

IRS RULES AND ELECTIONS **(prepared Jan 14 2020)**

KKFI is a 501(c)(3) educational organization. KKFI must remain non-partisan in its voice, in both on-air broadcast and off-air statements and activities on behalf of the organization.

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from

- endorsing on behalf of, or in opposition to, any candidate for elective public office;
- issue advocacy that functions as an endorsement in favor of or in opposition to any candidate.
- contributions to political campaign funds or public statements of position (verbal or written) made on behalf of KKFI in favor of or in opposition to any candidate for public office.

Violating this prohibition may result in **denial or revocation of tax-exempt status and the imposition of certain excise taxes.**

What is the ban on political campaign activity?

It is a requirement imposed by Congress for the privilege of being recognized as exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code.

For an organization to be tax-exempt under section 501(c)(3) it cannot “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.”

<https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-overview>

Can a section 501(c)(3) organization invite a political candidate to speak at its events without jeopardizing its tax-exempt status?

If a candidate is invited to speak at an organization event in his or her capacity as a political candidate, the organization must take steps to ensure that:

- a. It provides an equal opportunity to participate to all political candidates seeking the same office;
- b. It does not indicate any support for or opposition to any candidate (including candidate introductions and in communications concerning any candidate’s attendance); and
- c. No political fundraising occurs.

<https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-inviting-a-candidate-to-speak>

Can a section 501(c)(3) organization state its position on public policy issues that candidates for public office are divided on?

An organization may take positions on public policy issues, including issues that divide candidates in an election for public office as long as the message does not in any way favor or oppose a candidate. Be aware that the message does not need to identify the candidate by name to be prohibited political campaign activity. A message that shows a picture of a

candidate, refers to a candidate's political party affiliations, or contains other distinctive features of a candidate's platform or biography may be prohibited political campaign activity.

<https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-organization-position-on-issues>

What happens if an organization engages in prohibited political campaign activity?

Violating this ban may result in denial or revocation of the organization's tax-exempt status and the imposition of an excise tax on the amount of money spent on the activity.

<https://www.irs.gov/charities-non-profits/charitable-organizations/frequently-asked-questions-about-the-ban-on-political-campaign-intervention-by-501c3-organizations-consequences-of-prohibited-activity>

KKFI is allowed to take positions on policy issues and conduct an insubstantial amount of lobbying.

According to the IRS, key factors to be examined in determining whether an issue advocacy communication crosses the line into campaign intervention include the following:

- whether it identifies a candidate for a given public office by name or other means, such as party affiliation or distinctive features of a candidate's platform or biography;
- whether it expresses approval or disapproval for any candidate's positions or actions;
- whether it is delivered close in time to an election;
- whether it refers to voting or an election;
- whether the issue it addresses has been raised as one distinguishing the candidates;
- whether it is part of an ongoing series by the group on the same issue and the series is not timed to an election; and
- whether its timing and the identification of the candidate are related to a nonelectoral event (e.g., a scheduled vote on legislation by an officeholder who is also a candidate).

The IRS takes the position that simply referring to such things as party affiliation or "distinctive features of a candidate's platform or biography" may be sufficient in some cases to count as identifying a candidate. According to the IRS, a statement or ad is "particularly at risk" of being classified as campaign intervention when it refers to candidates or to voting in an upcoming election.

<https://fas.org/sqp/crs/misc/R42684.pdf>