

Nonpartisan Advocacy

How 501(c)(3)s Can educate and Advocate During
Election Season

Susan Finkle Sourlis

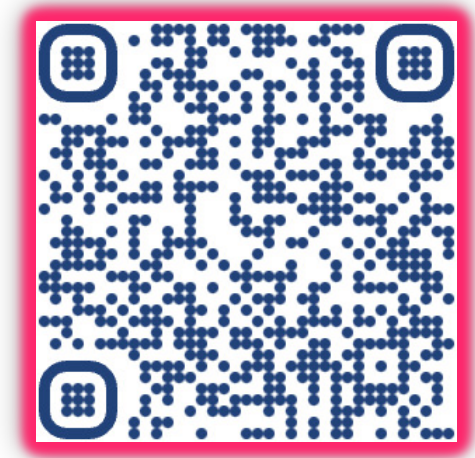
Sr. Counsel, Affiliated Orgs, Bolder Advocacy



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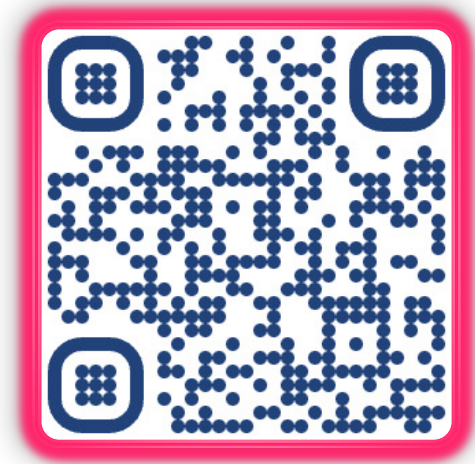
Alliance for Justice (AFJ) is an association of 130+ organizations, that share a commitment to an ***equitable, just, and free society***.

We build the strength of progressive movements by training and educating nonprofit organizations on advocacy, while harnessing their collective power to transform our state and federal courts.



Become an AFJ member today!

AFJ's **Bolder Advocacy** program equips nonprofits with the knowledge and tools necessary to engage in bold and effective advocacy. We build the power of grassroots organizations to reform systems and promote positive policy change.



Learn more about Bolder Advocacy's workshops, technical assistance, and other legal resources.

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Today's Agenda

- Comparing Tax Exempt Organizations
- Nonpartisan Advocacy
- Voter Education
- Voter Outreach
- Individual Rights
- Key Takeaways and Resources



501 (c) (3)s should be
active advocates
even in election
years!

Be **nonpartisan!**



Union of Concerned Scientists @UCSUSA · Jul 18

"Active public policy to support the broader economic well-being is a hallmark of democracies and modern economies. Everyone will suffer greatly from sea-level rise and climate change if policymakers cede decision-making to corporate interests."






Public Concern for a Cleaner Energy Grid vs. Corporate Interests: Who Will Win?

From blog.ucsusa.org



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Comparing Tax Exempt Organizations

	501(c)(3) <i>(Public Charities)</i>	501(c)(4) <i>(Social Welfare Orgs)</i>	527 <i>(Political Orgs)</i>
Examples			
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
Lobbying Activities	Limited	Unlimited	Rare & usually taxable
Electoral Activities	Cannot support or oppose candidates	Secondary activity	Usually, sole activity

Advocacy for 501(c)(3) Public Charities



Partisan
Political



Lobbying
(Limited)



Organizing

Public
Education

Nonpartisan
Voter Ed.

Influencing
Corporations

Educating
Legislators

Educational
Conferences

Lobbying
Exceptions

Regulatory
Efforts

Get to Know
Legislators

Research

Training

Litigation

Nonpartisan

What does Nonpartisan mean?



- Nonpartisan means 501 (c) (3)s may NOT support or oppose candidates for public office,
- including candidates who are not affiliated with a political party.

Who is a Candidate

Democrats



Biden Williamson Phillips

Republicans



Trump Haley Binkley

Independent and third-party



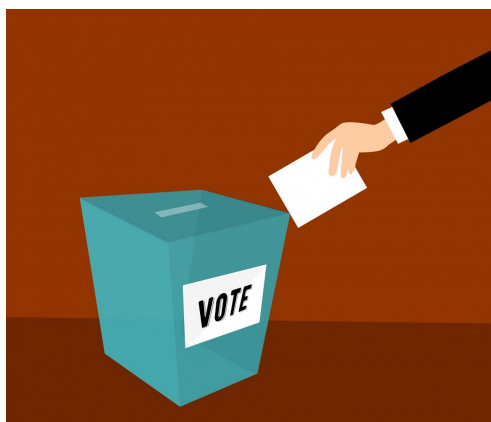
Kennedy West Stein

Don't forget your state and local candidates!

