

Maximizing Your Advocacy: The Advantages of 501(c)4s

*How 501(c)(4)s can effectively and legally advocate
for the communities they serve.*

Sarah Efthymiou
Senior Counsel
Bolder Advocacy



*Building Power.
Transforming Courts.
Securing Justice for All.*

Alliance for Justice (AFJ) is an association of 150+ 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.

The information discussed in this presentation is provided for **informational purposes only** and not as part of an attorney-client relationship.

This presentation is not a substitute for legal, tax, or other professional advice tailored to your specific circumstances, and it may not be relied upon to avoid penalties that may be imposed under federal, state, or local law.

Today's Agenda




- How federal tax law applies to 501 (c)(4)s' lobbying and election-related activities
- What kinds of election-related activities and independent expenditures are permissible for (c)(4)s, and how much of this activity is allowed
- How state lobbying disclosure and campaign finance laws apply to 501 (c)(4) organizations

Why 501(c)(4)s?

501(c)(4) social welfare organizations can engage in a broader spectrum of activities than (c)3s, including issue advocacy and political work.



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	 ALLIANCE FOR JUSTICE	 AFJ ACTION	 EMILY'S LIST
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

Avenues of Advocacy for 501(c)4s



Nonpartisan
Election
Activity

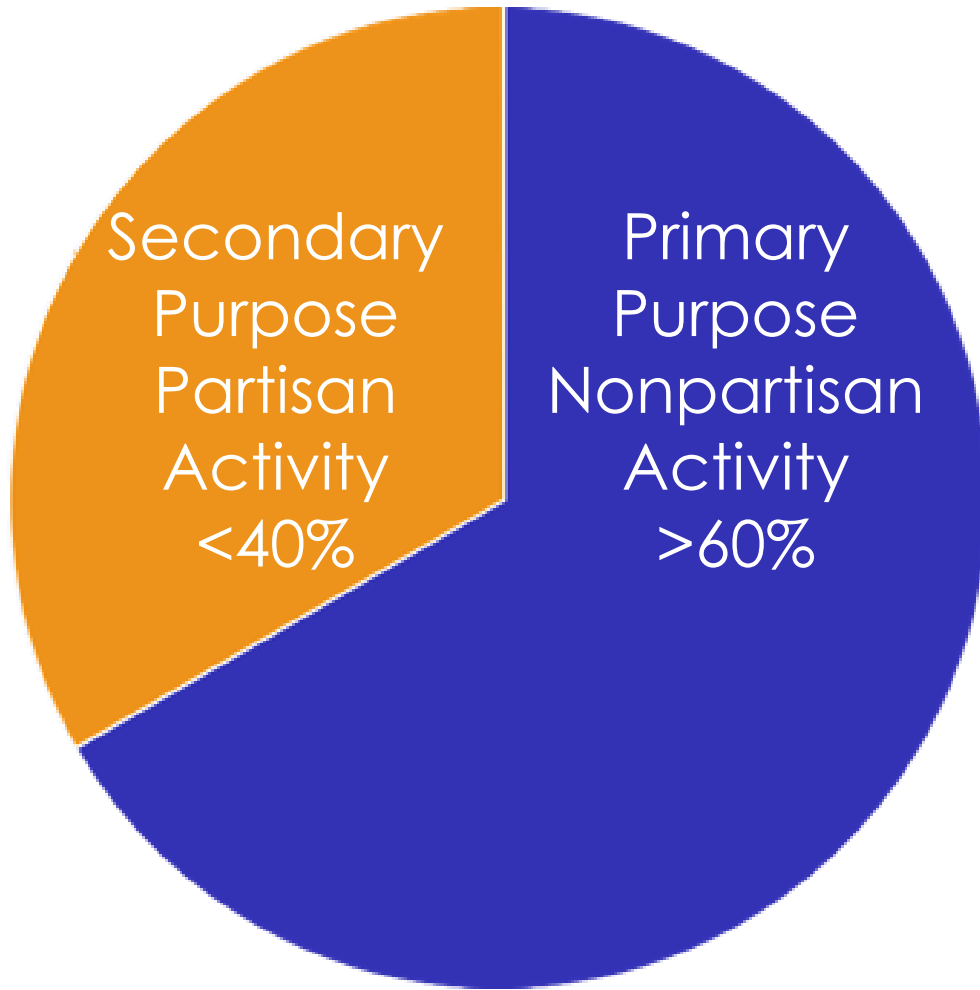


ISSUE
Advocacy
Lobbying =
Influencing
legislation



Partisan =
support or
opposition of
candidates

Primary v. Secondary Purpose Activity



PRIMARY PURPOSE

“promoting in some way the common good and general welfare of the people of the community.”

Anything a 501(c)(3) can do is a social welfare, primary purpose activity.

SECONDARY ACTIVITY

(c)(4)s may engage in partisan political activities (support or oppose candidates), but that cannot be their primary purpose or activity.

Issue Advocacy

It's all about the Facts &
Circumstances

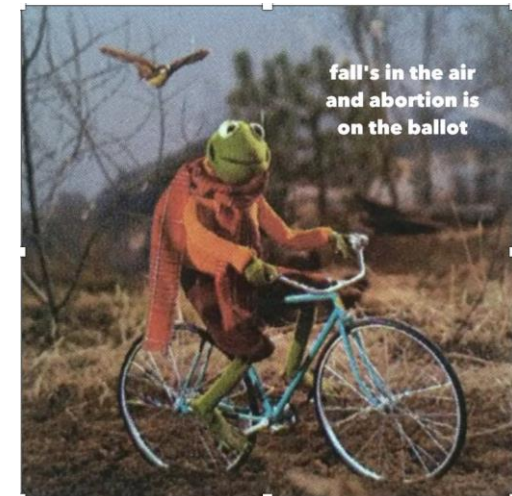
What can we say? Is It Partisan?

