

BEING A PUBLIC CHURCH

Guidance for churches and clergy participating in the electoral process



Evangelical Lutheran Church in America
God's work. Our hands.

Lutherans understand that governments are a means through which God can work to preserve creation and build a more peaceful and just society. As a public church, we have a responsibility to address issues that affect our neighbors in communities throughout the world. Through advocacy efforts, ELCA members and other Christians can work through governmental channels on behalf of biblical values. Participating in the electoral process is one way in which ELCA members live out the public witness of advocacy.

An important part of faithful civic engagement is abiding by the law: any participation by congregations in activities related to the electoral process must be strictly nonpartisan and abide by IRS guidelines. Congregations and clergy must ensure that activities related to the electoral process are transparent, nonpartisan and legal.

Disclaimer

The information provided is accurate to the best knowledge of the ELCA Washington Office, and this information is believed to be current and nonpartisan. No resources can substitute for checking with the IRS, federal and state agencies administering election laws, and an attorney regarding the extent to which a congregation and/or its religious leaders can be involved in specific political activities.

IRS Guidelines for Congregations with 501(c)(3) Tax-Exempt Status

Why is it important to understand my tax status when planning political activity?

ELCA clergy, congregations, synodical offices, seminaries and college or university campus ministry groups can, and should, play a longer-term and vital role in Lutheran civic engagement, and in election years, by encouraging communities to vote.

However, before you begin, it is also important to know which political activities are permissible and which are unacceptable under the auspices of your 501(c)(3) tax status. Non-compliance with IRS Tax Code 501(c)(3) can mean a loss of your institution's tax exempt status.

Scroll down for more information on permissible and non-permissible activities in an election season.

What constitutes nonpartisan electoral activity?

According to the IRS, “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.” IRS language can seem insurmountable and overwhelming, but this guide attempts to break down legal text into digestible bites, and opens up many opportunities for things that you CAN do, as long as they’re nonpartisan.

Focus on activities that are intended to encourage people to participate in the electoral process. These can include, but are not limited to, nonpartisan voter registration and Get-Out-The-Vote campaigns, sponsoring candidate forums, and becoming a polling location. Remember, voter education or registration activities conducted by the church are not permissible if they show evidence of a bias that:

- (a) Would favor one candidate over another;
- (b) Oppose a candidate in some manner; or
- (c) Have the perceived effect of favoring a candidate or group of candidates.

Participating in the electoral process is just one way to speak out for peacemaking, hospitality to strangers, care for creation, and concern for people living in poverty and struggling with hunger and disease. Year-round, thousands of ELCA members advocate for public policy that will help their neighbors near and far—to join this growing network of Lutherans now, sign up for the ELCA e-Advocacy Network at www.ELCA.org/advocacy.

Before beginning any political activity, it is extremely important to understand what parameters exist under IRS guidelines.

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Examples of activities that are permissible:

1. Distributing nonpartisan voter guides encouraging voting, deepening voter education through issue discussions, and inspiring other meaningful opportunities for civic participation.
2. Facilitating debates, hosting screenings or discussions of publicly-broadcasted debates.
3. Facilitating equal-opportunity speeches or bipartisan debates. This can be facilitated by representatives from campus groups with partisan affiliation. For example, have the president/representative of a campus' student Republican organization and the president/representative from a campus' student Democratic organization give speeches to raise voter awareness on relevant issues.
4. Canvassing neighborhoods for participation in the election
5. Organizing Get-Out-The-Vote campaigns.
6. Organizing voter registration drives.
7. Organizing letters to local newspapers on the importance of civic engagement.

Examples of activities that need to be avoided by churches and church leaders acting on behalf of the church:

1. Contributing to candidates or campaigns specifically geared towards an individual candidate or political party. In other words, in an official capacity as a leader or on behalf of the church, you may not raise funds or give money to candidates or political parties.
2. Allowing candidates to raise funds for their campaign on your church's property, Web site, newsletter, or other publications.
3. Any form of direct endorsement or indirect endorsement of a candidate or political party. In other words, keep your activities unbiased and nonpartisan.
4. Explicitly or implicitly endorsing a candidate, potential candidate, political party, third-party movement or candidate draft effort.
5. Permitting political signs favoring a candidate or party to be posted on church property.
6. Focusing voter registration or other election-related activities in specific geographic areas because they are influential, crucial or partisan districts or wards. (However, your congregation may target a geographic area because it is convenient to your location, or because many members of your congregation live there, as long as it is not intended to incite unfair electoral participation.)
7. Coordinating voter registration, Get-Out-The-Vote campaigns, or other election-related activities **with** a candidate or political party. Do not allow political parties to suggest the timing, messages, audience or location of any of your political activities.
8. Organizing groups to work for a candidate or party.
9. Asking a candidate to pledge support for a religious denomination's position on an issue, publicizing a candidate's position on an issue, or publicizing a candidate's independent decision to support or oppose the denomination's position.

