

Participating in Ballot Measures as Congregations and Religious Non-Profits

Being Active and Staying Legal: Complying with the IRS and FPPC

Congregations and 501 (c) 3 non-profits that wish to preserve their tax exempt status may neither give contributions to nor support either candidates for political office nor political parties (IRS rules). Individuals may, on their own time, support a particular candidate, but must never do so when they are representing the organization (i.e. don't wear political party buttons to organizational functions if you are a board of staff member). See Alliance for Justice material that clarifies the limits placed on employees and board members: <http://www.afj.org/assets/resources/resource1/Election-Activites-of-Individs-associated-w-501-orgs.pdf>

Congregations and non-profit organizations CAN publically and actively endorse and support or oppose specific ballot measures and/or legislation. However, they must follow two sets of rules:

- a. IRS limitations on the amount of resources you can spend on "direct lobbying"
- b. CA Fair Political Practices Commission rules for full disclosure of campaign contributions
- c. See link from the Alliance for Justice <http://www.afj.org/assets/resources/resource1/Ballot-Measures.pdf>

IRS Definitions:

1. **Direct Lobbying** – asking people outside your congregation to vote no or yes on a ballot measure, and/or asking an elected official to vote yes or no on a bill.
2. **Grass Roots Lobbying** – asking people to contact their elected representative to support or oppose a particular bill.

IRS Limits & Reporting

1. Congregations can spend an insubstantial amount (generally thought to be about 5%) of its annual budget on lobbying (both direct and grass roots lobbying) each fiscal year. For example, a congregation with a \$200,000 budget, could spend \$10,000 annually on lobbying. Up to 25% of that total can be grass roots lobbying.
2. Charitable non-profits (501 (c) 3s) (but not congregations) which file a 501 (h) designation form (IRS Form 5768 – only need to file once) can spend up to 20 % of the first \$500,000 of their annual budget on lobbying each fiscal year. Only 25% of that total can be grass roots lobbying.
3. Keep track of the money you spend, and in-kind donation of staff time, so that you can accurately report the % of the budget you spent in this manner on your annual 990 form filed with the IRS.

IRS Reporting, What is a Lobbying Expense:

- 1) **Donation of money** directly to the PAC committees for or against the ballot measure.
- 2) **In-kind donations:**
 - a. paid staff time and associated travel reimbursement – note that time spent in preparation for lobbying (organizing volunteers to oppose initiative) is considered reportable as a lobbying expense
 - b. paid time spent discussing an issue in order to formulate and vote on a statement of support
 - c. free use of space that would normally be rented
 - d. buying TV, radio, or newspaper ads to publicize your congregation/organization's views on the ballot measure
 - e. food, supplies, photocopying given to support campaign organizing or fundraising
 - f. space in your newsletter to encourage a no vote or recruit volunteers to work on the campaign (allocate the % of the cost of the newsletter – staff time, printing, mailing)
 - g. % of overhead costs that support lobbying

IRS Reporting: What is NOT a Lobbying Expense

1. Prior statements the organization has made in support or opposed to an issue now addressed in a ballot measure

2. Volunteer time spent on lobbying for or against a ballot measure or legislation, as volunteers are not paid
3. Researching the issues, conducting surveys of voter attitudes
4. Communications to the public that refer to the ballot measure, but do not reflect a view on it
5. Communications to the public on the general subject addressed by the ballot measure, which do not refer directly or indirectly to the ballot measure itself
6. Educational forums where those in charge of putting on the forum address the subject, but do not advocate for a particular action on the ballot measure

Fair Political Practices Commission Rules (FPPC):

The FPPC was created by the California Political Reform Act (CPRA) in 1974 (amended since). The goal of the CPRA is not to limit non-profit engagement in ballot measures nor lobbying public officials, but to create transparency, so that Californians know who is exerting an influence in the political process.

“Note: The CPRA’s definition of “lobbying” differs significantly from the definition that applies to nonprofit activity under federal tax law.” This paper will only address electioneering activity related to a ballot measure.

There is no FPPC limit to what can be given to the campaign for or against a ballot measure, but don’t forget the IRS limits for congregations (5%) and 501 (c) 3s (20%).