Depends on the Facts & Circumstances

WHY? What is the goal?

Timing? Why now? What is happening?

Who are we talking to? Why this audience?

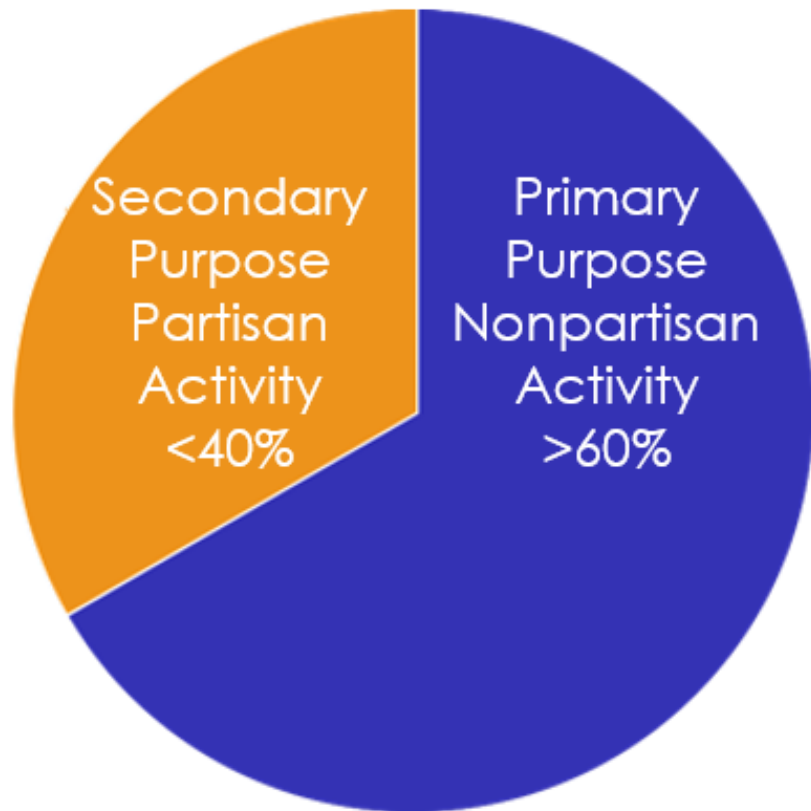


Facts & Circumstances Analysis

NONPARTISAN MESSAGE	PARTISAN MESSAGE
✓ No reference to candidate or elections	✗ Refers to candidate as a candidate
✓ External factor driving timing	✗ Timing motivated by election
✓ Broad range of issues	✗ Politically motivated targeting
✓ History of similar work or communications	✗ Compares candidate to preferred position
✓ Part of a series of similar, ongoing communications	✗ Wedge issue that divides candidates

Primary Purpose (Nonpartisan) Activities

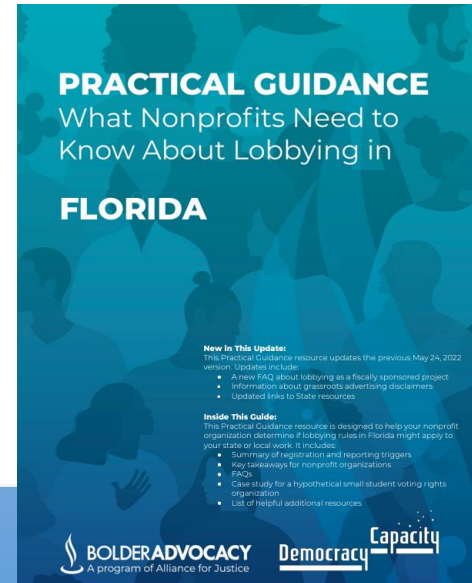
501(c)(4)s need “primary activity”



- Lobbying
- Issue Advocacy
- Ballot Measures
- Nonpartisan GOTV
- Nonpartisan voter registration
- Nonpartisan voter education

Can work with (c)(3)s on any of these.*

How Much Lobbying Can a 501(c)(4) Do?



Unlimited
Lobbying

Comply with federal, state, & local lobbying disclosure laws

Unlimited Lobbying

DIRECT

Communication

Legislator

Expresses a view about specific legislation

GRASSROOTS

Communication

General public

Expresses a view about specific legislation

Call to action



NRDC ACTION FUND @NRDC_Action · Jun 21
How do we stop the forest biomass industry from causing so much harm? @SenBooker's new bill is a good first step in the right direction. 🇺🇸 🌱

The forest biomass industry must be held accountable.



Grassroots Advocacy / Grassroots Lobbying



PHONEDOG CONGRESS
for a Pathway to Citizenship

Tuesdays & Thursdays 11 AM PT / 1 PM CT / 2 PM ET
bit.ly/weekly-phonedog

(Note: The image also features an illustration of a hand holding a smartphone.)



