

# A CAMPAIGN SEASON GUIDE FOR HOUSES OF WORSHIP



INTERFAITH  
ALLIANCE  
PROTECTING FAITH AND FREEDOM

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Houses of worship, like other nonprofit organizations in the United States, enjoy a big benefit from the government: contributions to them are tax-deductible for the donor, and tax-exempt for the house of worship. But because Americans don't want their tax dollars supporting political causes, these tax benefits come with a catch or two. For this discussion, the most important is that houses of worship may not campaign – openly or otherwise – for or against candidates for public office.

That doesn't mean houses of worship are prohibited from taking part in the great exercise of democracy known as an election. It just means that they may not work to elect or oppose one candidate over another for office, or engage in other partisan activities.

On the other hand, houses of worship are permitted by the tax laws, and encouraged by Interfaith Alliance and others, to involve their members in the political process by helping them understand the issues, and by encouraging them to vote.

## **Speak to your members on issues of the day but don't compromise religion's powerful healing force by using your authority to advance particular sectarian interests over America's shared values.**

Religion plays a vital role in our communities and religious values inform an appropriate patriotism and inspire political action. Likewise, houses of worship play a vital role at election time.

But it is one thing to urge our members to vote, and another to tell them how to vote. That's where the IRS draws its line, and where most Americans seem to draw theirs.<sup>1</sup> Of course, different faith traditions have different customs. Our intention with this publication is not to tell you what to do. It is to tell you how others, the IRS and Americans of faith in particular, are likely to perceive your choices.

We urge you to stay on the right side of the law, and so we will say in this document over and over that "houses of worship may" do a particular thing. When we say that, we mean that it is legal under current federal and state laws. Of course, what is legal may not be moral. But some of the finer choices about your house of worship's election role are between you, your congregants and your faith.

### **THIS GUIDE WILL REAFFIRM SEVERAL IMPORTANT CONCEPTS:**

- Encouraging your members to vote is one of the most important ways you can contribute to public life.
- Telling your members whom to vote for or against is never allowed.
- The ultimate goal is a partnership between religion and government that preserves the autonomy of houses of worship and ensures that religious institutions are not held hostage to the priorities and interests of federal, state or local governments.
- Religion's powerful healing force in politics can be severely compromised when America's shared values are replaced by values that advance only sectarian interests.

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<sup>1</sup> 66% of Americans say houses of worship should not endorse one candidate over another, according to a 2008 Pew Forum on Religion in Public Life survey.

## THE BIG PICTURE IN RED AND GREEN

We all know that real life isn't always black and white. Or in the case of this publication, green and red. That's right, we're going to use traffic light colors to tell you what the law says you can and cannot do.

Of course, the IRS isn't the only authority houses of worship need to worry about. There's also your congregation! Just because the law permits you to do something, doesn't mean you won't offend your congregants by doing it – something that's always nice to anticipate. So we'll discuss some of the pros and cons of various legal activities, too.

### A GREEN LIGHT FOR ENCOURAGING YOUR MEMBERS' INFORMED PARTICIPATION

Houses of worship are permitted by the IRS, and encouraged by Interfaith Alliance, to provide nonpartisan information to worshippers on a broad range of issues, to encourage and register them to vote and even to invite candidates to address them.

- **Houses of worship may conduct a voter registration drive as long as it is open to anyone, regardless of political party.**

When crafting messages encouraging people to vote, be sure you don't implicitly suggest which candidates or parties to vote for.

If you mention policy issues during a voter registration drive, mention a broad range of issues, and don't indicate which position your faith, congregation or religious leader supports on any issue.

