

**OUR HOMES**

**OUR VOTES**

BECAUSE HOUSING IS BUILT WITH BALLOTS



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**Legal Considerations for  
Nonprofit Organizations**

# Agenda

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- Training on Legal Landscape of Elections for 501(c)(3) Nonprofits
  - Tim Mooney, senior counsel, Bolder Advocacy program of the Alliance for Justice
- Considerations for Federally Funded Organizations
  - Gabby Ross, housing advocacy organizer, NLIHC

# Welcome

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## ***Gabby Ross***

Housing Advocacy Organizer  
National Low Income Housing Coalition

[gross@nlihc.org](mailto:gross@nlihc.org)

## Monday, May 2: Legal Considerations

This session includes a breakdown of do's and don'ts for non-profit organizations looking to participate in elections but want to be careful of preserving their 501(c)(3) status. The webinar will detail what activities are permissible as well as considerations for organizations that receive particular types of federal funding.



# Training on Legal Landscape of Elections for 501(c)(3) Nonprofits

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***Tim Mooney***

Senior Counsel

Bolder Advocacy program of the Alliance for Justice

[tim.mooney@afj.org](mailto:tim.mooney@afj.org)

# Election Year Advocacy








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Tim Mooney  
Senior Counsel

# Today's topics

- Understanding the rules on electioneering for 501(c)(3)s
- What 501(c)(3)s can do around elections
- What you can do during your personal time



	501(c)(3) <i>(Public Charities)</i>	501(c)(4), 501(c)(5), 501(c)(6)	527 <i>(Political Orgs)</i>
Examples	 	  	 
Tax Treatment	Tax-exempt Tax-deductible contributions	Tax-exempt	Tax-exempt
Lobbying Activities	Limited	Unlimited	Limited, unusual
Electoral Activities	Cannot support/oppose candidates	Tax law: secondary activity Election laws: some limits	Tax law: unlimited Election laws: some limits



# 501(c)(3)s cannot support or oppose candidates running for public office



# 501(c)(3)s can engage in nonpartisan voter education, GOTV and voter registrations efforts

★ **EVERY VOTE** ★  
on  
**EVERY ISSUE**  
on  
**EVERY LEVEL**  
from  
**EVERY PERSON**  
★ **COUNTS.** ★

**The disability vote matters!**  
Exercise your right and independence this election year.



501(c)(3)s can continue **issue advocacy** during election season, but it can't look or feel like support/opposition to candidates



# Timing and Context

- Some communications become riskier the closer to an election
- Context matters, intent does not



# Facts and Circumstances Analysis

NONPARTISAN	PARTISAN
✓ No reference to candidate or elections	✓ Refers to candidate as a candidate
✓ External factor driving timing	✓ Timing motivated by election
✓ Broad range of issues	✓ Politically motivated targeting
✓ History of similar work or communications	✓ Compares candidate to preferred position
✓ Part of a series of similar, ongoing communications	✓ Wedge issue that divides candidates

