

PASTORS, CHURCHES & POLITICS: 5 THINGS TO KNOW

We often hear from our network of pastors, clergy, and church leaders about how they feel burdened by issues at the intersection of faith, politics, and citizenship. The leaders we serve are passionate about advancing justice and edifying God's people. But given the nuances of the law, many church leaders are uncertain of what they can or cannot do on behalf of the church when it comes to engaging in the "political arena."

This guide will help you navigate the laws surrounding tax-exempt status for churches as it relates to political engagement*. It will equip you to identify what pastors and churches should be aware of before speaking about political issues, supporting a candidate or legislation, engaging in voter education, allowing church facilities to be used for "political" purposes, giving money to a campaign, and more.

The goal of this guide is to empower you to both shepherd God's people and protect your ministry. Keep in mind, every situation is different, so you should not rely on this as legal advice. Please reach out to ADF with any specific questions.

OVERVIEW OF POLITICAL ACTIVITIES FOR PASTORS AND CHURCHES

One thing to know before we get started: the five legal guidelines discussed in this resource apply to pastors and churches in different ways. The checklist shown here will be useful to help you understand the differences outlined in the guidelines that follow.

- "Church" refers to an official position or action taken by or on behalf of the church, including by a pastor when acting as a representative of the church.
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- "Pastor" refers to a pastor acting in their personal capacity as an individual, not in their professional capacity as a representative of the church.
- "Churches are limited to an "insubstantial amount". See Lobbying discussion.

POLITICAL ACTIVITY	CHURCH	PASTOR
Discuss political issues	Yes	Yes
Support or oppose candidates for elective public office	No	Yes
Contribute money, services, or non-monetary gifts to candidates	No	Yes
Raise or spend money to support or oppose candidates	No	Yes
Contribute to political action committees (PACs)	No	Yes
Payment of expenses for attendance of a pastor or church member at a caucus or state/national political party convention	No	Yes
Candidate speaks at church (outside context of candidacy or campaign)	Yes	N/A
Nonpartisan voter registration activities	Yes	Yes
Nonpartisan voter identification activities	Yes	Yes
Nonpartisan "get-out-the-vote" activities	Yes	Yes
Nonpartisan voter education	Yes	Yes
Lobby for or against legislation	Limited*	Yes
Support or oppose ballot measures	Limited*	Yes
Spend money to advance or defeat ballot measures	Limited*	Yes
Distribute:		
a) Nonpartisan candidate surveys or voter guides	Yes	Yes
b) Unbiased voting records of candidates	Yes	Yes
c) Candidate campaign literature	No	Yes
Equal distribution of political materials by others in church parking lots	Yes	N/A
Rental of church facilities at regular rates (available to all candidates)	Yes	N/A
Church publications:		
a) Provide link on website to a particular campaign website	No	N/A
b) Publish editorials endorsing or opposing candidates	No	N/A

1). SERMONS AND SPEECHES

The Bottom Line

Church leaders **SHOULD**: feel free to speak about political issues in their official capacities, and to support or oppose candidates and/or legislation in their personal capacities.

Church leaders **SHOULD NOT**: support or oppose candidates for elective public office in their official capacities.

Speech About Candidates

A 1954 law, commonly referred to as the Johnson Amendment, prohibits speech by churches supporting or opposing candidates for elective public office, including sermons from the pulpit. The law also applies to church support of, or opposition to, a political party. Violation of the Johnson Amendment can result in the loss of tax-exempt status.*

While pastors are restricted under the Johnson Amendment when speaking on behalf of the church, pastors can support or oppose a candidate for elective public office when acting in their personal capacity. Pastors do not check their individual First Amendment rights at the door when they agree to lead a ministry.

Alliance Defending Freedom believes the Johnson Amendment unconstitutionally restricts pastors' First Amendment rights under certain circumstances, even when they act or speak in their official capacities.

Speech About Issues

Churches and pastors (in both their personal and official capacities) can speak about the public, social, and moral issues of the day without restriction. As noted previously, the law limits church speech supporting or opposing legislation and forbids churches from supporting or opposing candidates for elective public office. Given that the Scriptures discuss much of what is being debated in our culture, churches have a unique role in guiding the discussion. Our Christian witness and testimony can overlap with issues viewed by some as “political”.

Churches and pastors (in both their personal and official capacities) can also discuss the positions of candidates on issues as long as the discussion does not support or oppose a candidate.

Speech About Legislation

A church – including in sermons – may discuss legislative issues, support or oppose legislation, and encourage its members or the general public to support or oppose legislation so long as the church limits those efforts to what the law terms an “insubstantial amount.”* This restriction will be discussed in more detail later in the legal guide.

Pastors, when acting in their personal capacity, can speak in support of, or in opposition to, legislation as much as they like.

Legislation includes any action by Congress, a state legislature, local government, or similar body that makes laws. This also includes ballot initiatives, constitutional amendments, and votes on a public referendum. Legislation does not include actions by executive, judicial, or administrative bodies.

2). GENERAL EDUCATION OF VOTERS

The Bottom Line

Churches SHOULD: feel free to participate in nonpartisan voter registration, voter identification, and “get-out-the-vote” activities.

Churches SHOULD NOT: engage in partisan support of, or opposition to, candidates for elective public office under the guise of general voter education efforts.

Voter Registration, Identification, and Organization

Churches are allowed to participate in nonpartisan voter registration, voter identification, and “get-out-the-vote” activities.* In order to qualify as nonpartisan, these activities may not be directed at the supporters of any particular candidate or political party. However, these actions may be directed toward groups of people, such as church members or those who live in a particular geographic area.