ETHICS REFORM NOW

Call your Senators!
202-224-3121

AFJ ACTION

Nonpartisan Issue Advocacy



ForOurFutureHQ @forourfuture · Feb 7

"The Inflation Reduction Act is also the most significant investment ever in climate change. Ever." —@POTUS

#SOTU #StateOfTheUnion

“ The Inflation Reduction Act is also the most significant investment ever in climate change. Ever. ”

President Joe Biden
State of the Union 2023

For Our Future
Action Fund

ALT



1



254



- Reference to POTUS – elected official not as candidate for office
- Timing – after the State of the Union Address
- Not tied to an election

Ballot Measures

- Ballot measure work...
 - is not campaign intervention,
 - and may constitute lobbying.
- Reminder: lobbying is unlimited for 501 (c) (4)s under tax law
- State laws often have registration and/or reporting requirements




Nonpartisan Voter Engagement

LWW LEAGUE OF WOMEN VOTERS*
EDUCATION FUND

INCREASING VOTER REGISTRATION

We work year-round to make sure all eligible Americans — especially first-time voters, non-college youth, new citizens, communities of color, and low-income Americans — have the opportunity to register and vote.

LWW LEAGUE OF WOMEN VOTERS*
OF THE UNITED STATES

 Latina Coalition
Silicon Valley

GET OUT TO VOTE (GOTV)! YOUR VOICE MATTERS! EVENTS SCHEDULE

TUES 2/27 GOTV PHONE BANKING
HYBRID 5:30-8:30
1769 Park Avenue Suite 200 San Jose, CA 95126*
*Food and Beverages will be provided

WED 2/28 GOTV PHONE BANKING
HYBRID 5:30-8:30
1769 Park Avenue Suite 200 San Jose, CA 95126*
*Food and Beverages will be provided

THURS 2/29 GOTV PHONE BANKING
HYBRID 5:30-8:30
1769 Park Avenue Suite 200 San Jose, CA 95126*
*Food and Beverages will be provided

SUN 3/3 GOTV DAY OF ACTION W. WORKING PARTNERSHIPS USA
IN PERSON 2:00-5:00
2302 Zanker Rd. San Jose, CA 95131*
*Food and Beverages will be provided

MORE INFO:
bit.ly/latinasvote2024

Contact Tatiana Villaseñor,
(408) 314-4082
tatiana@latinacoalition.org

Non-partisan Voter Guides

- Broad range of issues
- Unbiased questions
- No pledges
- Present candidate responses equally
- Similar format
- No editing responses

Representative to Congress, 3rd District



Joyce Beatty (Dem)
Member of Congress



Morgan Harper (Dem)
Candidate for Congress



Biographical Information

Address

222 E. Town Street, Suite 2W
Columbus, Ohio 43215

Email

beattyforcongress@gmail.com

Website www.beattyforcongress.com

Mailing Address

222 E. Town Street, Suite 2W
Columbus, OH 43215

Address

139 E Main St
Columbus, OH 43215

Campaign Phone (860) 869-5665

Email

morgan@morganharper.org

Website morganharper.org

Mailing Address

139 E Main St Apt 1101
Columbus, OH 43215

Education

Joyce Beatty:

BA, Central State University; MS, Wright State University; ABD, University of Cincinnati; Honorary Doctorate Degrees: Capital Law School, Ohio Dominican University, & Central State University

Morgan Harper:

• BA: Tufts • MA: Princeton • JD: Stanford

Qualifications for Office

Joyce Beatty:

The best qualified knowledgeable experienced leader. First female Ohio Democratic Leader. Most engaged in the District. Tested success record, 10 tele-town halls, recovered \$3+million owed to constituents, responded to 176,000 letters, passed

Morgan Harper:

I worked at the Consumer Financial Protection Bureau to prevent companies from cheating working people, and LISC, a community development organization, that invests in affordable housing and economic development.

Educate Voters about the Voting Process



- Information about voting
- No candidates or party mentioned
- Targeting – general public

Primary Purpose vs. Partisan Political

**NOVEMBER
ELECTION
DATES**

10-10-23	→	LAST DAY TO REGISTER TO VOTE
10-11-23	→	EARLY IN-PERSON VOTING BEGINS
10-31-23	→	LAST DAY TO REQUEST ABSENTEE/MAIL-IN BALLOTS
11-06-23	→	ABSENTEE/MAIL-IN BALLOT POSTMARK DEADLINE
11-07-23	→	ELECTION DAY
11-07-23	→	ABSENTEE BALLOTS MUST BE RECEIVED BY 7:30 @ BOE IF NOT MAILED

LWV LEAGUE OF WOMEN VOTERS OF OHIO



Non-Partisan Targeting Messages

Nonpartisan Targeting Criteria

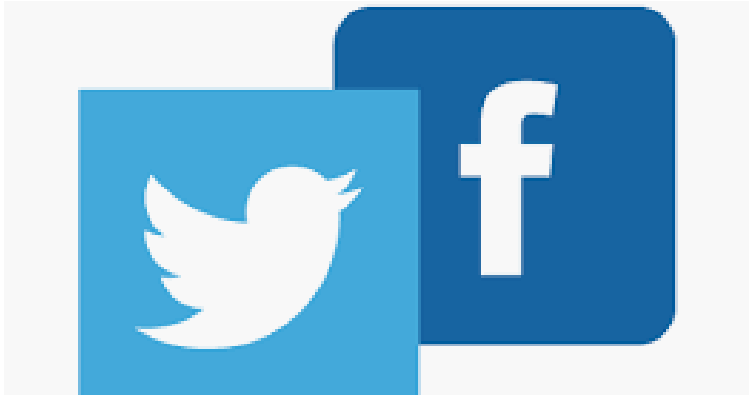
- Location
- Audience
- Disadvantaged or underrepresented group

