

## **Commenting on Candidates' Statements about Reproductive Rights**

### **How 501(c)(3)s Can Respond During an Election Year**

Candidates for public office sometimes make statements about abortion and reproductive rights that are incorrect, or with which nonprofits disagree and may wish to set the record straight. While 501(c)(3) organizations may continue to [engage in education and advocacy to promote their issues](#) during the election season, they are strictly prohibited from supporting or opposing candidates for public office. So how can 501(c)(3) organizations respond to candidates or political parties' statements on reproductive rights and remain nonpartisan?

### **Commenting on a Candidate or Party in the Context of an Election**

501(c)(3) organizations that want to comment on candidate or political party statements need to be careful. The IRS has provided little guidance on how to handle such communications. Therefore, a 501(c)(3) should have a good reason to speak up in these situations—like correcting a factual error—and the subject should be one that is related to the organization's mission.

For example, imagine that a candidate makes the following statement: "Women who have had an abortion have a higher rate of breast cancer." A 501(c)(3) reproductive rights organization may want to correct the candidate's statements by explaining that having a legal abortion does not increase a woman's risk of breast cancer.

The 501(c)(3) should determine who will speak for the 501(c)(3) and think through how to phrase its response—both what to say and what to avoid saying.

Representatives of a 501(c)(3) should:

- Focus on what was said (the issue), not who said it (the candidate).
- Avoid identifying the candidate by name. It is better to say, "During the past few weeks, candidates promised to ban abortion in nearly all circumstances. We disagree..."
- Avoid talking about voters and making references to the election. For example, instead of saying "Voters understand..." say, "The community understands..."
- Avoid talking about a candidate's qualifications, or whether someone is a good or bad candidate.
- Avoid discussing a candidate's record; commenting on a candidate's record is very close to commenting on a candidate's qualifications or whether he or she should be elected. This is particularly important if the candidate has not previously held public office.
- Decide who will speak publicly on behalf of the 501(c)(3) organization, so that non-designated staff will not inadvertently say something inappropriate.
- Script responses before talking to reporters.
- Be very cautious if a reporter asks about which candidate is better on reproductive rights, or whether the 501(c)(3) agrees with a statement a candidate made.
- Issue a disclaimer ("As you know, we're a 501(c)(3) and can't endorse candidates") in a one-on-one conversation or in a press release.

A 501(c)(3) organization may monitor information during a campaign about what candidates say and do regarding reproductive rights. The risk for 501(c)(3) organizations arises when the organization communicates something that could be perceived as attempting to influence the outcome of the election. Organizations may gather information about candidates' statements, but must be careful about using that information publicly. This includes communications with allies, coalition partners, and members.

A 501(c)(3) organization may want to urge all candidates to take a stand on an issue, without commenting on specific candidate statements. For example, a 501(c)(3) organization may want to urge both major party candidates in the presidential race to take action on the issue of legalizing safe and legal abortion. A 501(c)(3) making this kind of communication should be careful to avoid criticizing any candidate, and should focus on the need for all candidates to be informed and take action.

501(c)(3) organizations may engage in issue advocacy to preserve abortion rights and health access. This may include criticizing, praising, or mentioning legislators who happen to be running for office or even, in certain instances, referencing political parties. For more information on how to ensure a 501(c)(3)'s comments about incumbent office holders are legal, and to learn more about whether these communications may be considered "electioneering communications" under election law, see our fact sheet "[Praising and Criticizing Incumbents](#)."

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