



Compliance Guidance on Nonpartisan 501(c)(4) Advocacy in an Election Year

Because Sierra Club runs robust political programs at federal, state, and local levels, engagement in nonpartisan election-related activities presents significant compliance challenges. Unlike 501(c)(3) voter engagement organizations that do not endorse candidates, Sierra Club makes endorsements and widely publicizes them, which puts at risk the nonpartisanship of many activities that might otherwise seem nonpartisan. However, we may occasionally use 501(c)(4) funds to engage in certain nonpartisan election-related activities in some circumstances.

To engage in an activity with non-political c4 funds, the activity must not trigger federal, state, or local campaign finance reporting, and, given all of the “facts and circumstances,” the IRS must be most likely to conclude that the activity would not be political. If Sierra Club has endorsed any candidate(s) in a particular location, that activity will often jeopardize our ability to engage in nonpartisan candidate-related activities there. Always contact Compliance Review for guidance on whether and under what circumstances we may be able to engage in a particular nonpartisan election-related activity with non-political c4 funds. Additionally, National Political must approve any activity related to a federal candidate for it to go forward. For state/local candidates, the relevant chapter must approve the activity.

The rules below apply to all work that Sierra Club staff and volunteers do with non-political c4 funds on behalf of Sierra Club, including work in coalitions.

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I. Generally Permissible Activities

Lobbying and Policy Advocacy

We may continue existing federal, state, and local nonpartisan lobbying and policy advocacy campaigns during an election year, including those that target public officials who are also candidates. However, we must be careful to ensure that nothing that we do might suggest support or opposition towards any official's candidacy. We can do that by narrowly focusing on policy in our messages targeting the official (nothing general about them), targeting the official in their official capacity (not in their role as a candidate), and timing any public communications that mention the candidate to correspond with the arcs of our policy advocacy campaigns (not any upcoming elections). We must be particularly careful with accountability messages targeting public officials who are up for election. Please review the *Legislative Accountability Compliance 2016* memo for additional details.

II. Potentially Permissible Activities

Candidate Education

We may offer nonpartisan education in the form of meetings and already-drafted issue information to federal candidates, and -- if it does not count as a contribution under state and/or local laws -- state and/or local candidates as well, provided we abide by the following rules:

- We must offer education to all candidates in a race (or none), and each candidate should receive identical or equivalent communications.
- We must ask open ended questions of candidates (e.g., "What are your views on..."). No asking candidates to take pledges.
- No preparing new materials for a candidate. We may only provide already-created information.
- No doing anything that might suggest favorability or opposition towards any candidates.
- No publicizing anything that candidates say during these meetings.

Events with Public Officials who are also Candidates

We may not use non-political c4 funds to host an event with any public official who is also a candidate for public office unless we have a 100% non-electoral reason to host them, the official attends in their official capacity with no campaign staff present, and the official agrees not to discuss any elections. State and local laws may impose additional limits on events with state/local public officials. To go forward with an event with a public official who is also a candidate, contact Compliance Review and your Chapter Political Compliance Officer with an explanation of the nonpartisan rationale for the event, and a confirmation that the candidate understands the rules.

III. Generally Impermissible Activities

Candidate Forums

Because Sierra Club endorses federal candidates, we are not permitted to hold public federal candidate forums. Moreover, we may not hold public state/local candidate forums for races where Sierra Club has endorsed a candidate. For state/local races where Sierra Club has not endorsed a candidate, it may be possible to use non-political c4 funds to hold a public candidate forum, provided we confirm state/local law compliance with the relevant Chapter Political Compliance Officer, and abide by the following rules:

- All viable candidates must be invited to participate in the forum. The threshold for viability must be established well before it is applied to determine which candidates are viable.
- We must ask open ended questions of candidates (e.g., "What are your views on..."). No asking candidates to take pledges.
- No hinting at what a "correct" answer would be.
- No coordinating with candidates or campaigns on question content.
- Questions outside of environmental issues must be included to make sure there is a "broad range of issues" covered.
- All candidates must get an equal opportunity to answer all questions.
- No comparing candidates' issue positions to Sierra Club issue positions.
- We should include a disclaimer at the forum to note that Sierra Club is not supporting or opposing any of the candidates featured.

Candidate Questionnaires

National and Chapter political teams handle candidate questionnaires. National field staff may not independently distribute candidate questionnaires.

Election-Related Messages to Voters

We may not use c4 non-political funds to target the public with election-related communications. Messages like, "Vote on climate," may appear at first glance to be nonpartisan, but the IRS would likely take the view that they are supportive of candidates who are good on climate, and in opposition to candidates who are bad on climate. This is particularly true given the extent of the Club's public communications in support of particular candidates who are good on climate, and opposition to candidates who are bad on climate.

GOTV

In jurisdictions where Sierra Club has endorsed at least one candidate (federal, state, and/or local), we may not conduct a nonpartisan GOTV operation with non-political c4 funds.