Partisan Targeting Criteria

- Based upon the way a group votes
- Party ID or candidate ID
- Issue IDs



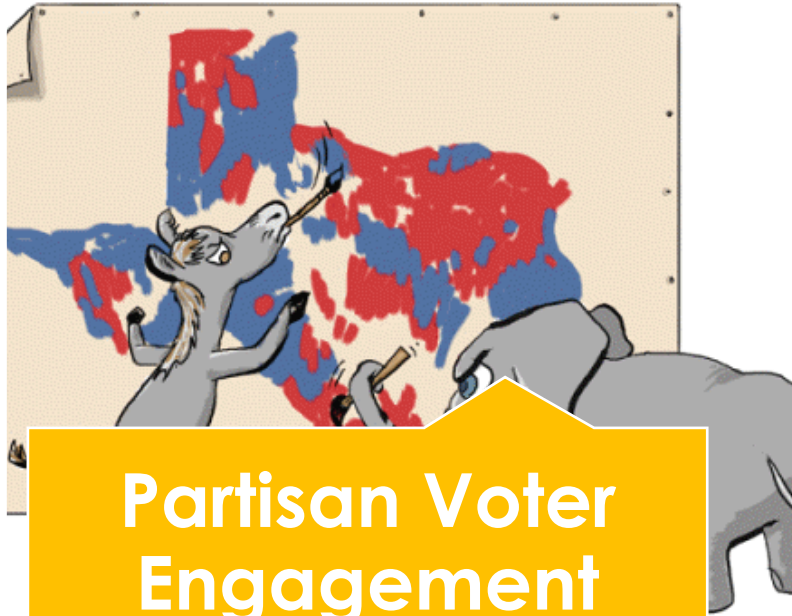
A Word on Social Media Policies



Facebook and Twitter adopted policies in 2018 on paid “political” advertising. Their definitions of what is political has no bearing on IRS or other state or federal laws. Just because a Social Media Platform labels an ad as political does not mean it is a partisan communication.

Secondary Purpose (Partisan) Activities

Tax law permits more for 501 (c) (4)s (but check state and federal election laws)



Partisan Voter Engagement

Targeting based on party affiliation or likely voter trends



Candidate Pledges

Asking candidates to vow to support your issues once in office

Partisan Voter Guides with Endorsements

2024
COURAGE CALIFORNIA
ENDORSEMENTS

COURAGE CALIFORNIA

LATEEFAH SIMON
FOR CONGRESSIONAL DISTRICT 12

RHODESIA RANSOM
FOR STATE SENATE DISTRICT 5

SASHA RENÉE PÉREZ
FOR STATE SENATE DISTRICT 25

ASM. ELOISE REYES
FOR STATE SENATE DISTRICT 29

MONICA WILSON
FOR ASSEMBLY DISTRICT 15

DEJONÁE SHAW
FOR ASSEMBLY DISTRICT 50

JAVIER HERNANDEZ
FOR ASSEMBLY DISTRICT 53

CHRISTY HOLSTEGE
FOR ASSEMBLY DISTRICT 47

Make your voice heard and VOTE on **March 5, 2024**

COURAGE CALIFORNIA

2024 Courage
VOTER GUIDE

Voting recommendations for:

- ✓ Statewide Races
- ✓ State Assembly Races
- ✓ Congressional Races
- ✓ Local Races
- ✓ State Senate Races
- ✓ Ballot Propositions

Get your Voter Guide now: CourageVoterGuide.org

Partisan Voting Records/Scorecards



Champions



Advocates

2020 California Senate Scorecard

Download the 2020 Scorecard

Download as CSV

FILTER BY PARTY

FILTER BY REGION

FILTER BY CAUCUS

Member Last Name	Overall Score	Criminal Justice	Economic Justice	Education Equity	Immigrant Rights	LGBTQI	Repro Justice	Privacy & Tech	Voting Rights
Sen. Allen (D)	92%	84%	86%	93%	100%	100%	92%	50%	100%
Sen. Archuleta (D)	79%	78%	85%	92%	89%	89%	83%	60%	100%
Sen. Atkins (D)	99%	84%	85%	100%	100%	100%	100%	60%	100%
Sen. Bates (R)	4%	27%	43%	47%	11%	32%	23%	27%	24%
Sen. Beall (D)	88%	84%	86%	93%	100%	100%	100%	36%	100%
Sen. Borgeas (R)	8%	30%	41%	36%	9%	26%	31%	25%	18%
Sen. Bradford (D)	100%	82%	83%	100%	100%	100%	100%	50%	100%



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
 Job Bush	 Wants to ban abortion	 Signed a law to create "Choices Life" license plates, which also fund so-called "intra pregnancy centers"	 Wants to defund Planned Parenthood
 Ben Carson	 Opposes abortion, and showed active support of a retrograde 20-week abortion ban	 Wants to restrict access to affordable birth control	 Would defund Planned Parenthood
 Lincoln Chafee	 Supports access to safe and legal abortion	 Supports access to affordable birth control	 Supports affordable and increased access to family planning