Voter Guides

Churches are also allowed to distribute voter guides, whether they create their own or use guides prepared by other organizations.* Questionnaires used to develop the guide must be unbiased. Questionnaires should be sent to all candidates and the questions should cover a wide variety of issues – without bias toward the church’s preferred answer. Responses should be published in the candidates’ own words or in a neutral, unbiased, and complete way. The candidates’ responses should not be compared to the church’s preferred position, and the survey should not be overseen – in any way – by any candidate.*

Local organizations often produce excellent voter guides and make them available to churches. If you would like additional information on obtaining nonpartisan voter guides for your church, consider getting in touch with your local family policy group. You may also find information about candidates by visiting FreedomVoterGuide.com.

3). USE OF CHURCH FACILITIES

The Bottom Line

Churches SHOULD: feel free to use church facilities for nonpartisan polling, literature, distribution, and even speaking activities.

Churches SHOULD NOT: allow church facilities to be used in partisan ways which could be perceived as supporting a particular candidate for elective public office.

Using a Church as a Polling Place

Churches may work with local governments to act as polling places for elections. At times, polling locations are scarce, and using your church building as a polling place can minister to the community.

Candidates Appearing at a Church Meeting or Service

Candidates may be invited to appear at a church service or meeting in order to speak, preach, read Scripture, or otherwise publicly address the church. However, if a church decides to invite candidates to church meetings or services, the church should consider how it will maintain equal opportunity for all political candidates. This means that if one candidate is invited, all candidates should be invited. Indeed, churches can even host political forums in which all candidates are invited to discuss and debate the issues, so long as churches manage such forums in a neutral and unbiased manner.*

In addition, the church should also be careful not to indicate any support for, or opposition to, visiting candidates. And finally, candidates' appearances should not facilitate political fundraising on the part of the church.*

Distributing Literature in Parking Lots

In general, people may be permitted to distribute political literature in church parking lots so long as such permission is given in a neutral and unbiased manner—which is to say, if literature supporting one candidate is permitted to be distributed, literature supporting other candidates must also be permitted. Conversely, a church may choose not to allow literature distribution on its premises, since the premises are private property.

4). LOBBYING

The Bottom Line

Church leaders SHOULD: subject to state laws, feel free to speak about political issues without limit and support or oppose legislation up to an “insubstantial amount”.

Church leaders SHOULD NOT: support or oppose legislation with more than an “insubstantial amount” of the church’s annual budget, time, or activities.

Any efforts supporting or opposing legislation, also known as “lobbying”, must be limited to an “insubstantial amount”.* Unfortunately, the Internal Revenue Service does not define this term, but instead determines what constitutes an “insubstantial amount” on a case-by-case basis.* For assistance in deciding what might or might not be considered an “insubstantial amount” in your church’s case, please contact ADF.

Lobbying

When churches and pastors (in their official capacities) undertake efforts to support or oppose specific legislation, the activity is considered lobbying.* To be clear, churches are permitted to speak with candidates about biblical, social, and even political issues, regardless of any pending legislation on the topic. But as soon as communication qualifies as lobbying, it becomes subject to the “insubstantial amount” rule and should be accounted for accordingly. For example, a church can share unlimited information about abortion and its view on the issue, including what the Bible teaches about the sanctity of human life. However, the church should limit support of, or opposition to, specific legislation (for instance, referencing a particular legislative or congressional bill) to an “insubstantial amount”. Note too that a church’s public reach might also be a factor the IRS could consider in determining whether it has engaged in more than an “insubstantial amount” of lobbying. Churches with larger audiences inevitably engage in more lobbying than churches with smaller audiences when they support or oppose specific legislation to those audiences.

State Election Law Warning

Lobbying activities may expose churches in some states to election law registration and reporting requirements as a political committee. Many of these statutes are unconstitutional because they expose churches to intrusive regulations for a very small amount of lobbying. If you find your church exposed to such state election law requirements, contact ADF so an attorney can review your situation.

4). LOBBYING

The Bottom Line

Churches SHOULD: subject to state law, feel free to spend or raise money to support or oppose ballot measures up to an “insubstantial amount”.

Churches SHOULD NOT: spend or raise money to support or oppose candidates for elective public office.

Church Involvement with Political Organizations

A “political organization” (commonly referred to as a Political Action Committee or PAC) is an organization whose main purpose is to accept contributions and spend money to influence the selection, nomination, election, or appointment of a candidate for elective public office.* Churches are not allowed to provide gifts or money to political organizations.* Churches should also avoid political fundraising or facilitating political fundraising – whether on the church campus or not.

Spending to Support or Oppose a Candidate

Churches should avoid spending money to support or oppose a candidate. This includes buying air-time for a commercial, printing and distributing flyers, purchasing advertisements and the like. Finally, churches cannot give money to a candidate.*

Referendums and Initiatives

Many states (and some cities and counties) allow citizens and organizations to propose a topic or specific legislation to be placed on the ballot. This process is commonly referred to as a referendum or initiative. Though ADF does not advise churches sponsor referendums or initiatives, churches have the legal right to participate in this process. Churches may spend money in support of, or in opposition to, a referendum or initiative, but need to be aware that doing so constitutes “lobbying” and is therefore subject to an “insubstantial amount”.* Again, a church should check state election laws to see if there are any restrictions on activities related to ballot measures that could subject the church to registration and reporting requirements as a political committee.

CONCLUSION

Always keep in mind that discussion about or efforts related solely to the issues is not restricted by law. Supporting or opposing candidates and specific legislation is where the regulation begins.

Permitted

Discussion about issues and nonpartisan efforts related to voter education.

Limited to an “Insubstantial Amount”

Supporting or opposing specific legislation.

Not Permitted

Supporting or opposing candidates for elective public office.