

Can We Say That?

Post-Election Advocacy for 501(c)(3) Organizations

Most 501(c)(3) organizations¹ are familiar with the restrictions that prohibit 501(c)(3)s from supporting or opposing any candidate for public office. Once an election is over, however, many organizations are often unsure about which rules apply. Can they congratulate a winning candidate? Ask the winner to take action on their organization's central issues? The answers are "Yes" and "Yes – within limits."

A few basic rules can help 501(c)(3)s plan post-election activities without violating the restriction on partisan election activity, particularly in the period after the election and before a public official takes the oath of office. During this [transition period](#), a 501(c)(3) does not need to avoid communications about the election or previous candidates. There are actually many ways a 501(c)(3) can safely add its voice to the public debate about voter demographics, election outcomes, former candidates, and the proposed policies and officials of the incoming administration.

What Can 501(c)(3)s Say?

Here's a list of safe and permissible activities that 501(c)(3)s can consider in the post-election period. Be mindful, though, that some constitute [lobbying](#) (which is permissible, within generous limits, for public charities).

- Advocating to make sure that all votes that are legally cast get counted.
- Urging secretaries of state to follow existing rules to certify the election.
- Commenting on the results of the election, such as looking at the demographics of who voted or didn't vote, comparing voter turnout to previous elections, or commenting on the election process and reforms that may be needed.

SAY THIS: "Equity for All urges the Registrar of Voters to count all ballots submitted by the deadline"

NOT THIS: "Equity for All, in partnership with the County Democrats, urges the Registrar of Voters to count all absentee ballots"

NOT THIS: "Equity for All wants all ballots counted to ensure the anti-immigrant candidate loses"

- Encouraging a peaceful continuation or transfer of office through public comment, sign-on letters, or rallies.

¹ This guide focuses primarily on the communications that are appropriate for 501(c)(3) public charities. Private foundations, which are also 501(c)(3)s, have many of the same advocacy rights as public charities, except private foundations may not lobby (influence legislation) and have added restrictions on [grants earmarked for voter registration drives](#). Please see "What can private foundations say?" below for more information.

- Congratulating the newly elected official, or thanking a former candidate for their hard work during the election or in a prior elected position.

SAY THIS: “People for the Environment joins in congratulating Jane Doe, Springfield’s new County Executive”

NOT THIS: “People for the Environment Is Proud that Our Ecology-Minded Voters Helped Elect Juana Diaz”

NOT THIS: “People for the Environment mobilized environmentalist voters to Defeat Corporate Polluter Sean Ray”.

- Focusing on policy issues the organization would like a new administration or official to support or oppose. 501(c)(3)s can encourage newly elected officials to support their agenda, to provide funding for a priority, or to continue existing policies.
- Calling for the adoption or repeal of executive orders.

LOBBYING: Meeting with members of Congress to encourage them to repeal the Hyde Amendment.

NOT LOBBYING: Talking with members of Congress about the importance of protecting women’s health.

NOT LOBBYING: Urging the Administration to recognize the importance of climate change.

- Inviting the newly elected official to visit your program to learn more about your organization and its work.
- Praising or criticizing the policy positions of the newly elected official, without commenting about that person’s character or without promising reward or revenge at the ballot box.

SAY THIS: “We are disappointed that Governor-elect Monroe has selected wealthy, out-of-touch extremists to lead his administration.”

NOT THIS: “If the Governor and the Republican legislators reverse Medicaid expansion, we will remember in 2022 and 2024, and we will make them pay.”

- Praising or criticizing individuals named as officials in the new administration. 501(c)(3)s can criticize the records and positions of nominees, encourage elected officials to confirm or reject their nominations, or suggest names or qualities of people for key positions.

LOBBYING: Writing to your senators, asking them to reject the nomination of a new secretary of Homeland Security.

NOT LOBBYING: Writing to the President or President-elect to appoint a new leader of the President’s Coronavirus Task Force (not lobbying since that appointment does not require Senate approval).

NOT LOBBYING: Signing on to an open letter in the Washington Post highlighting why the President’s proposed secretary of Homeland Security is not the right choice.

Remember: [501\(c\)\(3\) public charities can lobby](#), subject to generous lobbying limits. They need to make sure they properly [track and report](#) their lobbying expenses.

What Can Private Foundations Say?

[Private foundations may speak up during a contested election.](#) They can use their influence with a new administration-- as long as the activities do not constitute [lobbying](#).

Wait! Don't Say That!

Even though Election Day has passed, 501(c)(3)s still need to adhere to the [prohibition on partisan campaign intervention](#). This includes avoiding statements that suggest that the organization **did** engage in partisan campaign activity while the election was under way. All 501(c)(3)s should stay away from the following activities:

- Taking credit for any election result or outcome, including claiming credit for voter turnout that was designed to benefit a particular candidate or party. Generally, 501(c)(3)s can claim credit for encouraging citizens to vote, but need to be careful they do not imply that they attempted to influence the outcome of an election.
- Encouraging a named person to run for office or supporting efforts to draft a named person to run for office.
- Indicating that the organization or voters will hold the elected official accountable in the next election. 501(c)(3)s should not in any way indicate that they engage in partisan electoral activity at any time, whether in the past, present, or future.

Although there are restrictions on partisan campaign interventions and limits on lobbying after an election, organizations still have many options to advance their missions and the well-being of the populations they serve.



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