Chris Christie

 Wants to ban abortion	 Wants to restrict access to affordable birth control	 Wants to defund family planning services in the New Jersey budget
 Hillary Clinton	 Would ensure that abortion remains safe and legal	 Supports universal access to birth control
 Strongly supports Planned Parenthood		
 Ted Cruz	 Wants to ban abortion, even in cases of rape or incest	 Wants to restrict access to affordable birth control
		 Supports defunding Planned Parenthood and called for a government shutdown

Facts and Circumstances Analysis

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



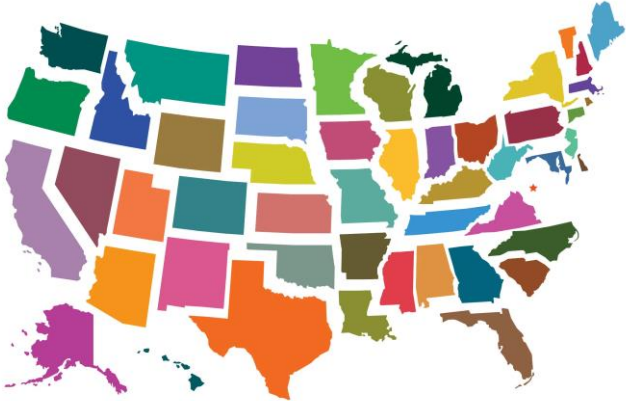
Campaign Finance Considerations

Election Law

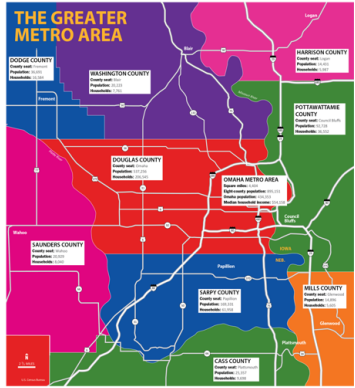
Rules around coordination, contribution limits, reporting, etc. depend on what type of candidate you are supporting or opposing.