Not running, but they may still be considered candidates by the IRS



What is a Public Office?

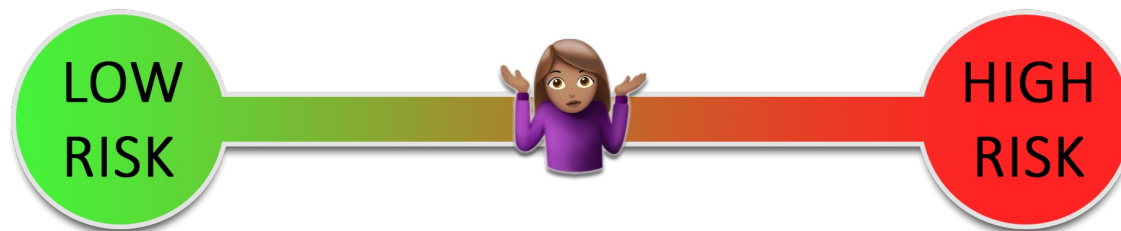


- Office created by statute
- On-going position
- Fixed term
- Requires oath of office
- Includes school boards

Nonpartisan? It's all about the Fact's & Circumstances

What Counts as Nonpartisan?

Often, it's a spectrum of risk based on the facts and circumstance



The organization should consider:

- What is the purpose of the communication?
- Who is the audience?
- Why communicate now?

Nonpartisan

History of advocacy on the subject

Not timed near an election

No reference to a candidate or election

Uses IRS code words

Refers to a "wedge issue"

Compares candidates to the organization's position

Targets area or group to influence election

Partisan

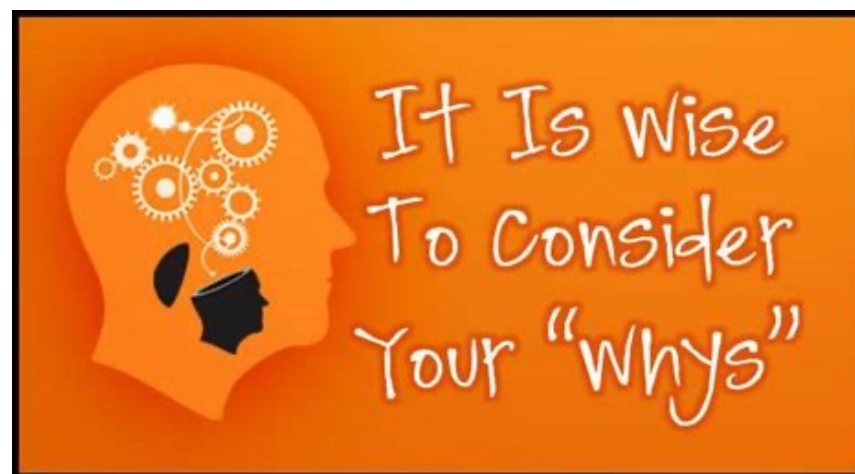
Timing and Context

- Some communications become riskier the closer to an election.
- Context matters, intent does not.



Practical Concerns

- IRS
- Funders
- Reputation in the community
- Unwanted attention and complaints
 - Diversion of resources, time, energy



ADVOCACY

Lobbying

- Do not refer to politicians as candidates or reference the election
- Be aware of perceptions when commenting on contentious issues
- Issue disclaimers if impermissible statements are made.



Ballot Initiatives

- Reminder: this is **direct lobbying** if public charity:
 - makes some form of communication, to the public, that expresses a view on the ballot measure
- Reminder: lobbying is a limited activity for 501(c)(3)s
- State laws often have registration and/or reporting requirements



Criticizing Incumbents

- **Focus on public policy issues and official actions**
- Don't criticize to influence the elections
- Can continue ongoing criticism of incumbent track record
- Don't criticize personal characteristics
- Time communications to coincide with policy actions



Legislative Scorecards

SENT TO PUBLIC

- Published regularly
- Include all legislators
- Broad Range of Issues
- AVOID commentary

SENT TO MEMBERS

- Published regularly
- Include all legislators
- Narrow range of issues approved
- Some commentary allowed



Fact Checking Candidates

- 501(c)(3)s can fact-check candidates for accuracy, however how they do it matters
- Fact-checking cannot serve as a proxy to support or oppose the candidacies of anyone running
- Do you have a track record on the issue?
- How are you presenting it?



Online Communications



Rules that apply to print and verbal communications also apply to **online communications**.

