

DIOCESAN POLICY ON ADVOCACY, LOBBYING, AND POLITICAL ACTION

June 2020

While it is increasingly accepted that major public issues have moral dimensions and that religious values have public consequences, there often is confusion and controversy over the participation of religious individuals and groups in public life. Following are some practical policies for the diocese, pastors, and parishes on **advocacy, lobbying** and **political action**. These policies take into account the requirements for the Church's tax exempt 501(c)(3) status, under the Internal Revenue Code (IRC), and clarify what is allowed on both an individual and an institutional basis.

I. Individual Citizens

Individual citizens are free to engage fully in partisan politics. The Church encourages all citizens to vote. Voters are urged to examine the positions of all candidates for public office on the full range of issues, as well as on their personal integrity and performance.

II. Religious Leaders and Officials of Catholic Organizations

Religious leaders, including ordained religious, parish administrators, and lay leaders, as well as officials of Catholic organizations (as named in the current P.J. Kennedy & Sons Official Catholic Directory), acting within their individual capacities, may engage in political activity *only if* the activity is not at an official function of the organization, or through the organization's official publications, and includes a disclaimer that "no endorsement by the organization is implied."

However, because organizations act through individuals, religious leaders should avoid endorsements or other political activity, contributions, or political activism, even when acting in their individual capacity. Although not prohibited, it may be difficult to separate their personal activity from their role as a Church leader, and the activity may be attributed to the Catholic organization. Ecclesiastical attire should not be worn at any partisan political event.

Requests by candidates or campaign organizations to accommodate a photo opportunity at a Catholic school, health care facility, with the bishop or pastor, or an attempt to otherwise access the Catholic population, may be possible in rare circumstances. Each request must be

approved by the Diocese or the Montana Catholic Conference. Requestors should be informed of the status as a 501(c)(3) organization and the limitations imposed by the political campaign activity prohibition.

III. Church Organizations

Political Campaign Activity

Regarding political campaign activity, the United States Conference of Catholic Bishops' *Political Activity Guidelines for Catholic Organizations* (2018) states that the Internal Revenue Code:

“provides that an organization described in section 501(c)(3) may not ‘participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.’”

and

“The IRS interprets the political campaign intervention prohibition as absolute, meaning that a single act can cause an organization to lose its tax exemption, regardless of whether the act constitutes a substantial part of the organization’s activities. Courts have supported this view.”

Unlike individuals, churches and other non-profit institutions, which qualify for tax-exempt status under the Internal Revenue Code, *may in no way* engage in partisan politics such as supporting or opposing individual candidates for office. No diocesan or parish entity or organization or other 501(c)(3) exempt church organization should engage in voter education communications which directly or indirectly suggest that a particular candidate or party should be supported or opposed.

No diocesan or parish entity or organization may endorse or oppose or evaluate any political party or candidate for public office. The following are examples of activities which *are not* allowed:

- Urging readers or listeners to vote for or against a particular candidate or party;

- Labeling a candidate or party as "pro school aid" or "anti-life"; such a practice removes objectivity by not allowing readers to evaluate a candidate's position themselves;
- Using plus (+) or minus (-) signs to evaluate the candidate or party;
- Rating candidates or parties on a scale of "1 to 10" for example, or otherwise saying "X is good," "Y is better"; *and*
- The use of marked sample ballots.

Prohibited political activities also include:

- Providing or soliciting financial or in-kind support for any candidate, political party, or Political Action Committee (PAC);
- Issuing organizational statements of support or opposition for any candidate, political party, or PAC;
- Distributing voter educational materials biased with respect to any candidate, political party, or PAC; *and*
- Inviting a candidate to a parish function during an election campaign, unless all candidates for that office are invited.

"Activity" includes verbal and physical actions, printed publications, as well as electronic materials. Messages communicated through an organization's website are viewed the same as printed publications.