Federal:
President, US
Senate, House of
Representatives

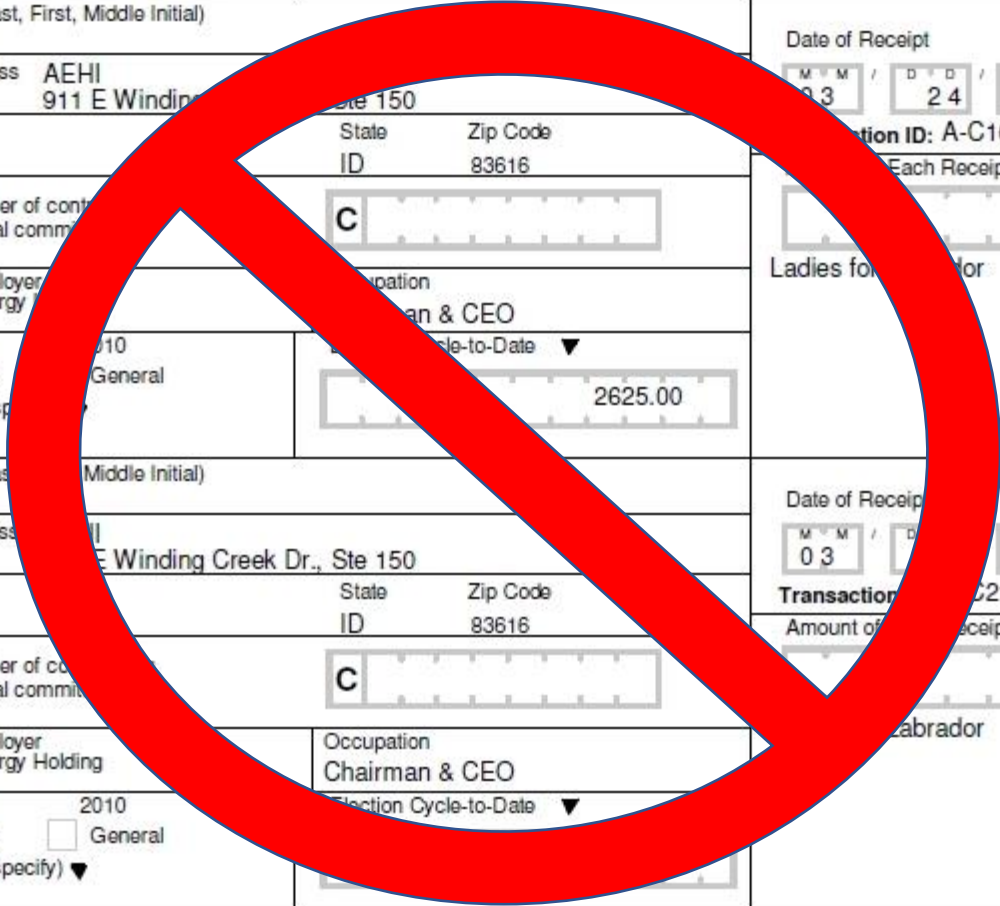


State:
Governor,
state
legislature



Local
Jurisdictions:
Mayoral
City Council

**Corporations
(including
nonprofits) cannot
make
CONTRIBUTIONS
to federal
(and most state)
candidates**



B.		Full Name (Last, First, Middle Initial) Don Gillispie	Date of Receipt MM / DD / YYYY 03 / 24 / 2010
Mailing Address		AEHI 911 E Winding Creek Dr., Ste 150	Transaction ID: A-C162
City Eagle	State ID	Zip Code 83616	Amount of Receipt this Period 2400.00
FEC ID number of contributor federal political committee		C	Ladies for Justice
Name of Employer Alternate Energy Holding In		Occupation Chairman & CEO	
Receipt For: 2010		Election Cycle-to-Date ▼	
<input checked="" type="checkbox"/> Primary	<input type="checkbox"/> General	2625.00	
<input type="checkbox"/> Other (specify)			
C.		Full Name (Last, First, Middle Initial) Don Gillispie	Date of Receipt MM / DD / YYYY 03 / 24 / 2010
Mailing Address		AEHI 911 E Winding Creek Dr., Ste 150	Transaction ID: A-C211
City Eagle	State ID	Zip Code 83616	Amount of Receipt this Period 225.00
FEC ID number of contributor federal political committee		C	Laborador
Name of Employer Alternate Energy Holding In		Occupation Chairman & CEO	
Receipt For: 2010		Election Cycle-to-Date ▼	
<input checked="" type="checkbox"/> Primary	<input type="checkbox"/> General		
<input type="checkbox"/> Other (specify)			

Examples of Contribution

- Giving a candidate a mailing or email list
- Producing materials or gathering information that a corporation has no purpose for doing, other than helping a campaign
- Paying staff to organize volunteers for a campaign
- Providing non-public polling results to a campaign
- Coordinated expenditures



Expenditures for Federal Elections

- Corporations ((c)(4)s) can make **independent expenditures** to support or oppose candidates (express advocacy)
- Disclaimer and disclosure requirements are constitutional
- Corporations are still prohibited from making direct contributions to federal candidates, but may establish PACs



Citizens United v. FEC

What is an Independent Expenditure (IE)?



NARAL @NARAL · Oct 9

Don't forget: Four years ago, Senator Ron Johnson confirmed Brett Kavanaugh to the Supreme Court—knowing that Kavanaugh would vote to end *Roe v. Wade*.

Johnson's time in the Senate is up. Vote him out.

✗ Voted to confirm
Brett Kavanaugh

✗ Bragged about
ending *Roe v. Wade*

✗ Supports a national
abortion ban

Is this who you want
making decisions for you?

NARAL
PRO-CHOICE AMERICA

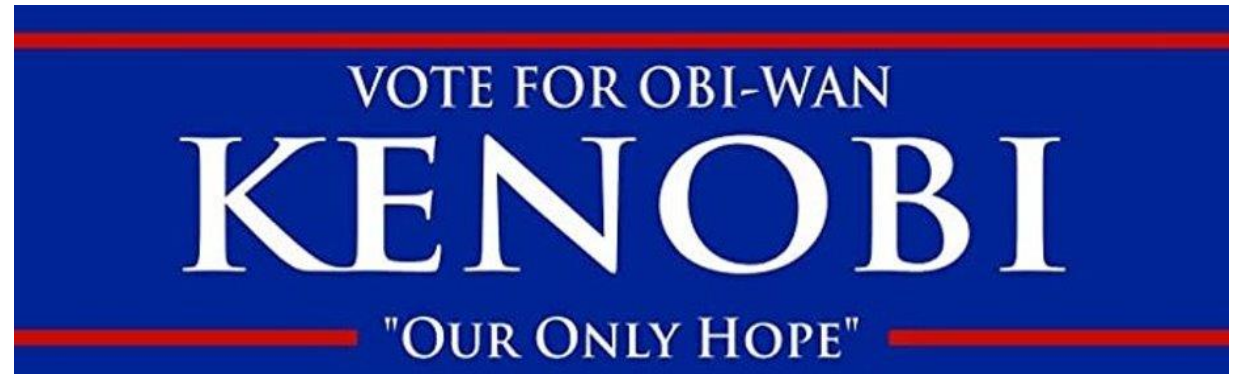
A communication paid for by someone other than candidate;

- **which expressly advocates** for election or defeat of a candidate, or is the **functional equivalent** (no other reasonable interpretation);
- **and** is NOT COORDINATED (made at the request, suggestion, material involvement of candidate or agent)

What is Express Advocacy?

Use “Magic Words”

- Vote for/against
- Elect/Defeat
- Support/Oppose
- Functional Equivalent
 - No other reasonable interpretation
 - Context and fact driven



Coordination = Contribution

Coordination is...

- Made at the request or suggestion of a candidate, or
- Made with the material involvement or substantial discussion with the candidate
- Campaign staff counts
- Watch out for republishing campaign materials and sharing common vendors



Safe harbors (not coordination)

- Can ask about candidate's policy positions (for instance – for a voter guide)
- Firewalls for vendors and former employees
- The communication comes from publicly available information

