 Elections
2024 State & Federal Elections
The biggest of our lifetimes....again!

Big, Not Biggest
5,793 seats up in 2024
Fewer seats up than 2022

Issue Overload
Inflation, Middle East, Ukraine, Abortion...

Biden – Trump, Round Two?
Rematch would be first since 1956
But First, A Look at How We Got Here
Legislative Seats Held by Party, 1900 - Present
Partisan Control of State Legislatures, 1900 – Present
Unified and Divided Government: Postwar Era
Current Partisan Composition: Legislatures

- Republican (28)
- Democratic (20 + DC)
- Divided (1)
- Nonpartisan
Current Partisan Composition: Governors

- Republican (27)
- Democratic (23)
- Independent/Other
State Races Next Year

- **Leg + Gov (11)**
- **Leg. Only (33 + DC)**
- **None (6)**

The map shows the states with different categories of upcoming races:

- **Orange** states have races where both legislative and gubernatorial races are scheduled.
- **Green** states have races focusing only on legislative races.
- **Gray** states have no races scheduled.

The states are color-coded to reflect the type of races expected next year.
Competitive Chambers to Watch

**Currently Held by Democrats (12)**
- Delaware House & Senate
- Maine House & Senate
- Michigan House & Senate
- Minnesota House
- Nevada House & Senate
- Oregon House & Senate
- Pennsylvania House

**Currently Held by Republicans (11)**
- Alaska House & Senate*
- Arizona House & Senate
- Georgia House & Senate
- Pennsylvania Senate
- New Hampshire House & Senate
- Wisconsin House & Senate**
Pivoting to Federal Races...
Cook Political Report Ratings

Only 10 of 34 races are competitive

Favoring Democrats
- MD
- MI
- NV
- PA
- WI

Toss Up
- AZ
- MT
- OH

Favoring Republicans
- FL
- TX
The House is Very, Very Close

118th Congress: 219 R, 213 D
Stay Connected

- **Subscribe** to policy newsletters
- **Read** State Legislatures magazine
- **Listen** to an NCSL podcast
- **Watch** recorded policy webinars and training sessions
- **Attend** a meeting or training
- **Follow** @NCSLorg on social media
Ben Williams
Associate Director
Elections and Redistricting

Reach Out Anytime!

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Nonprofit Nonpartisanship as a Core Value
Tim Delaney
He/Him
President & CEO
National Council of Nonprofits
Before we dive into the details …
Know the rules, be safe
Sec. 501(c)(3) “organized and operated exclusively for” certain purposes, plus ...

- **no part** of the net earnings of which inures to the benefit of any private shareholder or individual,

- **no substantial part** of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),

- **does not** participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.
<table>
<thead>
<tr>
<th>Rule</th>
<th>Exception/clarification</th>
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<tr>
<td>“no part of the net earnings of which inures to the benefit of any private shareholder or individual,”</td>
<td>BUT, it is legal to pay an individual “reasonable compensation”</td>
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<tr>
<td>“no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)),”</td>
<td>BUT, it is legal to (1) do less than a substantial amount of its activities attempting to influence legislation, (2) influence non-legislative policy, and (3) take the 501(h) election to lobby.</td>
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<tr>
<td>“does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”</td>
<td>BUT, it is legal to participate in elections in nonpartisan ways if (1) not campaigning for or against candidates, or (2) campaign is not about candidates for public office – such as ballot measures.</td>
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Section 501(c)(3) organizations may “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office."

“the Johnson Amendment”

Senate Minority Leader Johnson proposed it in 1954
President Eisenhower signed it into law in 1954
President Reagan signed amendment into law in 1987
Section 501(c)(3) organizations may “not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

501(c)(3) organizations may “not participate or intervene in …
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Why nonpartisanship PROTECTS nonprofits

- Protects money for mission
- Protects focus on mission
- Protects public trust and donors trust in 501(c)(3) orgs

1. Lose $$ sent to political campaigns
2. Lose future contributions

1. Board fights re whom to endorse
2. Board fights re who/how much $$

IRS Form 990

Public Trust
Why nonpartisanship PROTECTS democracy

- Prevents another avenue to “dark money”
- Prevents huge tax loophole for wealthy
- Provides refuge from toxic partisanship
Permissible

“Charities are, however, allowed to conduct nonpartisan activities that educate the public and help them participate in the electoral process. A charity furthers a valid educational purpose when it offers instruction. Such instruction can take various forms, including voter education guides, voter registration and get-out-the-vote drives and candidate forums.”
Permissible

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BALLOT MEASURES

- Voters = lawmakers, so = lobbying, not an election for or against candidate for public office

