

What Churches and Pastors **Can and Cannot Do** in the Public Arena



In recent years, certain advocacy groups have attempted to intimidate pastors and churches into silence on the great moral issues of our time through misleading and threatening letters.

The voice of the church matters. At this critical time in our history, churches must understand the legal role they can play in addressing cultural and moral issues during the election season.

Many churches wrongly believe they cannot legally influence these debates and have voluntarily removed themselves from the public arena. Many pastors believe they must keep silent because of their position of leadership in the church. This is simply not the case. Although certain limitations are imposed by the Internal Revenue Service (IRS) tax code and campaign laws, churches and pastors have many legal avenues for speaking on vital moral issues.

The following guidelines, as well as the chart on page 3, are based on Section 501(c)(3) of the Internal Revenue Code and publications by the IRS. They are designed to provide general guidance in determining how churches may be involved in public policy, the legislative process and in elections. We recommend, however, that a church seek legal advice before making specific plans for action.

► **Legislative Action**

Generally speaking, as non-profit entities regulated under Section 501(c)(3) of the Internal Revenue Code, churches may engage in limited attempts to “influence legislation” and still qualify for non-profit tax status. However, the activity must not constitute more than an “insubstantial” part of a church’s overall activity, including time and money. The amount allowed by the code is not clear-cut. A fairly safe gauge is to limit legislative activity to less than 5 percent of the church’s overall activity. In some cases, the IRS has allowed activity between 5 and 20 percent; but more than 20 percent has been found unacceptable.

“Legislative activity” is any activity intended to influence legislation – bills before the U.S. Congress or state legislature, measures before city councils, initiatives and referendums. These activities include: directly contacting elected officials about legislation, urging church members and others to communicate with legislators about legislation, and circulating petitions related to legislation.

As long as a church stays within the appropriate amount of activity, it may engage in any or all of these activities. What does all this mean? If your church budget is \$1,000,000, you can safely spend up to \$50,000 directly influencing legislation – sending a mailing to church members asking them to call

legislators on a bill to regulate abortion, or urging them to vote against an initiative to expand gambling, for example. Pastors, you can mention the bill number by name from the pulpit, and give out contact information for key legislators. You can preach about gambling, abortion or homosexuality, then urge your members to call their elected officials on a particular bill related to the issue.

► **Election and Political Campaigns**

The IRS code is far more restrictive on churches and other non-profit organizations in election activities. Partisan activity is prohibited, including engaging in any activity in support of or opposition to any candidate for political office, or involvement in a political campaign. However, some nonpartisan activity, particularly voter registration and voter education, is allowed.



Not only can you register voters at your church, you are free to endorse and distribute to all your church members nonpartisan voter guides that do not endorse candidates, but provide all candidates with an opportunity to answer questions on a variety of issues. There is no legal restriction whatsoever on the ability of churches to register voters or provide them candidate survey information or voter guides – in other words, funds and time spent on these activities are not counted toward the 5 percent limitation discussed above. No limitations are placed on church members, including pastors, when acting as private individuals and not on behalf of the church.

► **The Unique Voice of Pastors**

Pastors have every right to speak out on the moral and political issues of our time. As discussed above, pastors can encourage their churches to be involved in the policy making process, even to the extent of specifically mentioning issues or pending bills. When it comes to political campaigns, pastors should make it clear that their church does not endorse specific candidates for office. As individuals, pastors are free to endorse, support, and donate money to political candidates.

► **Conclusion**

We hope this document makes clear that churches can do much more to help their constituents become salt and light in our state than has been commonly understood. God ordained the institution of government to serve certain purposes, and Christians who are committed to seeing our laws and culture reflect biblical wisdom and righteousness have every right to participate and have our voice heard in the marketplace of ideas.

► **Political Involvement for Church and Pastors**

This list is designed to provide an overview of the standards for church political involvement. It is not meant to provide specific legal advice and is not an exhaustive list.

Church Activity Permissible?

- Conduct non-partisan voter registration . . . **Yes**
- Conduct non-partisan get out the vote activities **Yes**
- Distribute non-partisan voter guides **Yes**
- Distribute non-partisan voting records **Yes**
- Support/oppose legislation **Yes**
- Support/oppose ballot initiative **Yes**
- Support/oppose political or judicial nominee **Yes**
- Endorse/oppose political candidates **No**
- Candidate speaks at church (not identified as candidate; political campaign is not mentioned) **Yes**
- Host forum for political candidates (all candidates invited) **Yes**
- Political fundraising **No**
- Sale/rent church list to candidate at market value (made available to all candidates) **Yes**
- Provide link on church’s website to candidate’s campaign website **No**
- Contribute to political candidates **No**
- Contribute to political action committees (PACs) **No**
- Offer bulletin or newsletter ads at market rate **Yes**

Pastor Activity Permissible?

- Conduct non-partisan voter registration . . . **Yes**
- Distribute non-partisan voter guides **Yes**
- Distribute non-partisan voting records **Yes**
- Support/oppose legislation **Yes**
- Support/oppose ballot initiative **Yes**
- As an individual*, pastor supports/opposes political or judicial nominee **Yes**
- As an individual*, pastor endorses/opposes political candidate (no church resources/facilities used) **Yes**
- Pastor endorses/opposes political candidate from pulpit **No**
- As an individual*, political fundraising (no church resources/facilities used) **Yes**
- As an individual*, contribute to political candidates (no church resources/facilities used) **Yes**
- As an individual*, contribute to political action committees (PACs) (no church resources/facilities used) **Yes**
- Conduct nonpartisan get out the vote measures **Yes**

Questions

For more information see IRS Publication 1828 and Fact Sheet 2006-17, both available at www.irs.gov.