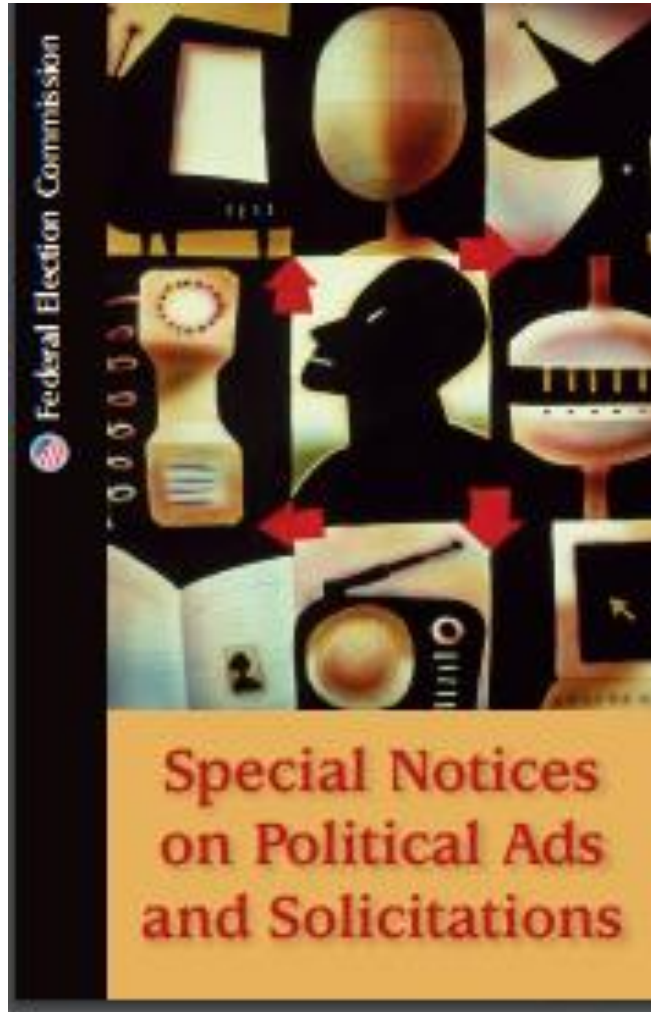


Examples of IEs

- ✓ Mailing literature (postcards)
- ✓ Leave-behinds (for door knocking and canvassing)
- ✓ Robocalls
- ✓ Calling banks with an associated cost
- ✓ Radio or TV ads
- ✓ Voting guides calling for the election or defeat of a candidate
- ✓ Lawn signs
- ✓ Billboards
- ✓ Paid ads on social media



Disclaimers



“Paid for by” disclaimer identifying the speaker, its contact information, and a statement that the communication was not authorized by any candidate or committee is required. See FEC/state guidance for specific requirements.

Independent Expenditure Reporting

- 501 (c)(4)s that make expenditures of more than \$250 in aggregate on an election must file FEC Form 5
- See FEC website for filing dates and when 24-hour and 48-hour reports are due
- Sign up for FEC mailing list for filing date reminders
- There may be state and local requirements as well

FEC FORM 5

REPORT OF INDEPENDENT EXPENDITURES MADE AND CONTRIBUTIONS RECEIVED
To Be Used by Persons (Other than Political Committees)

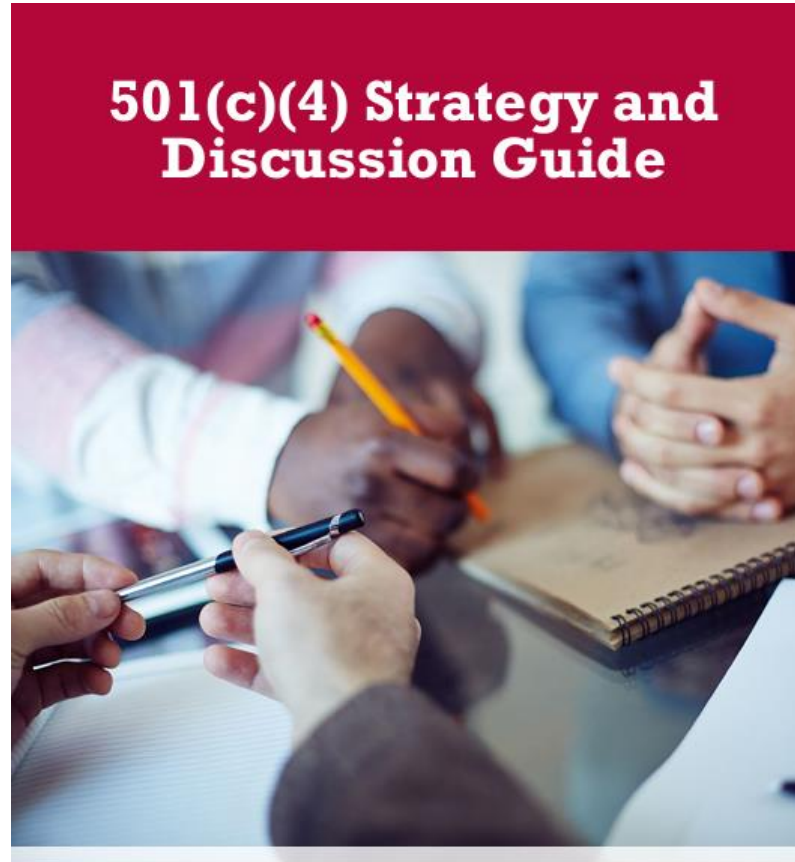
1. (a) Name of Individual, Organization or Corporation		3. FEC Identification Number C
(b) Address (number and street) <input type="checkbox"/> check if different than previously reported		
(c) City, State and ZIP Code		
2. Occupation and Name of Employer (for Individual Filers Only)		
4. TYPE OF REPORT (check appropriate boxes):		
(a) <input type="checkbox"/> April 15 Quarterly Report		
<input type="checkbox"/> July 15 Quarterly Report <input type="checkbox"/> 24-Hour Report		
<input type="checkbox"/> October 15 Quarterly Report <input type="checkbox"/> 48-Hour Report		
<input type="checkbox"/> January 31 Year-End Report		
b) Is this Report an amendment? <input type="checkbox"/> No <input type="checkbox"/> Yes, it amends the report filed on <input type="text"/> / <input type="text"/> / <input type="text"/>		
5. COVERING PERIOD: FROM <input type="text"/> / <input type="text"/> / <input type="text"/>		
THROUGH <input type="text"/> / <input type="text"/> / <input type="text"/>		
6. TOTAL CONTRIBUTIONS.....		<input type="text"/>
7. TOTAL INDEPENDENT EXPENDITURES.....		<input type="text"/>
<small>Under penalty of perjury I certify that the independent expenditures reported herein were not made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or authorized committee or agent of either, or any political party committee or its agent.</small>		
TYPE OR PRINT NAME OF PERSON COMPLETING FORM	SIGNATURE	DATE