Retweets, Shares, Likes, & Links

- Only share what your nonprofit could have written originally
- You are responsible for content you link to
- It *may* be possible to link to candidates but only all candidates in a nonpartisan way - not to critique
- Don't "like" partisan content



Social Media

Elected Official v. Candidate Accounts



The profile picture shows a man in a white shirt with his back to the camera, standing in front of a crowd. The banner text reads: "ELECTION DAY IS DEC 6 POLLS ARE OPEN 7:00 AM - 7:00 PM VOTE WARNOCK ONE MORE TIME".

Reverend Raphael Warnock ✓
@ReverendWarnock

Pastor. Advocate. Savannah born & raised. @Morehouse alum. Senator from Georgia. | Join us @TeamWarnock



The profile picture shows a man in a suit speaking. The banner text reads: "REVEREND RAPHAEL WARNOCK U.S. SENATOR for GEORGIA".

Senator Reverend Raphael Warnock ✓
@SenatorWarnock

United States Senator for Georgia. Pastor of Ebenezer Baptist Church.



Best Practices During Elections

- Focus more on issues — avoid criticizing/supporting the people running.
- Avoid talking about issues in a way that it comments on a candidate's qualifications.
- Don't mix issue advocacy with nonpartisan GOTV, voter registration.
- The closer to the election, avoid identifying candidates by name or image.



NONPARTISAN

ELECTION ACTIVITIES

Nonpartisan Election Activities

501(c)(3)s can engage in **nonpartisan** voter education, GOTV, and voter registration efforts.

★ **EVERY VOTE** ★
on
EVERY ISSUE
on
EVERY LEVEL
from
EVERY PERSON
★ **COUNTS.** ★
The disability vote matters!
Exercise your right and
independence this election year.

NATIONAL VOTER EDUCATION WEEK 5 simple steps to make sure you're ready to vote this fall!

- 10/2 **REGISTER TO VOTE**
- 10/3 **VOTE BY MAIL**
- 10/4 **MAKE A VOTE PLAN**
- 10/5 **RESEARCH YOUR BALLOT**
- 10/6 **MOBILIZE YOUR COMMUNITY**

#NationalVoterEducationWeek NationalVoterEducationWeek.org

**VOTE
VOTE
VOTE**

REGISTER TO VOTE ONLINE

VOTEWA.GOV

Candidate Education

- Offer org's material to all candidates
- Use only what is already gathered
- Only create new info if org has another reason to do so
- Don't publicize something related to a particular candidate

Looming Deadlines for Coastal Resilience

Rising Seas, Disruptive Tides, and Risks to Coastal Infrastructure

HIGHLIGHTS

The nearly 90 million people living in US coastal communities depend on an array of critical infrastructure—from the schools that students attend to the power and wastewater treatment plants that provide electricity and clean water. But research led by the Union of Concerned Scientists shows that between now and 2050, climate change-driven sea level rise will expose more than 1,600 critical infrastructure assets coastwide to disruptive flooding at least twice per year. Future flooding particularly threatens public and affordable housing. This burden is borne inequitably: more than half the infrastructure at risk by 2050 is in communities at a disadvantage based on historical and ongoing racism, discrimination, and pollution. The amount of infrastructure in jeopardy late this century will depend heavily on countries' choices about global heat-trapping emissions. Policymakers and public and private decisionmakers must take immediate, science-based steps to safeguard critical infrastructure and achieve true, long-term coastal resilience.

Critical infrastructure up and down the coastlines of the United States is increasingly under assault from flooding during high tides as climate change-driven sea level rise brings water further into coastal communities. In Norfolk, Virginia, the razing of a public housing development due to coastal flood risks has forced former residents of Tidewater Gardens to fight to secure their right to return to new affordable housing in the community (Murphy 2021). In Charleston, South Carolina, sewer overflows due to tidal flooding have sent unhealthy, partially treated wastewater into nearby waterways (Shaller 2024). And in Miami, Florida, which currently experiences routine high tide flooding and is acutely at risk from sea level rise, a building boom continues despite the billions of dollars of infrastructure already in harm's way (Saurci 2024).

Even without storms or heavy rainfall, high tide flooding—"sunny day" flooding—driven by climate change is accelerating along US coastlines. It is increasingly evident that much of the coastal infrastructure in the United States—including K-12 schools, electrical substations, emergency services, public housing, and brownfields—was built for a climate that no longer exists. Assets that were safe when constructed are now at risk of being regularly inundated with seawater. As sea level rise progresses, disruptive flooding will imperil thousands of critical buildings and facilities sited along US coasts. That flooding could interfere with the provision of essential community services and expose communities to harmful pollutants.