- **Religious leaders should encourage people to vote in elections.**

- **Religious leaders and other officials may take a stance on important issues facing their community, as long as they do not favor one candidate or party.** In some faith traditions, such appeals are often made in the context of a formal religious service; other traditions prefer to use more informal meetings of the congregation for such purposes. The IRS permits either, but remember, these statements should not suggest – even implicitly – support for or opposition to any candidate. It is best not to refer to candidates or the upcoming election at all. Be aware that, even if you avoid any such references, commenting on policy issues on which the candidates are sharply divided may lead to charges that you are attempting to influence the election.
- **Houses of worship may invite candidates to a debate for your members,** but you must follow a few IRS rules. The event may not favor one candidate over another, in structure or in any other way. (So, for example, it wouldn't be fair to deliberately slant questions to benefit one candidate, or to permit one candidate to always have the last word.) Questions must cover a broad range of issues to ensure that selective choice of topics doesn't favor one candidate over another. Finally, you must invite all candidates (or at least all major candidates) in the race, even those with whom you disagree. And most of the invited candidates must agree to participate. If there are only two candidates in a race and one declines to debate, you may not hold the event.

Religion is one source of reconciliation but it, too, has been divided by the far right along political fault lines. It is by respecting our differences that we come together as a democracy.

- **Houses of worship may invite individual candidates and elected officials to speak to their members; however, to avoid tax-code problems, take several precautionary steps.** If you invite one candidate, invite all candidates, under similar circumstances. Provide the candidates with opportunities to address a similar audience, for a similar length of time, and in the same general time period relative to the election. Don't explicitly or implicitly suggest favoritism. During these events, it is also essential for the house of worship to state that they neither support nor oppose any candidate.

It has long been custom in some churches to invite favored candidates to speak from the pulpit the weekend before Election Day and for candidates to use the opportunity to make partisan appeals. The simple truth is that these visits expose the house of worship to IRS sanctions, and raise very real concerns about inappropriately mixing religion and politics. Every house of worship, fully mindful of the law, must decide for itself what is right and proper in the context of its own customs.

- **Houses of worship may invite people who are running for office to events for reasons unrelated to their candidacy for office.** People who are running for office are often current officeholders or other prominent people in your community, and it's fine for your house of worship to invite them to appear at a service or other event in that capacity. For example, you may want to invite your congressional representative to attend the opening of a new meeting room or day care facility. Make sure it's clear that anyone you invite is not appearing in his or her role as a candidate. Try not to schedule the event close to Election Day. Instruct your guest

not to speak about his or her candidacy; and don't mention the upcoming election when publicizing the event or introducing your guest. Because your guest is not appearing as a candidate, you need not invite the other people running for the same public office.

- **Houses of worship may urge worshippers (and others) to vote for or against a particular ballot measure.** Although houses of worship may not support or oppose candidates, they may support or oppose initiatives, referenda and other measures that appear on the ballot. In many states and localities, voters are given the chance to make new laws ranging from funding for education through school bond measures to constitutional amendments defining marriage. Houses of worship may lobby the public to support or oppose these proposals just as they are allowed to lobby elected officials to support or oppose legislative proposals.

Of course, the amount of lobbying that houses of worship may do is limited. Whether the activities take the form of attempting to influence ballot measures or of urging elected officials to support or oppose pieces of legislation, a house of worship must make sure that the total amount of such activities does not become, according to the IRS, a "substantial" part of its activities.

One more thing to be careful about: state and local election laws also govern efforts for or against ballot measures. Check with people who know your state and locality's election laws to determine whether your house of worship's activities around a ballot measure trigger any obligations to register or report to state or local election authorities.

- **Religious leaders acting as individuals and not as representatives of their houses of worship may publicly endorse candidates.** But you should make clear to the public that the endorsement is not on behalf of their religious denomination or house of worship. Such endorsement should not be made from the pulpit, bema, lectern or in any other official capacity. It is also important to remember that just because you can endorse does not mean you should. Perception is as important as legality here.

Your house of worship shouldn't simply give names and contact information of your congregation to candidates or others conducting partisan get-out-the-vote efforts.

- **You may organize a “Get-Out-The-Vote” drive aimed at your congregation, but it may not be designed to benefit a political party or a particular candidate.** The easiest way to make sure you're within the boundaries of the tax laws is to aim your efforts at your entire congregation, and not to target specific subsets of the congregation. Your messages for your get-out-the-vote efforts should mention many issues, not just one or two, and you shouldn't suggest that people vote for particular candidates or candidates that take particular policy positions. It is acceptable for you to target specific geographic areas for nonpartisan reasons, such as low-income, minority, low voter turn-out or student populations.