Lobby Activity

Although 501(c)(3) status prohibits political campaign activity, church organizations may engage in a limited amount of political lobbying. The primary difference between lobbying and political campaign activity is that lobbying focuses on legislation, whereas political campaign activity is focused on candidates and political parties. Lobby activities must be limited and *may not* constitute a substantial part of the organization's total activity, measured by time, effort, expenditure and other relevant factors.

The Internal Revenue Service (IRS) has identified the following factors for determining whether issue advocacy constitutes political campaign intervention:

- 1) Whether the communication identifies candidates for political office;

- 2) Whether the communication expresses approval or disapproval for the candidate's position or actions;
- 3) Whether the communication is delivered close in time to an election;
- 4) Whether the statement makes reference to voting or an election;
- 5) Whether the issue addressed is raised to distinguish a candidate;
- 6) Whether the communication is part of an ongoing series of communications on the same issue, made independent of the timing of an election; *and*
- 7) Whether the timing of the message and identification of a candidate are related to a non-electoral event, such as a scheduled vote on specific legislation by an officeholder who also is a candidate.

Examples of issue advocacy likely to constitute political intervention, which are to be *avoided*, include:

- Use of code words, such as "conservative," "liberal," "pro-life," "pro-choice," "Republican," "Democrat," coupled with discussion of a candidate or election, even if no candidate is specifically named, if there is a reasonably overt indication that the organization supports or opposes a candidate, rather than the message being restricted to an issue.
- Messages favoring or opposing a candidate, which include either the candidate's name, picture, reference to political affiliations, or other distinctive features of the candidate's platform or biography.

The following do not constitute political intervention and are *allowed*:

- Communication which identifies specific legislation, that the organization hopes to influence;
- Identifying the candidate solely as a government official in a position to act on public policy, and not as a candidate; *and*
- Identifying a candidate in a list of key sponsors of legislation, which is the subject of the communication.

Educational Activity

Catholic organizations are permitted to educate candidates and the public during election campaigns, with special emphasis on the principles of Catholic and moral

teaching. Educating candidates about particular issues must be done privately without public dissemination of the candidate's position by the organization. Educating the public regarding candidate positions on issues is also permitted, as long as this activity remains unbiased.

Catholic organizations are encouraged to educate the public about issues, and addressing the moral aspects of public policy and advocating for legislation is permitted during election campaign periods. Positions on public policies and legislative proposals may be taken because such advocacy is not partisan activity. Educational messages are restricted and must focus on the issue rather than a particular candidate.

The following are examples of such *acceptable* activity:

- Educational efforts, which share the Church's teaching on human life, human rights, social justice and peace, and highlight the moral and ethical dimensions of public policy issues or legislation.
- Encouragement of letter writing campaigns and other contacts with state or federal legislators designed to educate them and to develop support for legislation.
- Distribution of flyers containing a statement about an issue or issues before Congress, the Montana Legislature, or local government, containing the names and addresses of elected representatives.
- Preaching, with emphasis on deepening the understanding of the sanctity of human life, and distribution of pertinent information concerning particular issues, especially those affecting human life.

Additional Activities

Other activities the Church commonly encounters around election time include the distribution of voter guides and participation in voter registration and get-out-the-vote drives. Each of these activities must be monitored and consider the Church's 501(c)(3) status.

Voter Guides

Catholic organizations should be wary of outside groups seeking to distribute their "voter education" materials. Distribution of a biased voter guide constitutes political campaign

intervention, even if the voter guide was prepared by another organization. Outside voter education materials should be approached with extreme caution, including materials accompanied by outside legal opinions. Among other things, the issues covered in outside voter education materials typically do not illustrate the wide range of issues of importance to the Church, but rather reflect the issue focus of the preparing organization. In addition, their preparation, content, format and presentation may not satisfy the requirements of section 501(c)(3) applicable to Catholic organizations. Often, the organizations preparing these voter education materials are not section 501(c)(3) organizations, and thus are not subject to the political campaign intervention prohibition. The fact that it may be permissible for the preparing organization to distribute a voter guide does not make it appropriate for Catholic organizations to do so. Therefore, diocesan policies *prohibit* distribution of any voter education materials that have not been approved or made available by the diocese or Montana Catholic Conference.