- Propositions

- Initiatives

- Referenda

- Bond Elections
  - For schools
  - For roads
  - For parks
  - For libraries
  - More
Bottom line … like everything else, know the rules
Bottom line … like everything else, know the rules
Nonprofits are Trusted Conveners
Liz Moore
She/Her
Executive Director
Montana Nonprofit Association
Nonprofits are Trusted Conveners
Nonprofits are Trusted Conveners

Why are Nonprofits Involved in Elections Anyway
The State of Public Trust
The Rules of Election Activity
Engaging a Standoffish Constituency
Nonprofits and Elections: It’s in our DNA

“We are striving to forge our union with purpose. To compose a country committed to all cultures, colors, characters and conditions of man. And so we lift our gaze, not to what stands between us, but what stands before us.”

Amanda Gorman
Nonprofits and Elections: Nonprofits Stand for the Good

“It all comes down to trust.”

Frank Sonnenberg
Trust in Nonprofits

“Nonprofits are Messy. Not enough money. Too many cooks. An abundance of passion.”

Joan Garry

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<th>2020</th>
<th>2021</th>
<th>2022</th>
<th>2023</th>
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<tr>
<td>High Trust</td>
<td>59%</td>
<td>57%</td>
<td>56%</td>
<td>52%</td>
</tr>
<tr>
<td>Neutral</td>
<td>29%</td>
<td>31%</td>
<td>33%</td>
<td>34%</td>
</tr>
<tr>
<td>Low Trust</td>
<td>12%</td>
<td>12%</td>
<td>11%</td>
<td>14%</td>
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Despite the effects of polarization, large majorities believe it is appropriate for nonprofits to engage with policymakers and advocate for causes and the communities they serve.

‘Appropriateness’ of Nonprofit Advocacy Activities
Shown: Percent Select – ‘Yes, Appropriate’

- Providing people with information to help them vote: 81%
- Meeting with govt officials about the work their organization is doing: 80%
- Encouraging people to write, call or email govt officials: 79%
- Releasing research reports to the public, media, or govt officials: 75%
- Inviting govt officials to participate in/attend an event hosted by a nonprofit: 73%
- Responding to requests for information from govt officials: 73%
- Providing testimony at govt hearings: 69%
- Discuss obtaining govt grants or contracts with govt officials: 68%
- Taking a position on a policy issue: 66%
- Working in a planning or advisory group that includes govt officials: 65%
- Writing op-eds on policy issues impacting their mission or community: 65%
- Conducting nonpartisan voter registration drives: 59%
- Assisting in the writing or revision of laws/regulations: 54%
“Yes, I approve.”

• Providing people with information to help them vote.
• Meeting with govt officials about the work their organization is doing.
• Encouraging people to write, call or email govt officials.
• Writing op-eds on policy issues impacting their mission or community.
• Participate in Get out the Vote Activities.
What the IRS Says we can’t do:

- All section 501(c)(3) organizations are absolutely 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.

- Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity.

- On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.
What the IRS Says we can do:

- Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity.

- In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner.
### PARTISAN (DON'TS)

#### Show Favoritism

- endorse/oppose a candidate
- rate a candidate on support of an issue (report card, rating card, etc.)
- publicize which candidates share the nonprofit's views
- Say positive/derogatory comments regarding candidate while doing nonprofit business
- ask candidate to pledge support for a cause

#### Voter Preference

- targeting/registering voters for only one party
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<th>PARTISAN (DON’TS) (cont)</th>
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**No Nonprofit Resources**

- may be contributed or spent to endorse/oppose a candidate
- raise $ for a candidate
- let candidates use office space, equipment, mailing lists, etc.
# NONPARTISAN (DO’s)

## Voter Education
Help new voters understand elections and the voting process  
Sponsor nonpartisan candidate forums or debates subject to IRS rules  
Distribute nonpartisan questionnaires to candidates

## Candidate Engagement
Provide briefings to all candidates on the organization's issues

## Broad Voter Participation
Encourage and help people get to the polls on Election Day  
Register people to vote

## Spend Resources
Activities that do not support a single party  
Voter registration  
Voter education  
Get Out The Vote
So what’s next?

Doing the math: there is a trust deficit which likely leads to a cynicism surplus and a civic engagement deficit. How can we do this particular work in ways that fill the trust deficit?

1. Organizations can listen to hear and understand “the other.” And this means a much larger group than we might be imagining.
2. Prioritize an organizational culture that prioritizes relationships grounded more in authenticity than agenda.
3. Put a commitment to news accuracy into your communications agenda and make sure your constituents know 1) it’s a priority and 2) how you achieve it.
4. Teach what social media is best/not best for.
5. Create an organizational culture where diversity of thought is safe, including political thought if that’s expressed overtly or in nuance in your workplace.