Your house of worship shouldn't simply give names and contact information of your congregation to candidates or others conducting partisan get-out-the-vote efforts. However, you may allow candidates to rent your mailing list for the rates typically charged for such lists as long as you make the names equally available to all candidates. If you decide to allow candidates to rent your list, it's safest to do so through a “list broker” – someone whose business is renting lists – because a list broker can set a fair price and ensure that all candidates have the opportunity to rent the list. If you decide to handle the rentals yourself, you should write to all of the candidates to offer them the list.

Of course there are barriers to making your list available for rental: Your members may not want you to rent the list and some houses of worship have privacy policies that forbid such rentals. Each house of worship should consider the matter carefully before renting its list.

- **If you regularly allow civic organizations to use your facilities for meetings, you may allow candidates to do the same.** But you must charge candidates the same fee, if any, that you charge other groups and you must let all candidates know that they may use the space under the same terms.
- **Your house of worship may distribute unbiased candidate questionnaires that cover a range of issues and publicize the candidates' answers.** Materials that suggest one candidate is preferable to another or that one candidate's answers are “better” than another's fail the test of nonpartisanship. If you distribute candidate surveys, all (or at least all major) candidates for the office should be included, and most must respond before you publicize the answers. You should not edit their answers, or you risk being accused of mischaracterizing what they said for partisan reasons. Be careful that your questions do not suggest a “correct answer” or favor one candidate or party over another.



## PROHIBITED POLITICAL ACTIVITIES: A RED LIGHT

Some activities clearly violate existing tax laws.

- **You may not allow candidates to raise funds for their campaigns on the house of worship's property.** This restriction does not apply to candidates who simply rent a house of worship's meeting room for a fundraiser on the same terms that others – including other candidates – in the community are permitted to rent the facility. Because of the potential for this to appear to be impermissible support for a candidate, however, many prudent houses of worship refuse to rent their facilities for political activities as a matter of policy.
- **The house of worship, including its leaders speaking in their official capacity, may not explicitly or implicitly endorse a candidate, potential candidate, political party, third-party movement or candidate draft effort.**
- **A house of worship cannot make a donation or a loan to a candidate, political party or political action committee.**
- **A house of worship may not permit political signs favoring a candidate or party to be posted on its property.**
- **A house of worship cannot focus its voter registration or other election-related activities in specific geographic areas that are selected because they are key districts or wards that may determine the outcome of the election.** (However, your congregation may target a geographic area because it is convenient to your location or because many members of your congregation or others of your faith community live there.)
- **A house of worship cannot coordinate its voter registration, "get-out-the-vote" drives, or other election-related activities with a candidate or political party.** Don't let candidates or political parties suggest the timing, message, audience, or location for these activities.

- **A house of worship cannot organize groups to work for a particular candidate.**
- **A house of worship cannot ask a candidate to pledge support for its religious denomination's position on an issue or publicize a candidate's independent decision to support or oppose the denomination's position.**
- **A house of worship cannot provide anything of value including space, equipment, mailing lists or staff time without charging full market value and allowing equal access to opposing candidates.** It's even safer if these resources are available on the same terms to the general public.
- **A house of worship cannot provide space for the distribution of partisan materials on its property, including voter guides that are not truly nonpartisan.** This prohibition includes information tables set up inside the house of worship with the political material available to those who choose to pick it up.

### THE IMPACT OF *CITIZENS UNITED V. FEDERAL ELECTION COMMISSION*

Recent court decisions, including *Citizens United v. Federal Election Commission*, have changed some of the rules about what business and nonprofit corporations are allowed to say about candidates and elections, but these decisions have not changed the rules that apply to houses of worship and other 501(c)(3)s, which are still prohibited from directly or indirectly supporting or opposing any candidate for any public office.