Compilation of incumbents' voting records is a common method of voter education. Whether the publication and distribution of incumbents' voting records violates the political campaign activity prohibition depends on an evaluation of all relevant facts and circumstances. Distribution during an election campaign of a biased voting record, *i.e.* one that indicated the organization's position and whether the legislator voted in accordance with that position, could avoid violating the political campaign intervention prohibition only in extremely limited circumstances. Therefore, diocesan policy also prohibits distribution of incumbent voting records that have not been approved or made available by the diocese or Montana Catholic Conference.

Voter Registration/Get-Out-the-Vote Drives

Catholic organizations may sponsor voter registration and get-out-the-vote drives, provided that no bias for or against any candidate, political party, or voting position is evidenced. Such bias would be indicated by distribution of partisan literature or materials indicating the sponsoring organization's positions in connection with the voter registration or get-out-the-vote drive, by targeting registration or get-out-the-vote drives toward individuals who support the organization's positions or a particular candidate or party, or by coordinating the drive with candidates or their committees.

Catholic organization voter registration or get-out-the vote efforts *should not* be conducted:

- In cooperation with any political campaign;
- According to the identity of the candidates;
- Based upon a candidate's or party's agreement or disagreement with the sponsoring organization's positions; *or*
- In a manner targeting members of a particular party.

The IRS offers the following factors for determining whether an organization sponsoring a voter registration or get-out-the-vote drive has violated the political campaign intervention prohibition:

- Whether no candidate is mentioned or depicted or all candidates for a particular office are mentioned or depicted without favoring any candidate over any other;
- Whether communications about the drive names no political party except for identifying the party affiliation of all candidates named or depicted;
- Whether communications about the drive are limited to urging acts such as voting and registering to vote and to describing the hours and places of registration and voting; *and*
- Whether all services offered in connection with the drive are made available without regard to the voter's political preference.

IV. Church Facilities

Church property and facilities should not be used in campaign ads or for any kind of political activity. Political signs are not allowed on Church property. Although churches have no jurisdiction over public sidewalks and other public property in their vicinities, church parking is private property and the general public has no right to distribute partisan materials thereon. Leaders of Catholic organizations should deny permission for any such activity, such as political leafleting or facility use for any organization affiliated with a party or which endorses candidates.

V. Petitions

The Montana Catholic Conference staff reviews all of the statewide ballot initiatives and referenda. The bishops, after appropriate consultation, may choose, either individually or as a conference, to support, oppose or take no position on each measure.

When neither the Montana Catholic Conference nor the diocese has taken a public position on a specific measure, a parish or Catholic organization should not do so without previous consultation with the Bishop, or his designee. Granting the use of Church facilities to outside groups who advocate in support or opposition of political parties, candidate, or issues should rarely be allowed, unless permission is obtained from the bishop or the local pastor.

Conducting signature drives for an initiative is considered a lobbying activity and must be counted in determining whether the parish or diocese has engaged in more than insubstantial lobbying during a taxable year. Signature gathering for ballot measures which originate in the Bishop's office or through the Montana Catholic Conference will be permitted, but the time allotted for such activities must be limited. Because signature drives are considered a lobbying activity, all other requests for signature gathering at parishes, on Church property, or at diocesan events will be denied, unless fully vetted by the Bishop and the Montana Catholic Conference, and specifically authorized by the Bishop.

Do not hesitate to contact the Montana Catholic Conference or the diocese for further assistance. These guidelines were developed using the United States Conference of Catholic Bishops' *Political Activity Guidelines for Catholic Organizations* (2018) available at <http://usccb.org/about/general-counsel/upload/Political-Activity-and-Lobbying-Guidelines-for-Catholic-Organizations.pdf>.

Official Copy for Montana Catholic Conference

Bishops' Approval

Michael W. Warfel

Most Rev. Michael W. Warfel
Diocese of Great Falls-Billings

June 17, 2020

Date

+ Austin A. Vetter

Most Rev. Austin A. Vetter
Diocese of Helena

June 23, 2020

Date