

Protect Nonprofit Nonpartisanship

Oppose Efforts to Repeal or Weaken the Johnson Amendment

The vast majority of Americans and charitable nonprofits, houses of worship, and foundations firmly believe that 501(c)(3) organizations should remain dedicated solely to the public good and should stay away from raw partisan politics. They strongly oppose efforts to remove the longstanding protection in federal law that prevents charitable, religious, and philanthropic organizations from engaging in partisan politicking.

The Issue: Proposals in Congress would repeal or significantly weaken the final clause of Section 501(c)(3) (known as the Johnson Amendment), which provides that in exchange for tax-exempt status and the ability to receive tax-deductible contributions, a charitable nonprofit, religious organization, or foundation 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.” For 60+ years, that provision has been a valuable protection that keeps charitable nonprofits, foundations, and religious institutions focused on their missions rather than diverting their time, money, and other resources to engage in partisan electioneering.

The Consequences: If enacted, the legislative proposals would politicize charitable nonprofits, houses of worship, and foundations, plunging them into the caustic partisanship that bedevils our country. It would hurt the public and damage the capacity of organizations in a wide variety of ways, including this sampling:

- Eroding missions: When nonprofit board members – and donors – demand that the organization take sides in a local, state, or federal election.
- Corroding public trust and threatening charitable contributions: When donors demand that the organization endorse certain local, state, or federal candidates – and then they or other donors stop supporting the organization if it remains neutral or supports the other side.
- Limiting effectiveness: When board members with contrary views demand that the organization endorse opposing candidates, whether business clients, family members, or college friends, creating ill-will and polarizing the board on other unrelated issues.
- Reducing resources: Pressure on 501(c)(3) organizations to redirect charitable resources (money, staff time, facilities, member lists, fundraising help – as well as their brand value) to partisan political campaigns.
- Increasing dark money: Partisan donors start to use charitable nonprofits the same way they have been using some 501(c)(4) social welfare organizations since the *Citizens United* decision to anonymously funnel money into partisan, election-related activities. But now they would be able to take a tax deduction for purely partisan spending.
- Eliminating a desired safe refuge: Americans are fed up with hyper-partisanship, and view their houses of worship and charitable nonprofits as safe havens where they can escape the acrimony and division.

Indeed, the only true beneficiaries of removing the protection would be politicians and paid political consultants.

What the Public Thinks: The public overwhelmingly supports current law and wants to keep politics out of charitable nonprofits, religious institutions, and foundations. A poll conducted in March 2017 found that nearly three out of four American voters (72 percent) want to keep current rules protecting 501(c)(3) organizations from the rancor and divisiveness of partisan political activity. A separate survey conducted in February by the National Association of Evangelicals found that 89 percent of pastors oppose the idea of clergy mixing partisan politics and religion by endorsing candidates from the pulpit. These results are consistent with numerous polls conducted over several years.

The 501(c)(3) community recently delivered two strong letters to Congress. An April 4 letter was signed by almost 100 **national and state religious and denominational organizations** that “strongly oppose” repealing or watering down the vital protection in the Johnson Amendment, which “serves as a valuable safeguard for the integrity of our charitable sector and campaign finance system.” They stressed: “People of faith do not want partisan political fights infiltrating their houses of worship. Houses of worship are spaces for members of religious communities to come together, not be divided along political lines; faith ought to be a source of connection and community, not division and discord.”

An April 5 **Community Letter in Support of Nonprofit Nonpartisanship** was signed by nearly 4,500 charitable, religious, and philanthropic organizations from all 50 states. These organizations, some representing networks of tens of thousands of other organizations, “strongly oppose proposals that would politicize the charitable nonprofit and philanthropic community by repealing or weakening current federal tax law protections that prohibit 501(c)(3) organizations from endorsing, opposing, or contributing to political candidates.” (To see the organizations that signed, including Alliance for Strong Families and Communities, Americans for the Arts, BoardSource, Catholic Charities USA, Council on Foundations, Feeding America, Forum of Regional Associations of Grantmakers, Girl Scouts USA, Goodwill Industries, Habitat for Humanity, Independent Sector, Jewish Federations of North America, League of Women Voters, National Council of Churches, National Council of Nonprofits, National Human Services Assembly, United Way Worldwide, and Volunteers of America, visit www.GiveVoice.org.)

The Proposed Change Is Not Needed: Those wanting to repeal and weaken the Johnson Amendment assert that requiring nonpartisanship curtails the First Amendment rights of religious leaders. But in truth, leaders of religious and other 501(c)(3) organizations are *not* silenced today. **The Johnson Amendment simply says that if you want the benefits of tax-exempt status and the ability to receive tax-deductible contributions, then you must refrain from partisan politics.** Free speech rights are fully available in the following ways:

- **Advocacy and Lobbying:** Charitable nonprofits, including churches, and foundations currently advocate every day on issues relevant to their missions and the people they serve. That means preachers can preach from the pulpit on moral and policy issues of the day, such as abortion and immigration, that are hotly debated before legislatures across the country. Nonprofit leaders can and do lobby the government on legislative proposals coming up for votes.
- **Express Personal Views:** Individuals with strongly-held partisan views remain free to express their own personal views – at the appropriate time and in the appropriate context. They just have to make clear that they aren’t invoking the good name of the charitable organization as the entity making an endorsement or campaign contribution. Importantly, similar bans exist in other settings. Judicial canons prohibit judges from endorsing partisan candidates. Federal and state laws prohibit government employees from endorsing political candidates while on duty and ban even a *de minimis* use of government resources for partisan campaigns. Likewise, Congress prohibits AmeriCorps and VISTA participants from engaging in partisan activities, and even lobbying, unless they do so on their own initiative and on their own time – which is true of all government contractors, whether for-profit or nonprofit.

Concluding Thoughts

Simply put, our society is better today because 501(c)(3) organizations operate as safe havens from caustic partisanship. Americans don’t want to see any part – not even a *de minimis* amount – of their charitable donations redirected by someone else towards a partisan campaign. Nor do they want to see more anonymous, and in this case tax deductible, dark money flowing into political campaigns. Less still do they want some of the few remaining places where they can escape – their sacred houses of worship – invaded and plunged into the mire and muck of polarizing partisanship.

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