## HOW TO HANDLE SOME YELLOW LIGHT ISSUES

Sometimes perfectly well-intentioned and appropriate election activities by houses of worship wander into trouble areas by mistake. Here are a few suggestions on how to handle some of these “yellow light” issues, to make sure appropriate activities don’t veer toward the inappropriate.

If you invite candidates or representatives of their campaign to speak individually, in a non-candidate role ask them:

- To sign a promise saying they will not use their appearance to seek support for their candidacy or misuse photographs taken of the candidate at a service or with a religious leader to portray an endorsement of the candidate.
- To give you their written remarks in advance, so that you can review them to be certain they say nothing inappropriate or overtly partisan.

## IF YOU INVITE CANDIDATES TO SPEAK

- Remember that candidates come with the press corps, supporters and even operatives of rival campaigns – any of whom could misconstrue or even misrepresent what is said. So, when hosting a candidate, we recommend that you record the proceedings via audio or video.
- Remember, once you open the door to one candidate in their role as a candidate, you are under a legal obligation to grant equal time and equal audience to all other candidates in the race. Not doing so would violate the tax laws.

Two more suggestions:

- Whenever you or any other leader of the church plans to speak about the campaign or about candidates, we recommend that remarks be written and reviewed in advance. That will help prevent speakers from getting caught up in the passion of the moment and inadvertently issuing what might seem like a partisan endorsement.
- The IRS has a publication that you can also consult: “Tax Guide for Churches and Religious Organizations” (Publication 1828). This guide offers additional information on a variety of tax-related issues, particularly those concerning election-related activities. You can download this at <http://www.irs.gov/pub/irs-pdf/p1828.pdf>.

## POLITICAL PARTIES & HOUSE OF WORSHIP MEMBERSHIP DIRECTORIES

In the 2004 elections, we learned of concerted efforts on behalf of state and national political parties to collect house of worship membership directories through individual congregants. Was/is this legal? And if it's legal, is it ethical?

- Political parties are not necessarily violating the law when they request individual congregants to send them their house of worship's membership directories for get-out-the-vote (GOTV) efforts.
- It is, however, a violation of federal tax law for an official of a house of worship (in his or her official capacity) to provide a political party with such a list without making the same list available to other parties and without charging the market rate for the use of such a list. As a result, the political party's request inadvertently invites houses of worship to commit a tax law violation.
- There may also be issues under federal or state election laws. Providing a directory to a political party could be seen as a "contribution" and could be subject to reporting obligations and contribution limits (assuming the party uses the list for partisan purposes). However, if the value of the list is tiny, the contribution may not trigger reporting obligations.
- Sharing the directories could also be seen as invading the privacy of the members of the house of worship who presumably did not consent to the giving of their names to a political party. States may or may not have laws governing privacy and control of personal data and those laws will vary from state to state.

## INTERFAITH ALLIANCE'S POSITION

Collecting membership directories intrudes on the integrity of houses of worship and compromises their prophetic voice by classifying them as political organizing tools.

We are fearful that initiatives like this by any political party will lure religious organizations and religious leaders into dangerous legal territory.

Proponents of such list-gathering are leading religious leaders into the temptation to forfeit the prophetic voice of religion.

Regardless of whether you are an individual congregant or the religious leader of your house of worship, if you are solicited by a candidate or party to turn over your directory, don't do it.



## WHAT PEOPLE OF FAITH THINK

You know your congregation better than anyone, so we won't presume to tell you what they think. But we do know what Americans of faith in general think, because we've commissioned nationally respected pollsters to find out. For example:

- In a poll Interfaith Alliance Foundation commissioned the Gallup Organization to conduct, we learned that most Americans of faith have concluded that they don't have much effect on the political process. 61% say they make "only a little" or "no difference at all" in the political process as it currently operates.
- In a separate poll conducted by the Pew Forum on Religion in Public Life in August 2008, 52% of Americans surveyed said that houses of worship should stay out of politics. In yet another Pew Forum poll conducted in October 2008, 66% of those surveyed said that houses of worship should NOT endorse one candidate over another.
- In a 2001 Gallup poll, we learned that people of faith, by a 30 % margin (53% to 23%) disapprove of religious leaders supporting the preparation and distribution of voter guides about political candidates.
- One activity most Americans agree on is the important role for religious leaders in increasing voter participation. 66% of people of faith think religious leaders should promote voting and civic participation.