This analysis by the Union of Concerned Scientists (UCS) reveals a significant amount of critical infrastructure at risk today and in the near future, potentially affecting millions of coastal residents. Here we define *critical infrastructure* as those assets and facilities that provide functions necessary to sustain daily life (CISA, n.d.), which includes schools, hospitals, public and affordable housing, energy infrastructure, and wastewater treatment plants. We also include known sites of industrial contamination that, if they were to flood, could expose people to toxic or hazardous pollutants. The resulting list of critical infrastructure analyzed here is in some instances more expansive than the types included in the US government's definition but does not include all the types that are likely of concern to individual communities; our selection strives to include infrastructure seen as essential to people's health and well-being for which systematic data were available (see About: This Analysis section).

Society highly values the unimpeded functioning of infrastructure assets and the continuous essential services they provide (Weijnen and Correljé 2021). Communities typically—and understandably—have a low tolerance for risk when it

Union of Concerned Scientists

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FOR
JUSTICE**

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Voter Education



DIFFERENT WORLDS.
**SAME VOTING
POWER.**

REGISTER TO VOTE
BY OCT. 9 BY TEXTING
INDIANA TO 28683

 **INDIANA
VOTERS.COM**

**SAFE
—AND—
SECURE**

PAID FOR BY THE INDIANA SECRETARY OF STATE

The advertisement features a yellow background on the left with a portrait of a young woman with curly hair and a black hat on the right. The text is in white and yellow. The right side has a dark teal background with a white outline of Indiana and a circular stamp.

Non-Partisan Voter Guides

QUESTIONS:

- Unbiased Questions
- Open-ended questions
- Distribute to all candidates
- Broad range of issues
- No pledges

FORMATTING:


- No editing
- Present responses equally
- Disclaimers



Minnesota Housing Partnership (MHP) and Habitat for Humanity of Minnesota (Habitat Minnesota) have invited candidates for the Minnesota House of Representatives and Minnesota Senate to complete our **2022 Candidate Questionnaire on Housing Issues**. All candidates, regardless of party affiliation, have been invited to complete the questionnaire. The purpose of the questionnaire is to educate and inform residents of candidate responses to housing issues. This questionnaire is not meant to serve as an endorsement of or for any candidate or political party.

<https://mhponline.org/candidate-questionnaire-2022/>

Candidate Scorecards


[CANDIDATES](#)
[ISSUES](#)
[BLOG](#)
[DONATE](#)
[GET UPDATES](#)

Champ & Chump Chart

Here's a quick look at where the 2016 presidential candidates stand on three of Planned Parenthood's top issues.

[VIEW MORE ON EACH CANDIDATE HERE +](#)



