POLITICS AND THE PULPIT

Understanding 501(c)(3) Political Activity Restrictions

IRS Guidance & Safe Practices for Churches (Updated July 2025)

Church Clergy Tax Management & Compliance

TODAY'S AGENDA

- Johnson Amendment & Legal Framework
- NEW IRS Guidance (July 2025)
- What's Prohibited: Candidate Endorsements
- What's Allowed: Issue-Based Discussion
- Voter Registration & Education Boundaries
- Safe Practices Framework
- Real-World Scenarios & Compliance

THE JOHNSON AMENDMENT: LEGAL FOUNDATION (1954)

- **Definition:** Tax law prohibits 501(c)(3) organizations from endorsing/opposing candidates
- **History:** Enacted 1954 by Senator Lyndon B. Johnson (applies to all 501(c)(3)s)
- **Scope:** Covers federal, state, local candidates & ballot initiatives
- **Enforcement:** IRS can revoke tax-exempt status for violation
- **Controversy:** Religious leaders claim First Amendment violations; IRS says charitable purpose conflict
- **Current Status:** Johnson Amendment still law (no repeal despite attempts)
- **Practical Impact:** Churches CANNOT tell congregants who to vote for

BREAKING: IRS GUIDANCE UPDATE (JULY 2025)

- **New Interpretation:** IRS clarified religious lens can frame political discussion
- **Key Ruling:** Churches MAY discuss candidates through religious/moral perspective
- **Safe Approach:** Issue-based (not candidate-based) discussion permitted
- **Example Allowed:** "Our faith teaches X value; discuss how candidates align with this value"
- **Example Prohibited:** "Vote for Candidate Y because we endorse their positions"
- **Documentation Key:** Church must show discussion is religious, not political
- **Enforcement:** IRS focuses on DIRECT endorsements (still enforces Johnson Amendment)

EXPLICITLY PROHIBITED: CANDIDATE ENDORSEMENTS

- **Direct Endorsement:** "We endorse Candidate X for office" (VIOLATION)
- **Pulpit Endorsement:** Pastor says "Vote for Candidate Y" in sermon (VIOLATION)
- **Church Resources:** Using church funds/facilities to support candidate campaign (VIOLATION)
- **Implied Endorsement:** "Candidate X shares our values" (risky; may be violation)
- **Partisan Materials:** Distributing campaign materials in church (VIOLATION)
- **Voter Guides by Candidate:** Distributing candidate-created comparison (VIOLATION)
- **Penalty:** IRS revokes 501(c)(3) status, retroactive tax liability, loss of donor deductions

WHAT'S ALLOWED: ISSUE-BASED & RELIGIOUS DISCUSSION

- **Religious Teaching:** "Our faith teaches X; apply this principle to public issues"
- **Issue Discussion:** "Here's where candidates stand on healthcare (fact-based)"
- **Voter Education:** Non-partisan voter guides showing all candidates' positions
- **Voter Registration:** Help register voters (non-partisan, all eligible registered)
- **Civic Education:** Teach how to evaluate candidates through YOUR religious values
- **Moral Framework:** "Our faith calls us to care for poor; consider candidates' positions on poverty"
- **Documentation:** Church materials should focus on VALUES not CANDIDATES

Practical Examples: Allowed vs. Prohibited

✅ ALLOWED

- "Vote your values"
- Issue-based voter guide
- Religious perspective on policy
- Register all voters equally

❌ PROHIBITED

- "Vote for Candidate X"
- Candidate-biased voter guide
- Campaign endorsement
- Register only certain voters

Voter Registration: What Churches Can Do

- **Registration Drives:** Churches CAN conduct voter registration (highly encouraged)
- **Equal Access:** Must register ALL eligible voters (not just those with preferred views)
- **Non-Partisan:** Registration must not favor one party/candidate
- **Citizenship Check:** Register only eligible citizens (legal requirement)
- **Agency Cooperation:** Partner with election officials or non-partisan organizations
- **Transportation:** Provide transportation to polling locations (non-partisan)
- **Education:** Teach how registration process works (voting procedures, ballot issues)

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Voter Education: Fact-Based Candidate Information

- **Non-Partisan Voter Guide:** Create guide showing ALL candidates' responses to same questions
- **Neutral Questions:** Ask candidates about their position on church-relevant issues (healthcare, education)
- **Equal Treatment:** Present all candidates equally; no editorial commentary
- **Candidate Responses:** Use exact quotes/responses; don't paraphrase or edit
- **Distribution:** Make available to all (congregation, public, media)
- **No Commentary:** Don't add opinions about which response is better
- **Platform Access:** Invite all candidates to speak (equal time/treatment)

Public Policy Advocacy: What Churches CAN Do

- **Issue Advocacy:** Churches CAN advocate for/against legislation (abortion, healthcare, climate)
- **Lobbying Limits:** Limited lobbying allowed (no substantial part of activities)
- **Testimony:** Church leaders can testify before Congress/state legislature on issues
- **Contact Legislators:** Encourage members to contact elected officials on issues
- **Petition Campaigns:** Organize petitions on issues (not candidates)
- **Coalition Building:** Partner with other organizations on policy issues
- **Documentation:** Track advocacy activities (IRS requires reporting if substantial lobbying)