The message from Americans of faith is clear. They think houses of worship should encourage them to vote, but they don't want clergy or other religious leaders telling them *how* to vote. As it happens, that's where IRS regulations steer houses of worship, too.

Houses of worship have a unique role to play at election time and, if they do it well, they can help reduce the enormous cynicism about politics that has taken root in the land. At first glance, these

guidelines might seem a bit daunting. And as you approach the election, if you're planning on getting your house of worship involved in any way, we recommend you consult a qualified lawyer, so that you can satisfy yourself that our guidance – approved by a lawyer, too – is correct, and to ensure that your plans won't land you in trouble later with the IRS.

We recognize that it's sometimes difficult to get involved in elections without choosing sides. But as a leader of your house of worship, that's your obligation. However, you can help your followers make their own good decisions on Election Day, first by helping them get informed, and second, by helping to make sure they vote. Do that, and you'll have helped strengthen our democracy.

*The information provided in this guide is accurate to the best knowledge of Interfaith Alliance Foundation. While we have done our best to provide you with current information regarding your election-related activities, no resource guide can substitute for checking with the IRS, federal and state agencies administering election laws and your attorney regarding the legality of a house of worship and/or its religious leaders becoming involved in specific political activities. The Foundation is grateful for and wishes to acknowledge the assistance of tax and election law expert John Pomeranz, a partner in the Washington, D.C., firm of Harmon, Curran, Spielberg and Eisenberg, LLP in the preparation of this guide.*

## **STATE OF BELIEF, A RADIO SHOW ON RELIGION AND POLITICS**

HOSTED BY THE REV. DR. C. WELTON GADDY

Each week, Rev. Gaddy offers listeners critical analysis of news at the intersection of religion and politics, and seeks to provide listeners with an understanding of and appreciation for religious freedom. Rev. Gaddy tackles politics with the firm belief that the best way to secure freedom for religion in America is to secure freedom from religion. *State of Belief* illustrates how the Religious Right is wrong for America and bad for religion.

Through interviews with celebrities and newsmakers and field reports from around the country, *State of Belief* explores the intersection of religion with politics, culture, media and activism, and promotes diverse religious voices in a religiously pluralistic world.

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**“I believe that religion should – and can – serve as a positive and healing force in this nation – the most religiously diverse nation in the world. But that grand possibility will be tossed on the trash heap of history unless we stop the manipulation of religion for partisan political purposes and the manipulation of politics for sectarian gain.”**

**— Rev. Dr. C. Welton Gaddy**

## **ABOUT INTERFAITH ALLIANCE**

Interfaith Alliance celebrates religious freedom by championing individual rights, promoting policies that protect both religion and democracy, and uniting diverse voices to challenge extremism.

## **WHAT WE BELIEVE**

- We believe that religious freedom is a foundation for American democracy.
- We believe that individual rights and matters of personal conscience must be held sacred.
- We believe that religious and political extremists are a threat to individual liberty and democracy.
- We believe that celebrating religious and cultural difference is the way to achieve a vibrant community.

## **WHY IT MATTERS**

As religion plays an increasingly prominent role in American politics, preserving the boundary between religion and government is more vital than ever. Interfaith Alliance works to ensure that both faith and freedom flourish so that individuals can worship freely or not worship at all, so that they can embrace matters of personal conscience without fear of government intrusion and so that all can live in a vibrant, healthy society.

## **HISTORY**

Interfaith Alliance was created in 1994 to celebrate religious freedom and to challenge the bigotry and hatred arising from the religious and political extremism infiltrating American politics. Today, Interfaith Alliance has 185,000 members across the country representing 75 faith traditions as well as those of no faith tradition.

**FOR MORE INFORMATION, VISIT  
INTERFAITHALLIANCE.ORG/ELECTIONS**



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