

## Elections, Politics, and Charities

*Brian E. Foss*

At the end of the monthly board meeting of your favorite charity, one of the board members raises her hand and says, “the mayor’s race is wide open this year, and we really need to get behind Jim Bob. He’s been a longtime friend of this organization and deserves our support.”

Sound familiar? Hopefully not. Election season has become a year-round event in America with one election seemingly blending into the next. If you are involved with a charitable organization – board member, staff, volunteer, or donor – you ought to know a little about what charities can, and cannot, do during elections. For clarity, “charities” in this context are those that the IRS recognizes as 501c3 organizations – the groups the IRS considers eligible for tax deductibility for contributions. This group includes your alma mater, the Girl Scouts, local hospital, Red Cross, church or synagogue and over one million large and small nonprofits.

Let’s review the “basics” of how to keep your favorite charities out of trouble during elections. In the example above, a charity cannot endorse a candidate, nor provide financial support. The IRS states: “they are prohibited from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office.” The IRS notes that the rules apply in “nonpartisan” elections, as the IRS has wisely sized up that very few communities have truly “nonpartisan” elections. No donations, no posters for a candidate in the office space, no endorsements. Doesn’t matter if it is a school board race, tax assessor, or county commissioner. No endorsements. Pretty simple.

However, that doesn’t mean that charities cannot be involved in the political *process* of electing people. Your favorite charities can hold candidate forums – but you must invite all “serious” candidates to appear at the same forum. The candidates do not all have to attend, they just have to be invited. Some charities and churches break the law by inviting one candidate to appear each week over the course of an election. You can also send position papers on issues that impact your charity to candidates, but you must do so to all “serious” candidates, not just one party.

Your charity can urge people to get out and vote. Voting records of candidates can be distributed, as long as your organization does not frame the votes as “for or against us”,

and you must provide this information in non-election cycles as well. You can sell your membership list, but you must offer it at “fair market value” to all serious candidates.

People associated with charities (board, staff, donors) are not permitted to speak on behalf of candidates using their affiliation with a charity, and if their name and charitable affiliation is noted in print or when introduced, they must note that they are speaking on their own behalf as a private citizen, not through their affiliation with the charity. Therefore, your charity’s staff may fully participate in the electoral process, but as citizens, not in their role with the charity. Same scenario with your Board.

You probably are grumbling that if all of the above is true, why do we see candidates for local and national offices appearing in churches and synagogues? The IRS has issued guidelines on this (IRS Fact Sheet 2006-17) and the rules basically state that any charity must invite all “serious” candidates at the same time to appear. Let’s leave to your judgment, and the IRS, as to whether the regulations get broken on occasion. The IRS has an investigation unit focusing on charities that break the rules, regularly issues reports, threatens organizations with losing their tax exempt status, and provides educational materials to help charities stay within the law.

Sound complicated? A simple way to remember it all is, “people no, legislation and issues yes.” Charities can endorse legislation and actively campaign for its passage. Just don’t endorse the legislators. The IRS regulations are clear, and can easily be accessed. In addition to counsel from lawyers who specialize in nonprofit law, you can find information from the Center for Effective Government ([foreffectivegov.org](http://foreffectivegov.org)) or the National Council of Nonprofits ([councilofnonprofits.org](http://councilofnonprofits.org)). In the interim, don’t endorse Jim Bob for Mayor

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