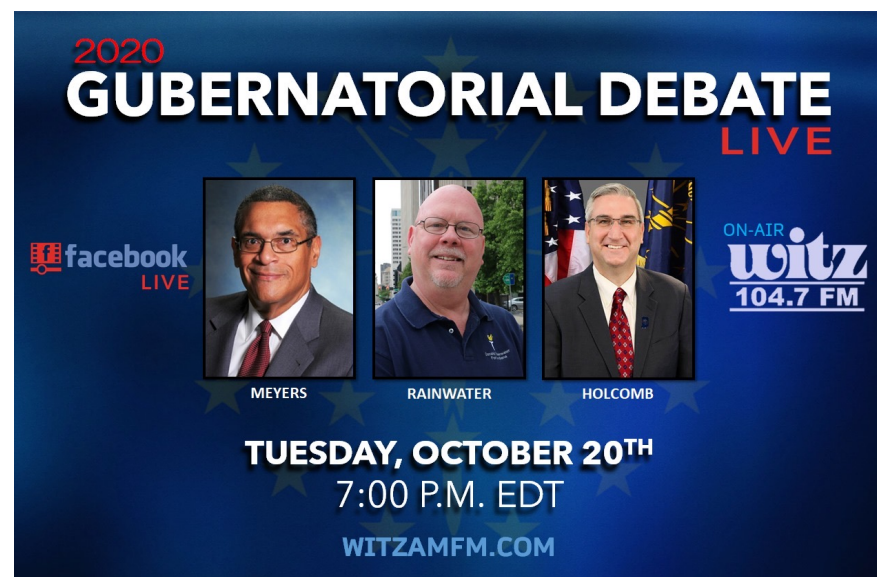
Champ & Chump Chart

	On Access to Abortion	On Affordable Birth Control	On Family Planning
 John Kasich	X Wants to ban abortion	X Supports a ban on abortion, even if it means cutting off federal funding for pregnancy services	X Wants to defund Planned Parenthood
 Ben Carson	X Opposes abortion and doesn't want to support a constitutional amendment to protect abortion	X Wants to prevent access to affordable birth control	X Wants to defund Planned Parenthood
 Lincoln Chafee	✓ Supports access to safe and legal abortion	✓ Supports access to affordable birth control	✓ Supports affordable and convenient access to family planning
 Chris Christie	X Wants to ban abortion	X Wants to prevent access to affordable birth control	X Wants to defund the family planning services in the New Jersey budget
 Hillary Clinton	✓ Would ensure that abortion remains safe and legal	✓ Supports expanded access to birth control	✓ Strongly supports Planned Parenthood
 Ted Cruz	X Wants to ban abortion, even in cases of rape or incest	X Wants to prevent access to affordable birth control	X Supports defunding Planned Parenthood and called for a government shutdown

Candidate scorecards are **impermissible** PARTISAN activity for a 501(c)(3).

Candidate Forums & Debates

- Equal opportunity for all viable candidates for the same office to participate
- Questions cover many topics by independent and neutral moderator
- Don't ask candidates for pledges
- Event publicized widely and open to the public



2020
GUBERNATORIAL DEBATE
LIVE

facebook LIVE

MEYERS RAINWATER HOLCOMB

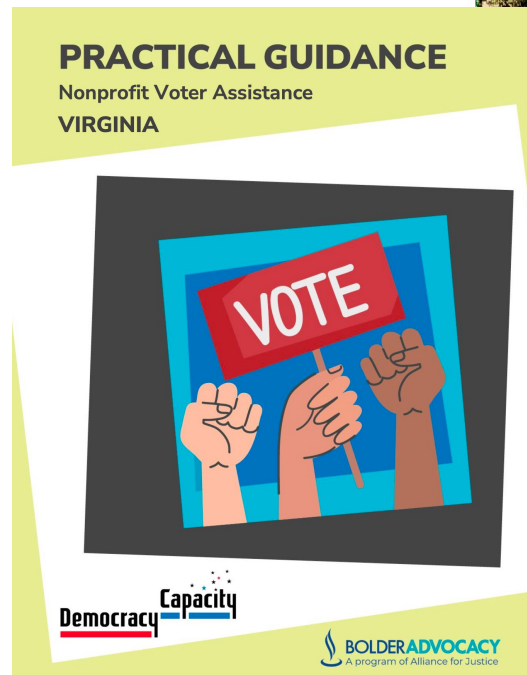
ON-AIR
witz
104.7 FM

TUESDAY, OCTOBER 20TH
7:00 P.M. EDT
WITZAMFM.COM

The graphic features three candidate portraits: MEYERS (a man in a suit and glasses), RAINWATER (a man in a blue polo shirt), and HOLCOMB (a man in a suit and tie). The background is dark blue with white stars.

Voter Registration

- No reference to a party or a candidate
- No suggestion of who to vote for
- Make service available to EVERYONE
- Funding source: be aware of limits from govt and private foundations
- Targeting for NONPARTISAN reason
- TRAIN STAFF & Volunteers!



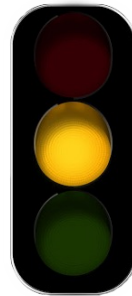
GOTV Campaigns

- Encourage all eligible voters to vote
- No bias for or against a party or a candidate
- Not coordinated with any party or candidate
- Targeting for NONPARTISAN reason



GOTV Campaigns

PARTISAN!
Emphasize wedge issue
dividing candidates,
especially for the first time.



Targeting

Prioritizing Voter Outreach

501(c)(3)s MAY target voters because they are:

- Your natural constituency
- People who live in the region your nonprofit operates
- The people your nonprofit serves (clients, patients, ethnic community)
- The people your organization hopes to serve
- Historically under-represented at the polls (Black voters, young voters, etc.)



Individual Rights

Individual Partisan Activities

Rules apply to 501 (c)(3) staff, board members, and volunteers acting on behalf of the (c)(3), **NOT** to those acting in an **INDIVIDUAL CAPACITY** on their own free time.



What hat are you wearing?

- Don't use your org's resources (email, copier, staff time, etc.)
- Engage in your personal time
- Use disclaimers as appropriate
- Distinguish between yourself (individual v. org representative)



“Organization name for identification purposes only.”

“I'm not representing my 501 (c) (3) right now. I'm at this event as a private citizen.”

Resources

Resources





CONNECT WITH US

 1-866-675-6229

 advocacy@afj.org

 afj.org

 @afjbebold

 @allianceforjustice

 [facebook.com/
bolderadvocacy](https://facebook.com/bolderadvocacy)

 [bolderadvocacy.org/
podcast](http://bolderadvocacy.org/podcast)

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