

CHURCHES & POLITICS

A LEGAL GUIDE FOR CHURCHES ON FAITHFUL POLITICAL ENGAGEMENT



CHURCH & MINISTRY
ALLIANCE

“

Be subject for the Lord's sake to every human institution, whether it be to the emperor as supreme, or to governors as sent by him to punish those who do evil and to praise those who do good.

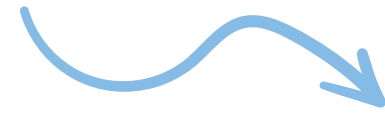
For this is the will of God, that by doing good you should put to silence the ignorance of foolish people. Live as people who are free, not using your freedom as a cover-up for evil, but living as servants of God. Honor everyone. Love the brotherhood. Fear God. Honor the emperor.

1 PETER 2:13-17 (ESV)

”

TABLE OF CONTENTS

INDEX IS LINKED TO EACH PAGE, CLICK HERE



Introduction.....	1
The Johnson Amendment.....	3
Questions & Answers.....	4
What Else Do I Need to Know?.....	8
Political Activity Checklist.....	9



INTRODUCTION

The church has persevered through various earthly regimes; God has preserved it in times of prosperity and persecution. Through the ages, the church has wrestled with living out God's commands through Peter to "fear God" and "honor the emperor."

How are we to do this in 21st-century America? Through Scripture and prayer, this is a question for you and your church to consider. However, an issue affecting all churches is the nuanced law, leaving many church leaders uncertain of what they can and cannot legally carry out in the political arena.

This guide presents five questions every church should ask as they consider their role in political engagement. Our hope is that this guide helps you think deeply about the mission to which God has called your church and that it helps you navigate the legal realities that inevitably come into play for American churches.

Keep in mind that every situation is different. You should not rely on this guide as legal advice. Please reach out to the Alliance Defending Freedom (ADF) Church & Ministry Alliance team with specific questions, as we are here to be a resource for your mission.

“

Unless we develop Spirit-filled character and virtue, as those who claim the name of Jesus Christ and seek his way, we're bound to stumble in our engagement. Who we are, in some measure, determines the path of engagement, the way we live as salt and light in a fallen world.

– TREVIN WAX

”



What Is My Church's View on Political Engagement?

The bulk of this guide is dedicated to the implications of the law in America related to the public engagement of churches and religious organizations. However, this first question is a reminder that the primary issue for a church is carrying out its mission in light of its sincere beliefs and convictions.

It is easy to fast-forward to what is allowed or prohibited, but the most important question for a church is always, “To what has God called us?”

We often hear from pastors and church leaders from a variety of traditions and affiliations seeking to steward their resources — including their voice — for kingdom impact. Many leaders feel strongly convicted to speak boldly on issues at the intersection of faith, politics, and citizenship. Others take a more understated approach to the public square.

In all cases, the leaders we serve are passionate about speaking the truth of the Gospel in a secular culture that desperately needs the love and hope of Christ. Therefore, the first recommendation in this guide is to reflect on how God has built and prepared your church to engage on cultural and political issues. Here are a few additional questions to ponder regarding political engagement:

- 1. How does our church interpret the role of government and the role of the church?**
(Romans 13:1–7; 1 Peter 2:13–17)
- 2. How do our beliefs in this area form a theology of public engagement?**
- 3. How does our church speak publicly on political issues? How do we plan sermons, Bible studies, or educational opportunities?**
- 4. How do we use our facilities or other resources in light of our convictions on public engagement?**

The answers to these questions will inform which aspects of the law will need to be considered as your church seeks to carry out its mission in the public square.

THE JOHNSON AMENDMENT:

The central law affecting churches' political engagement

Introduced to the U.S. tax code in 1954, the Johnson Amendment forbids 501(c)(3) charitable organizations — including churches — from participating or intervening in political campaigns for or against any candidate for public office. Taking its name from then Senator Lyndon B. Johnson, the amendment may have originated from anti-communists in Congress trying to stifle support for radical groups attempting to influence elections.

Johnson may have had additional motives for the amendment, including the fact that two Texas nonprofits actively campaigned against him. Unlike most amendments or legislation, the Johnson Amendment received minimal revision from Congress and was swiftly implemented into the 1954 Internal Revenue Code.

Since its enactment, churches that operate as 501(c)(3) charitable organizations must adhere to the law or face the possibility of losing their tax-exempt status. The following questions and scenarios will walk you through the constraints presented by the Johnson Amendment.