Campaign Activity: What's Restricted

- **Candidate Speeches:** Hosting candidate forum OK (if equal opportunity for all)
- **Fundraising:** CANNOT host fundraising event for candidate/party (VIOLATION)
- **Campaign Space:** CANNOT donate church facilities to campaign (VIOLATION)
- **Volunteer Time:** CANNOT use church staff time for campaign (VIOLATION)
- **Email Lists:** CANNOT provide member contact list to campaign (VIOLATION)
- **Campaign Materials:** CANNOT distribute candidate literature (VIOLATION)
- **Permitted:** Members can volunteer as individuals (not using church resources)

Ballot Initiatives: Churches CAN Take Positions

- **Ballot Measure Position:** Churches CAN advocate for/against ballot measures (unlike candidates)
- **Example Allowed:** "Our faith calls us to vote YES on Proposition X (affordable housing)"
- **Religious Perspective:** Frame position through religious values/teachings
- **Church Resources:** CAN use church funds/facilities for ballot measure advocacy
- **Lobbying Activities:** Advocacy on ballot measures counts as lobbying (track for IRS)
- **Documentation:** Maintain records of position & rationale (religious basis)
- **Limit:** Ballot measure advocacy should not be substantial part of church activities

Pastor Speech: Personal vs. Church Position

- **Personal Opinion:** Pastor CAN express personal political views (as individual)
- **NOT Church Position:** Personal opinion is NOT church endorsement (must be clear)
- **Sunday Sermon:** Avoid candidate endorsements in sermons (risky even if framed personally)
- **Safe Approach:** Discuss issues/values; let congregation apply to candidates
- **Documentation:** Church should state pastor's opinions are personal, not church's
- **Outside Church:** Pastor can campaign outside church hours as individual (no church resources)
- **IRS View:** Pastor endorsement from pulpit = church endorsement (risky classification)

Red Flags: Behaviors That Trigger IRS Investigation

IRS Watch List

- Candidate endorsement
- Campaign fundraising
- Candidate facility use
- Campaign material distribution

Congregation Complaints

- Members report violation
- Anonymous tip to IRS
- Media coverage
- Routine audit review

Consequences: Violation Penalties

- **First Violation:** IRS sends letter (reasonable cause exception may apply)
- **Second Violation:** Loss of 501(c)(3) status (retroactive to violation date)
- **Excise Tax:** 10% tax on excess revenue from political activities
- **Retroactive Liability:** Church becomes taxable entity (federal & state income tax)
- **Donor Deductions Lost:** Donors cannot claim charitable deduction for years violation occurred
- **Property Tax Loss:** Church may lose property tax exemption (state/local)
- **Reputational Harm:** Loss of member trust, public confidence in church integrity

Safe Practices Framework: How to Stay Compliant

- **Written Policy:** Adopt formal policy on political activity (board approval)
- **Pastor Training:** Educate pastor on Johnson Amendment restrictions & safe practices
- **Board Oversight:** Board monitors sermon content & church communications for violations
- **Annual Certification:** Pastor & church leaders certify no political violations
- **Documentation:** Maintain records of discussions, sermons, communications for IRS defense
- **Issue Focus:** Train all staff: discuss ISSUES, not CANDIDATES
- **Legal Review:** Have church attorney review any borderline communications before distribution

Case Study: The Pulpit Endorsement Problem

Situation: Pastor says from pulpit, "I encourage you to vote for Candidate X because he shares our Christian values on marriage."

IRS Position: Even though pastor framed as personal opinion, saying from pulpit = church endorsement (violation)

Consequence: Church loses 501(c)(3) status; retroactive tax liability; donors lose deductions

✅ **Safe Alternative:** "Our faith teaches X about marriage; consider how candidates align with this value"

Political Activity Compliance Checklist

- ☐ Written policy on political activities adopted by board
- ☐ Pastor trained on Johnson Amendment & safe practices
- ☐ No direct candidate endorsements in sermons/materials
- ☐ No church resources used for candidate campaigns
- ☐ No fundraising events for candidates/political parties
- ☐ Voter registration drives conducted non-partisan (all eligible voters)
- ☐ Voter guides prepared fact-based & candidate-neutral
- ☐ Ballot measure positions grounded in religious/moral perspective

Political Activity Checklist - Continued

- ☐ Board monitors sermons & communications for violations
- ☐ Annual certification of no political endorsements
- ☐ Legal review of borderline communications before distribution
- ☐ Documentation maintained (sermons, newsletters, email) for IRS defense
- ☐ Issue-based discussion (not candidate-based) in all church teaching
- ☐ Equal platform access for all candidates when hosting events
- ☐ No partisan/campaign materials distributed from church facilities
- ☐ Church attorney consulted on high-risk political discussions

Key Takeaways: Politics & the Pulpit

- Johnson Amendment prohibits 501(c)(3) candidate endorsements
- NEW July 2025 IRS guidance permits issue-based discussion through religious lens
- Clear line: Discuss VALUES & ISSUES; Don't endorse CANDIDATES
- Voter registration, education, ballot measure advocacy all permitted
- Violation consequences severe: Loss of 501(c)(3), retroactive taxes, donor deduction loss
- Written policy + pastor training = strongest compliance defense
- Documentation essential: Maintain records for IRS audit defense

Political Compliance Implementation: 90-Day Plan

Days 1-30

- Review current practices
- Identify gaps
- Consult attorney

Days 31-60

- Draft policy
- Board approval
- Pastor training

Days 61-90

- Implement policy
- Communicate to staff
- Document process

Thank You

Discuss Values, Empower Voters, Protect 501(c)(3) Status

Next: Housing Allowance Maximization for Pastors