Key Takeaways & Resources

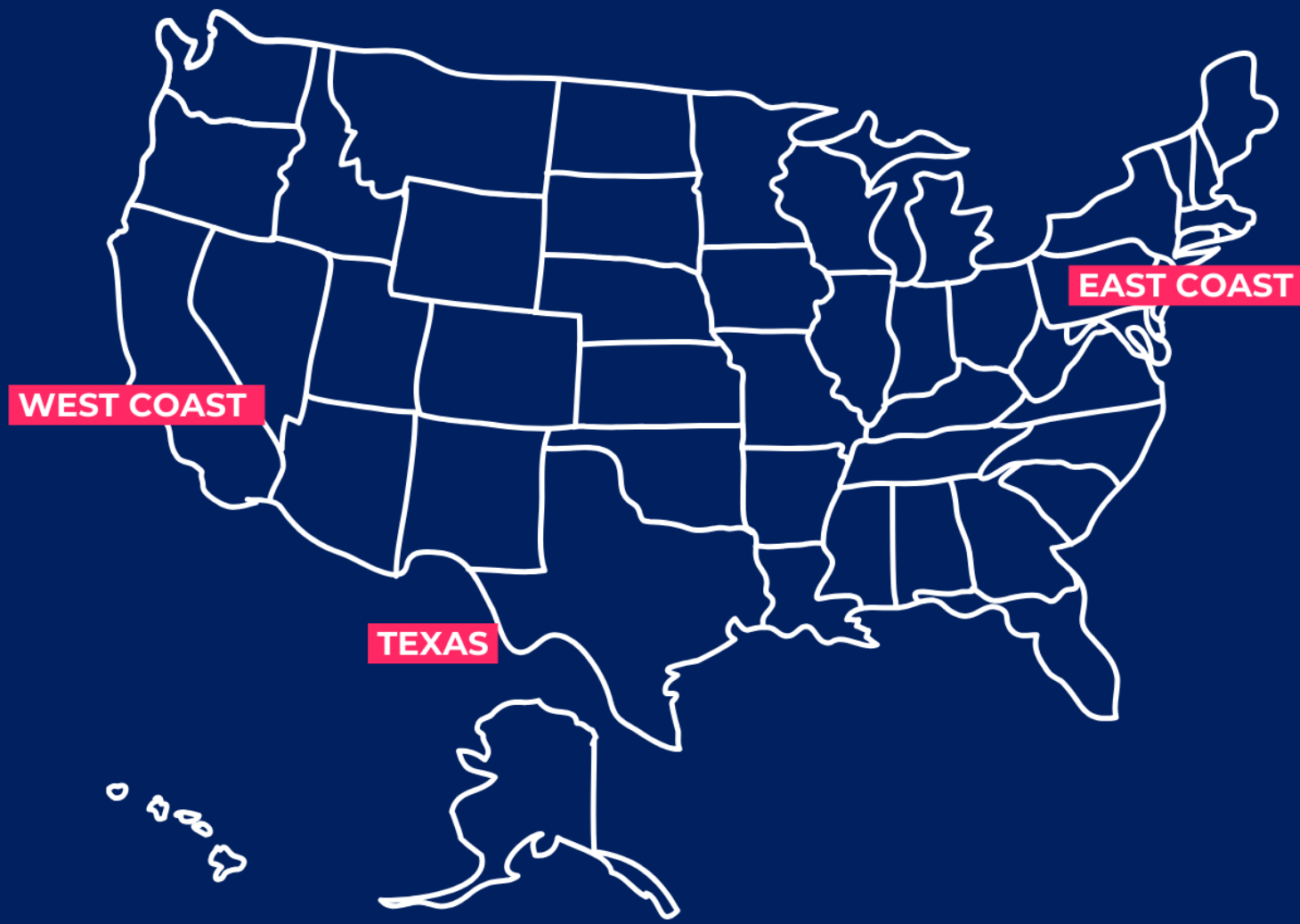
Key Takeaways

- 501 (c)(4)s can advocate for policy change, including unlimited lobbying.
- 501 (c)(4)s can engage in partisan political activity, as long as it is not their primary purpose.
- When engaging in political activity, 501 (c)(4)s must comply with federal, state, and local election law.

Resources



Building Power.
Transforming Courts.
Securing Justice for All.



CONNECT WITH US



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Scan the QR code
for Technical
Assistance

How Did We Do?

Scan the QR code to complete a brief and anonymous survey about this training. **Your feedback is extremely important** to our work and will help us to improve future programming.