Can My Church Support or Oppose Candidates?

SHORT ANSWER: No.

LONG ANSWER: The Johnson Amendment prohibits churches from supporting or opposing a political candidate or party. This is applicable to all political races — federal, state, or local. This includes elections ranging from the president of the United States all the way to your local school board or city council.

The law prohibits speech in the form of both sermons from the pulpit and monetary contributions. This can include buying airtime for a commercial, printing and distributing flyers, purchasing advertisements, permitting political signs on church property, and giving money directly to a candidate. If you are unsure whether to permit a political sign on your church's property, please contact the ADF Church & Ministry Alliance team to help you navigate your concerns.

Churches are also not allowed to provide gifts or money to political organizations. Commonly known as political action committees, political organizations' main purpose is to accept contributions and spend money to influence the selection, nomination, election, or appointment of a candidate for elected public office.

Can My Church Be Involved in Lobbying?

SHORT ANSWER: It depends.

LONG ANSWER: As a church, you can discuss legislative issues; support or oppose legislation, referendums, or initiatives; and encourage your members or the public to support or oppose legislation so long as your actions are limited to an “insubstantial amount.”

The IRS does not define what constitutes an “insubstantial amount” but determines if the threshold is met by examining the relevant details of each case, such as the time and money spent on the activity in question.

DIRECT & GRASSROOTS LOBBYING

If your church has direct communications with government officials supporting or opposing legislation, you are engaging in *direct lobbying*. If your church is urging nonmembers and the public to contact government officials in support of or in opposition to specific legislation, you are engaging in *grassroots lobbying*. Both forms of lobbying – direct and grassroots – are limited to the “insubstantial amount” rule.

While the IRS has conditions on lobbying, your state may also place restrictions on activities related to ballot measures that could subject your church to registration and reporting requirements as a political committee. We recommend checking your state’s election laws.

Please note that while states, cities, and localities allow citizens and organizations to propose specific legislation to be placed on the ballot, ADF does not advise churches to be sponsors.

“

He who surrenders himself without reservation to the temporal claims of a nation, or a party, or a class is rendering to Caesar that which, of all things, most emphatically belongs to God: himself.

– C.S. LEWIS, *THE WEIGHT OF GLORY*

”



Can My Church Host Election Candidates?

SHORT ANSWER: Yes, but there are rules.

LONG ANSWER: Your church may be able to invite political candidates to speak at events, either in their role as a candidate or in their personal capacity.

If you invite someone to speak at your church in their capacity as a candidate for office, the IRS may consider relevant factors and circumstances to determine whether the invitation is considered participation or intervention in a political campaign. You should not permit any political fundraising at the event, and you should maintain a nonpartisan atmosphere.

EQUAL OPPORTUNITY

When asking an individual to speak, it is important to provide all candidates with an equal opportunity to participate. Be mindful of both the presentation of the speaker and the nature of the event. Inviting one candidate to speak at a well-attended Sunday service and the opposing candidate to speak at a sparsely attended general meeting will likely be found to violate the Johnson Amendment, even if the presentation of both speakers is otherwise neutral.


OPEN FORUM

A public forum involving several candidates for public office may qualify as an “exempt educational activity” from the political campaign prohibition. However, if your church operates a public forum to show a bias for or against any candidate, that could be considered intervention or participation in a political campaign.

You should consider whether the questions for the candidates are prepared and presented by a nonpartisan panel, whether the topics discussed cover a broad range of issues relevant to the election to the office, and whether each candidate is given an equal opportunity to present his or her views.

Be cautious of asking candidates to agree or disagree with positions, statements, or beliefs of your church, and ensure you do not have a moderator who comments on the questions, implying approval or disapproval of any candidate.

Your church can invite political candidates, including your church members, to speak in their individual capacity. When a candidate is invited to speak in their individual capacity, you should not make any mention of their candidacy or the election.



Can Pastors Speak About Politics in Their Personal Capacities?

SHORT ANSWER: Yes, with caveats.

LONG ANSWER: While pastors are restricted by the Johnson Amendment when speaking as an official representative of their church, they can support or oppose candidates for public office when acting in their personal capacity. As a pastor, you do not surrender your individual First Amendment rights when you agree to lead a ministry.

The best way to ensure that whoever you are talking with understands you are speaking from your personal capacity is to indicate clearly that your comments are personal and are not intended to represent the church. For example, posting on your personal Facebook page with the caveat that all opinions are your own and do not represent the church would be considered speaking in your personal capacity.