How do we give money from our congregation/organization to defeat the ballot measure?

1. Money that you **already had in your general fund** that was **NOT raised specifically to fund your organization’s opposition to this ballot initiative**, can be given, either by making a direct donation to Equality for All or the UULM Action Network PAC or one of the other “recipient committees” - just make sure you don’t spend more than your IRS limit.
2. **Note, if you do a fundraiser, or take a special collection, specifically to oppose the ballot measure, do not run it through your congregation’s books unless it is under \$1000.** Otherwise, you qualify as a “recipient committee” with the FPPC and have to do your own reporting. If you already made this mistake, write a check to the organization of your choice, and send the names, amounts given, and required identifying info (see below) to the recipient committee of your choice. If some was given in cash, write a note, and sign it stating that no individual gave more than \$99 in cash (assuming that is the case).
3. You can do fundraising, but you should raise the funds for one of the Equality for All, UULM Action Network PAC, or one of the other PACs working on the campaign, not for your congregation. Ask people to write their checks directly to the intended organization, or put their cash in an envelope marked with their name and the amount. You also need to get the required info from each donor – the name, address, occupation, employer, of each donor, and the date and amount of his/her donation clearly marked.
 - a. Utilize either the Equality for All campaign envelope, or the UULM Action Network PAC donor form. If you are at a fundraiser where there is an internet connection, people can also make these donations on-line directly to the Equality for All campaign or the UULM Action Network PAC.
 - b. Note, you cannot accept any donations of more than \$99 in cash. You can’t accept anonymous donations unless the donations are less than \$25.

How do we donate in-kind support?

Your congregation can donate in-kind contributions that are reportable and in-kind donations that are not.

What is reportable to the FPPC:

1. Value of in-kind donation of staff time by any staff member who spends 10% or more of his/her paid time during a month. Volunteer time donated by staff outside of working hours is not reportable, but if your salaried staff normally work in excess of a 40 hour work week, they cannot be considered working volunteer hours until they are putting in more time than is usual for them.
2. The value of the staff time donated does not include associated benefits, just salary and payroll taxes.
3. Value of donated space that would normally be rented.
4. Value of communications outside of your membership.
5. Value of donated items – food, supplies, photocopying, phones.
6. Fundraising expenses held at your home or business of \$500 or more (per event), and any expense for a fundraiser not at your home or business.

What is not reportable to the FPPC:

1. Volunteer hours, including volunteer hours of paid staff. Note: if your staff regularly work more than 40 hours, their time beyond 40 hours is not volunteer time until it exceed their normal schedule.
2. Use of your building, which you do not normally rent out.
3. Space in your newsletter if it is a normally scheduled newsletter, with no extra expense incurred by the congregation.
4. The clergy person giving a sermon on the issue/ballot measure at a regularly scheduled worship service.
5. Fundraising expenses of less than \$500 when the fundraiser is at your home or business.

What kind of reports do we have to file?

6. **In-kind-donations: fax the form to Steve Mele, campaign treasurer within 24 hours of making the donation.**
7. **Major Donor Reporting Requirements (\$10,000 and over)**
 - a. If your organization (or individual gives \$10,000 or more in calendar year, in a direct payment to the campaign, or in in-kind donations to support the campaign, or in any combination thereof, you become a MAJOR DONOR and have some reporting requirements - see the FPPC for reporting requirements.
 - b. Note, the money your organization is contributing must not have been raised specifically for the campaign (or you turn into a recipient committee - PAC)
8. **Recipient Committee** (Your organization received \$1000 or more in a calendar year to defeat the ballot measure into your treasury) – see the FPPC for detailed information on the reporting requirements.
 - a. Note, don't inadvertently turn your congregation into a recipient committee by taking a collection against the ballot measure and processing it through the congregation's books.

Note: this was drafted by the Rev. Lindi Ramsden, of the UU Legislative Ministry Action Network, using references from the Alliance for Justice, the Fair Political Practices Commission publications and staff, and legal counsel; however, this outline is not exhaustive, and is no substitute for your own legal counsel.

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