6. Be a watchdog and advocate for representative participation in elections.


8. Practice examining issues factually from multiple perspectives without having to land on one right answer.

9. Actively practice civil dialogue: Gracious Space, Teaching Tolerance

10. Notice the degree to which your partners and close colleagues are most like you in thought. Can you expand the circle?
Permitted Nonpartisan Get Out The Vote Activities
Gwen Stembridge
She/Her
Training and Partnerships Coordinator
Nonprofit VOTE
Voter Engagement

Nonprofit VOTE

Gwen Stembridge (she/her),
Education and Partnerships Coordinator
Who is Nonprofit VOTE?

**Mission:** Nonprofit VOTE equips our nation’s nonprofits with nonpartisan tools and resources to help the communities they serve participate in voting and democracy.

**Vision:** We envision a diverse network of nonprofits across the United States with the skills, resources, and commitment needed to foster a more inclusive democracy where all voices are heard, particularly those currently underrepresented in the voting process.
The goal of political campaign is to win an election. As such, they focus their limited resources on engaging “likely” voters. This fuels a negative, self-perpetuating feedback loop.

We need a new civic ecosystem that engages all eligible voters and works toward an inclusive democracy.

Breaking the Loop that Perpetuates Gaps

- Campaigns Don’t Make Contact
- People Don’t Vote
- Labeled As Unlikely Voter
Nonprofits Are a Key Part of the Solution

- Nonprofit missions are better aligned to goal to community inclusion
- Mutual interest
- Long-term roots and established relationships
- Trust with community
- Cultural competency
- Data shows it works!
Nonprofit VOTE’s Work

Equipping our nation’s nonprofits with nonpartisan tools and resources to help the communities they serve participate and vote.

- Free national webinar series
- Tailored support for partner organizations
- Multi-state field program
- Philanthropy for Voter Engagement initiative
- Lead National Voter Registration Day
501(c)(3) organizations may conduct nonpartisan voter engagement activities designed to help the public participate in elections:

- Voter Registration
- Voter Education
- Candidate Engagement
- Get Out The Vote (GOTV)
Common Nonpartisan Activities

**Promote** and conduct voter registration
- Announce deadlines
- Provide info on where/when to register
- Host a registration drive on NVRD (National Voter Registration Day)

**Educate** voters on election participation
- Provide sample ballots and info on where to research candidates
- Hold mock elections so voters can “practice”
- Host a candidate forum (see candidate forum toolkit or consult attorney)

*Tip: Know your state’s rules for voter registration drives.*
A 501(c)(3) organization **MAY NOT:**

- Endorse or oppose a candidate or political party (either explicitly or implicitly, includes nonpartisan offices)
- Donate money or resources to a candidate or party (like space to hold events or research)
- Conduct any partisan election-related activity (say “no thanks” to political parties)
- Give out prizes/incentives to register or to vote
Nonprofit Staff Members

What:  
• Volunteer on campaigns  
• Attend political events  
• Support a candidate  
• Run for office

When:  
• Personal time outside work hours  
• On vacation  
• On personal days  
• On unpaid leave

What about Advisory Board members? Okay, if no organizational resources are used, and participation does not imply organizational endorsement for a candidate, campaign, or political party.
Staying Nonpartisan: Permissible Election Activities Checklist for 501(c)(3) organizations

Free Tool!
How can Nonprofit VOTE help you?

- Attend our FREE webinar series or watch past webinars on our YouTube
- Sign up for our newsletter at [nonprofitvote.org](http://nonprofitvote.org) to learn about tools and webinars
- If you are a funder, follow our Philanthropy for Voter Engagement work at [philanthropy.nonprofitvote.org](http://philanthropy.nonprofitvote.org)
- Visit our Resource Library for tools, templates, checklists, timelines, and printable materials to support your voter engagement work. [www.nonprofitvote.org/resource-library/](http://www.nonprofitvote.org/resource-library/)
- Become a National Voter Registration Day partner at [https://nationalvoterregistrationday.org/](https://nationalvoterregistrationday.org/)
Additional Resources

- Working with Candidates Guide
- Candidate Questionnaires and Voter Guides
- Webinar: Getting a Head Start Planning Your Voter Outreach for 2024
  - Webinar Companion tool
Thank You and Happy Voting!

You can register voters in style with merch from National Voter Registration Day!
Thank You

Recording, Slides, and Resources will be available shortly.

Please contact Tiffany Gourley Carter (tcarter@councilofnonprofits.org) for any additional questions and comments.