10. Providing anything of value, including space, equipment, mailing lists or staff time, without charging full market value and allowing equal access to opposition candidates. If you are making your space available to any candidate, it's a good idea to send a courtesy letter offering the space to all other candidates. It is also a good idea, if you are offering your space for use by political candidates, that it also be available to the general public.

11. Providing space for the distribution of partisan materials, such as candidate flyers, on church property.

The following chart is a visualization of what activities are acceptable by either individuals, in several capacities, or by churches in terms of the acceptability of their election-related activities.

Election Activities	Churches: as institutional bodies ¹	Clergy: as representatives of a congregation	Clergy: as individuals ²	Church members as individuals ³
Discuss the positions of all candidates on public issues	Yes ⁴	Yes	Yes	Yes
Endorse political candidates	No	No	Yes	Yes
Contribute to political candidates	No	No	Yes	Yes
Commit to in-kind expenditures, meaning gifts or volunteer hours, in support of or against political candidates	No	No	Yes	Yes
Contribute to political action committees	No	No	Yes	Yes
Have political candidates speak at a church meeting or service	Yes ⁵	Yes	N/A	N/A
Pay expenses for candidates for appearances at church meetings or services	No	No	N/A	N/A
Distribute at church: - Nonpartisan	Yes ⁶	Yes	Yes	Yes

candidate surveys - Voting records of all candidates running for office - Candidate's political statements - Nonpartisan voter education guides ⁸	Yes No Yes ⁹	Yes No Yes ⁹	Yes Yes ⁷ Yes ⁹	Yes Yes ⁷ Yes ⁹
Hold voter registration drives	Yes	Yes	Yes	Yes
Hold nonpartisan Get-Out-The-Vote drives	Yes	Yes	Yes	Yes

¹ Please review the definition of "Church" in this context as is defined by the IRS:

Church: In terms of the Internal Revenue Service's (IRS) Code, the term "church" applies to all houses of worship, not just those faiths that refer to their houses of worship as "churches." There are several characteristics used to identify a "church" for the purposes of the IRS. They include:

- distinct legal existence
- recognized creed and form of worship
- definite and distinct ecclesiastical government
- formal code of doctrine and discipline
- distinct religious history
- membership not associated with any other church or denomination
- organization of ordained clergy
- ordained clergy selected after completing prescribed courses of study
- literature of its own
- established places of worship
- regular congregations
- regular religious services
- Sunday schools for the religious instruction of the young
- schools for the preparation of its clergy.

(In other words, if you are in any way affiliated with a faith-based institution, such as a Lutheran university, you and your organization are subject to this classification).

² This category is intended to identify and encourage pastors and clergy members to participate in election-related activities. As affirmed by the IRS, clergy members may use their title as Reverend as a professional title. However, it is not permissible to affiliate one's self with a specific congregation or denomination when engaging in partisan political activities.

³ This category is intended to demonstrate what activities congregants can engage in when it comes to their political participation and activities. However, it is extremely important to note that it is not permissible to affiliate one's self directly with a congregation or denomination, or attempt to speak on behalf of either of the aforementioned entities. To do so would be in violation with Tax Code 501(c)(3).

⁴ A church is well within its rights if it chooses to hold an educational session in which opposing positions on political issues are discussed. It is important, however, to remember that all political opinions must be expressed equally, within reason.

5 A political candidate may speak at your church. The appearance of candidates before and after church services is limited by law. There must be equal representation from any other candidates for the same office allotted. If, for any reason, you are unable to get representation from a majority of the candidates for that particular office, you must cancel the event. All events, however informal, MUST be nonpartisan, and the religious institutions may not favor or denounce any candidate or party under any circumstance. NO campaigning or fundraising may take place during the event.

6 A church may publish and distribute the results of surveys of candidates on public issues. Said surveys must be nonpartisan, offering equal opportunity for all potential candidates running for office. The results MUST be in a "Yes" or "No" format and should not suggest or specify a desired response or outcome. Be careful not to use words that would endorse or detract support for any individual candidate, and consult a lawyer to clarify that your actions are both directly and indirectly nonpartisan.

7 While this is technically permitted, you are urged to use extreme caution. The church should take pains to make it clear that the distribution of candidate materials is neither sanctioned nor endorsed by the congregation.

8 Please note difference between "nonpartisan" and "bipartisan":

Nonpartisan: Unrelated to, or not supported by, a particular political party. For instance, a "nonpartisan" campaign does not endorse a specific political party or give allegiance to an individual political candidate.

Bipartisan: Relating to, or supported by two groups, especially by two political parties. In an American context, this means support from both the Democrat and Republican political parties.

9 Voter guides can be a great tool to keep your congregation informed on the ongoing issues-based discussions held by political candidates, but it is our recommendation that if you are planning to create a guide, you consult legal counsel before beginning distribution.