



Constitutional Protections for Pastors

Your freedom to speak Biblical truth on the moral issues of the day

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This overview summarizes the requirements of the Federal Election Campaign Act and the Internal Revenue Code as they apply to churches and pastors.¹ They should not be construed as legal advice relevant to your specific set of facts. However, churches and pastors may obtain free legal advice by contacting the Alliance Defense Fund at 1-800-TELLADF or www.telladf.org or the James Madison Center at (812) 232-2434 or www.jamesmadisoncenter.org. For the complete analysis of these issues and how they affect churches and pastors, please visit http://www.citizenlink.org/pdfs/10-02-07_lp.pdf.

Guidelines for Political Activities by Churches and Pastors

		Church	Pastor
(1)	Discuss the positions of political candidates on issues	Yes	Yes
(2)	Endorsement of political candidates	No	Yes
(3)	Financial and In-Kind contributions to political candidates	No	Yes
(4)	Independent expenditures in favor of or against political candidates	No	Yes
(5)	Payment of expenses for attendance at a caucus or state/national political party convention	No	Yes
(6)	Appearance of political candidate at a church meeting or service	Yes	N/A
(7)	Non-partisan voter registration activities	Yes	Yes
(8)	Non-partisan voter identification activities	Yes	Yes
(9)	Non-partisan get out the vote activities	Yes	Yes
(10)	Non-partisan voter education	Yes	Yes
(11)	Lobbying for legislation	Yes	Yes
(12)	Expenditures related to state referendums	Yes	Yes
(13)	Distribute:		
(a)	Candidate surveys or voter guides	Yes	Yes
(b)	Voting records of incumbents	Yes	Yes
(c)	Candidate campaign literature	No	Yes
(14)	Distribution by others of political statements in church parking lots	Yes	N/A
(15)	Rental of church lists to political candidates (at fair market value)	Yes	N/A
(16)	Church bulletin or newsletter:		
(a)	News stories	Yes	N/A
(b)	Editorials	No	N/A
(17)	Rent of church facility at same rate as other groups	Yes	N/A

¹ One caution – state laws may be more restrictive than these guidelines. Before applying them to specific situations regarding state candidates or state elections, a local attorney should be consulted. ADF has more than 1000 allied attorneys across the United States to whom we may be able to refer you. Attorneys at the James Madison Center are also available for consultation.

Explanation of Individual Items

Item 2. Endorsement of political candidates. The endorsement of a candidate includes any statement which uses explicit words to advocate the election or defeat of a candidate, such as “elect,” “support,” “defeat,” or “oppose.” Distributing campaign literature from a candidate is one form of endorsement.

Pastors may endorse candidates in their individual capacity, and pastors may state their affiliation with the church, as long as it is indicated that this is for identification purposes only and that their endorsement is from them personally. **The IRS has taken the unequivocal position that personally endorsing a candidate from the pulpit is not allowed.**

Item 6. Appearance of a candidate at a church meeting or service. The appearance of a candidate before a church service is limited as follows:

- (1) All legally qualified candidates should be invited;
- (2) The questions should be prepared and presented by an independent, non-partisan panel;
- (3) The topics discussed should cover a broad range of issues of interest to the public;
- (4) Each candidate should have an equal opportunity to present his or her views on the issues discussed; and
- (5) The moderator should not comment on the questions or otherwise make comments that imply approval or disapproval of the candidates.

Candidates may be introduced at a church service or may preach or read scripture without restriction. In addition, public officials, who are also candidates, may be invited to speak to a church as a public official, without complying with the above requirements, if no reference is made to their candidacy, if they speak only in his/her capacity as a public official and if there is no campaign activity in connection with their appearance.

A church may allow candidates to use church facilities for meetings or campaign appearances on the same basis that other civic groups are allowed to do so. If other civic groups are required to pay some rent for using the church property, the candidate should be charged the same amount.

Items 7, 8 and 9. Non-partisan voter registration, voter identification and get out the vote activities. **To be non-partisan, these activities may not be directed at the supporters of any particular candidate or political party.** A church *may* direct these activities at certain groups using non-partisan criteria, such as church membership. Such activities will not be viewed as non-partisan if they are accompanied by literature praising or criticizing particular candidates or political parties for their positions on issues.

Item 10. Non-partisan voter education. Here, voter education involves discussion of the electoral process, such as how to run for public office or delegate, how to register and where to vote. But they cannot be directed at supporters of one particular candidate or political party.

Item 11. Lobbying for legislation. A church may use an insubstantial amount of their funds (5 to 15 percent) to discuss legislative issues, support or oppose legislation, encourage its members or the general public to support or oppose legislation and support other organizations with their lobbying efforts. Furthermore, churches may lobby candidates on their positions on issues and distribute educational material to candidates or at political events, as long as this is being done to get out the organization’s message and not to assist any candidate.

Item 12. Expenditures related to state referendums. Churches may make expenditures in connection with state referendums, including making a financial or in-kind contribution to a referendum effort. However, state election laws should be consulted for any requirements imposed on state referendum activities.

Item 13 (a). Candidate surveys or voter guides. Voter guides should not include an endorsement of a candidate or expressly advocate the election or defeat of any candidate. Further, voter guides should not include advocacy of voting for candidates who support particular issues, i.e., single issue voting. Churches may also distribute voter guides prepared by other organizations that meet these guidelines.

As a result, church questionnaires should conform to the following guidelines:

- (1) Questionnaires should be sent to all candidates;
- (2) The questions should cover a wide variety of issues;

- (3) The questions should not indicate a bias toward the church's preferred answer;
- (4) The candidate's responses should not be compared to the church's preferred position;
- (5) The responses should be published in the candidate's own words or in a neutral, unbiased and complete summary of the candidate's position; and
- (6) The survey should not be published under the direction or control, direct or indirect, of any candidate.

Item 13 (b). Voting records of incumbents. In the case of publication of voting records, the church has more leeway than in publishing candidate surveys as follows:

- (1) Incumbent's positions should not be compared to the positions of other candidates or the church's position;
- (2) The voting record should be distributed on a regular basis, not just at election time;
- (3) The voting record should be broadly distributed to the general public, not targeted to certain voting blocks;
- (4) A variety of issues of interest to the general public should be presented.

Item 14. Distribution by others of political statements in church parking lots. A church is not responsible for political literature distributed by others in their parking lot without their permission or consent and a church has no obligation to bar people from distributing political literature there.

Item 15. Rental of church lists to political candidates (at fair market value). The candidate must pay the fair market value for the list if it is rented from the church.

Item 16. Church bulletin or newsletter.

(a) News stories. A church bulletin or newsletter may publish news stories on political candidates and political campaigns. The publication of voting records and candidate surveys in bulletins are subject to the limitations delineated in Items 13 (a) and (b).

(b) Editorials. A bulletin or newsletter, however, may not publish an editorial endorsing a candidate for political office.