Making partisan comments in official church publications or at official church events does not qualify as speaking in your individual capacity.

BIBLICAL ISSUES PRESENTED IN POLITICS

The law cannot stop you from teaching your church how to approach current topics of debate from your religious perspective. There is much to expound from the Bible on the public, social, and moral issues of concern today, and the church has a unique opportunity to guide the discussion surrounding many of these topics.

You can discuss biblical issues regardless of pending legislation on the topic. However, if you begin to support or oppose the legislation within that discussion, it becomes subject to the “insubstantial amount” rule.

Even if your statement does not explicitly encourage others to vote for or against a specific candidate, your church can be at risk of violating the political campaign intervention prohibition if the statement appears to be in favor of or in opposition to a candidate.

Your church can be involved in issues of public policy without the involvement being considered lobbying if the activity is educationally framed, such as hosting educational meetings or preparing and distributing educational material.

What Else Do I Need to Know?

VOTER REGISTRATION, IDENTIFICATION, AND ORGANIZATION

Your church can participate in nonpartisan voter registration, voter identification, and “get out the vote” activities. To be considered nonpartisan, the activity should not be directed at the supporters of any candidate or political party. However, the activity may be directed toward other groups of people, such as church members or those who live in a particular geographic area.

VOTER GUIDES

Your church can distribute voter guides if they are educational and unbiased. Questionnaires used to develop the guides must be unbiased and sent to all candidates. The questions should cover a wide variety of issues and should not have any bias toward your church’s preferred answer.

The responses should be published in the candidates’ own words or in a neutral, unbiased, and in-context manner. The responses should not be compared to the church’s preferred position, and the survey must not be overseen in any way by any candidate.

DISTRIBUTING LITERATURE IN THE CHURCH PARKING LOT

In general, you may permit people to distribute political literature in your church’s parking lot so long as your permission is given in a neutral and unbiased manner. If the distribution of literature supporting one candidate is permitted, then the distribution of literature supporting other candidates must also be permitted.

If you do not desire political literature to be distributed on your property, you may choose to decline all requests for distribution on your premises, as it is your church’s private property.

USING YOUR CHURCH AS A POLLING PLACE

Your church can work with your local government to act as a polling place for elections. At times, polling locations are scarce, and using your church building as a polling place can minister to your community.

“

In no other arena is the church at greater risk of losing its calling than in the public square.

– PHILIP YANCEY, *CHRISTIANS AND POLITICS: UNEASY PARTNERS*

”

Political Activity Checklist

POLITICAL ACTIVITY	ALLOWED?	EXPLANATION
Discussing political issues	Yes	See Page 2.
Supporting or opposing candidates for elective public office	No	See Page 4.
Contributing money, services, or nonmonetary gifts to candidates	No	See Page 4.
Raising or spending money to support or oppose candidates	No	See Page 4.
Contributing to political action committees	No	See Page 4.
Using church funds to pay for the expenses of a pastor's or church member's attendance at a national political party convention	No	See Page 3.
Inviting political candidates to speak at the church (outside the context of their candidacy or campaign)	Yes	See Page 6.
Hosting nonpartisan voter registration activities	Yes	See Page 8.
Hosting nonpartisan voter identification activities	Yes	See Page 8.
Hosting nonpartisan "get out the vote" activities	Yes	See Page 8.
Distributing nonpartisan voter education materials	Yes	See Page 8.
Lobbying for or against legislation	Insubstantial amount	See Page 5.
Supporting or opposing ballot measures	Insubstantial amount	See Page 5.
Spending money to advance or defeat ballot measures	Insubstantial amount	See Page 5.
Distributing nonpartisan candidate surveys or voter guides	Yes	See Page 8.
Distributing candidates' voting records in an unbiased manner	Yes	See Page 8.

POLITICAL ACTIVITY	ALLOWED?	EXPLANATION
Distributing candidate campaign literature	No	See Page 8.
Distributing political materials by others equally in the church parking lot	Yes	See Page 8.
Renting out church facilities at regular rates (made available to all candidates)	Yes	See Page 8.
Providing a link to a particular campaign page on the church's website	No	See Page 4.
Publishing editorials endorsing or opposing candidates	No	See Page 4.

“

First of all, then, I urge that supplications, prayers, intercessions, and thanksgivings be made for all people, for kings and all who are in high positions, that we may lead a peaceful and quiet life, godly and dignified in every way.

1 TIMOTHY 2:1-2

”



CHURCH & MINISTRY
ALLIANCE

ADFChurchAlliance.org