

# What Churches and Pastors Can and Cannot Do

## Overview

Churches have a major role to play in addressing the cultural and moral issues of our day. The voice of the church matters. In times such as these when we see timeless values under attack all around us in our society, the need for the Church to be a strong voice for biblical truth is more critical than ever.

## Issue Analysis

Many churches and pastors have questions about how much they can be involved, particularly when it comes to election time. This hesitation has caused many churches to withdraw from the public arena instead of engaging in the debate. 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. Center for Arizona Policy's (CAP) legal department is available as a free resource to you on these issues, so please contact us at 602-424-2525 or [legal@azpolicy.org](mailto:legal@azpolicy.org).

## Legislative Activity

Generally speaking, as nonprofit 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 nonprofit 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 referenda. 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, and then urge your members to call their elected officials on a particular bill related to the issue.

Moreover, a pastor has complete freedom to preach about biblical perspectives on current social issues without discussing any specific pending legislation. There is no limit when preaching in general terms about social issues.

## **Election and Political Campaigns**

The IRS code is far more restrictive on churches and other nonprofit organizations in election activities. Partisan activity is prohibited completely, including engaging in any activity in support of or opposition to any candidate for political office or involvement in the political campaign of a candidate. 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 — 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, as long as no church facilities or resources are used.

### *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.

## Political Involvement for Churches 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 nonpartisan voter registration	Yes
Conduct nonpartisan 'get-out-the-vote' activities	Yes
Distribute nonpartisan voter guides	Yes
Distribute nonpartisan voting records	Yes
Support or oppose legislation	Yes
Support or oppose ballot initiatives	Yes
Support or oppose political or judicial nominee	Yes
Support or oppose political candidates	No
Candidate speaks at church (not identified as candidate; campaign not mentioned)	Yes
Host forum for political candidates (all candidates invited)	Yes
Political fundraising	Yes
Sale or rent church list to candidate at market value (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 nonpartisan voter registration	Yes
Distribute nonpartisan voter guides	Yes
Distribute nonpartisan voting records	Yes
Support or oppose legislation	Yes
Support or oppose ballot initiative	Yes
Support or oppose political or judicial nominee	Yes
As an individual, pastor endorses or opposes political candidate (no church resources or facilities used)	Yes
Pastor endorses or opposes political candidate from pulpit	No
As an individual, political fundraising (no church resources or facilities used)	Yes
As an individual, contribute to political candidates (no church resources or facilities used)	Yes
As an individual, contribute to political action committees (PACs) (no church resources or 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](http://www.irs.gov) or contact CAP's legal department: 602-424-2525 or [legal@azpolicy.org](mailto:legal@azpolicy.org).

**Talking Points:**

- **The First Amendment protects the rights of churches and religious leaders to speak out on public issues.** Churches have the right to speak about the critical issues of our time.
- **Churches and pastors are free to register voters, distribute non-partisan voter guides, and even take positions on ballot initiatives and referendums.** Center for Arizona Policy (CAP) is here to serve ministry leaders. If there is ever any question about your rights, call the CAP office at 602-424-2525.

## Conclusion

We hope this document makes clear that churches can do much to help their constituents become salt and light in our state and country. 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.

*© May 2018 Center for Arizona Policy, Inc. All rights reserved. This publication includes summaries of many complex areas of law and is not specific legal advice to any person. Consult an attorney if you have questions about your specific situation or believe your legal rights have been infringed. This publication is educational in nature and should not be construed as an effort to aid or hinder any legislation.*