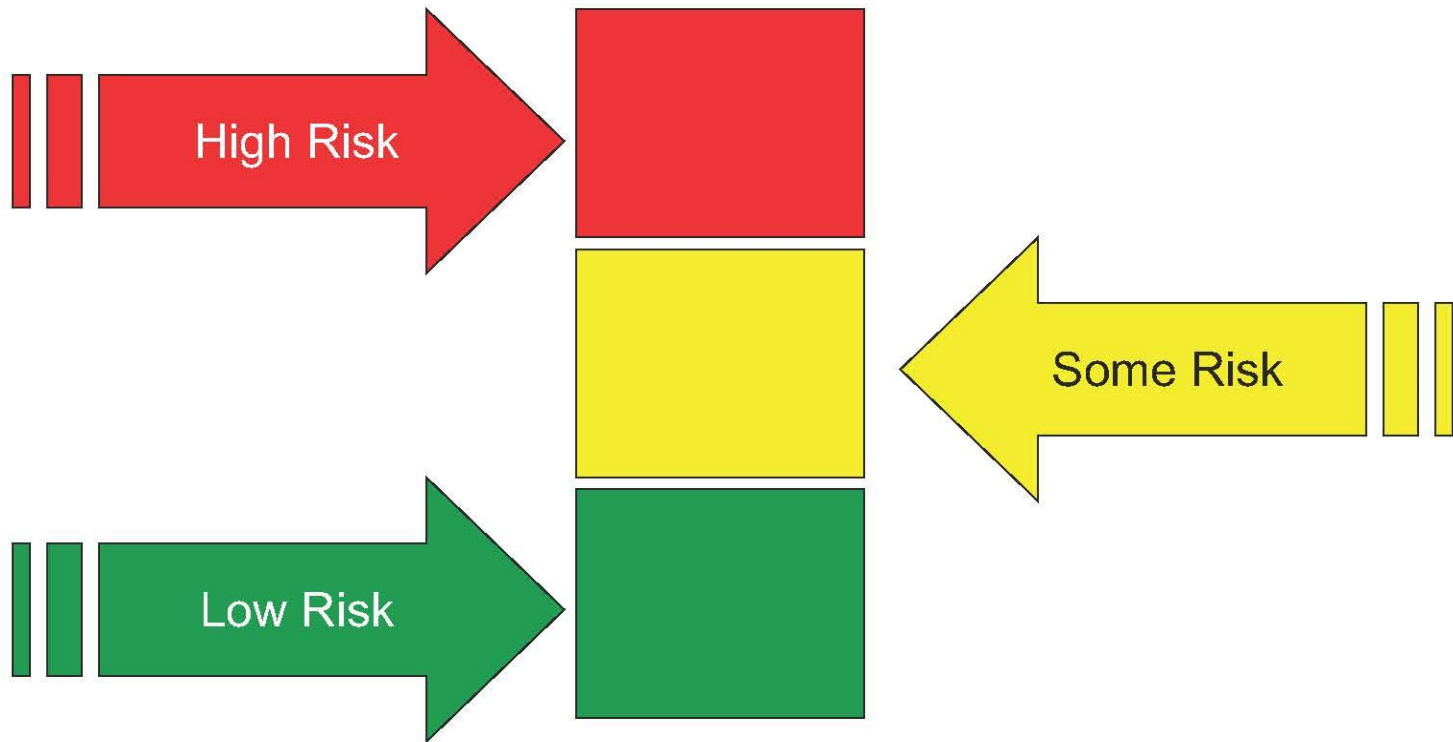
# Some of the Things You Can Do Around Elections

# Issue advocacy best practices during election season

- Focus more on issues — avoid criticizing/supporting the people running
- Avoid talking about issues in a way that it comments on a candidate's qualifications
- Don't mix issue advocacy with nonpartisan GOTV, voter registration
- The closer to the election, avoid identifying candidates by name or image
- Remember: context matters, intent doesn't



# Risk Assessment







**National Low Income Housing Coalition** @NLIHC · Aug 5, 2020

...

"Republican lawmakers, alarmed at the prospect of a nationwide wave of evictions as the coronavirus batters the U.S. three months before the **election**, are starting to back the move to provide [#rentalassistance](#) to tenants." [politi.co/3i2p2uK](https://politi.co/3i2p2uK)

KEEP PUSHING FOR [#RENTRELIEFNOW!](#)



politico.com

**GOP lawmakers embrace tenant protection as mass evictions loom**

Red states dealing with new coronavirus outbreaks are staring down the possibility of a rash of evictions in the coming months.



 **Conservation Lands Foundation** @ConservationLF · Jan 13

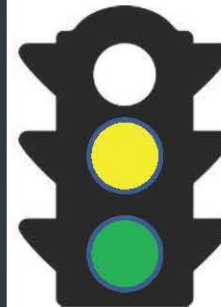
Senators [@RonWyden](#) and [@Sen.JeffMerkley](#) have introduced legislation to permanent the Owyhee region of Oregon. One special attraction in this high desert: The 750 mile Oregon Desert Trail. Read more in [@ThatOregonLife](#): [bit.ly/2N4edeQ](https://bit.ly/2N4edeQ) #WildForTheOwyhee #publiclands



  2  



January 2020



October 2020

# Nonpartisan voter registration



Explore Issues ▾

ERASE

Housing Needs By State

Take Action

DONATE

MEMO TO MEMBERS

SHARE     

## Voter Registration Deadlines Approach: The Time to Act is Now!

Sep 10, 2018



Low income renters register to vote and go to polls at dramatically lower

### OUR HOMES, OUR VOTES

rates than higher income homeowners. This disparity can—and must—be addressed through active nonpartisan voter registration campaigns. The more low income renters and their allies vote, the more likely candidates for elected office will make affordable housing a priority! Voter registration deadlines vary from state to state—and many are coming up soon. To find the voter registration deadlines in your state, click here: <https://bit.ly/2PCNIB9>

# Nonpartisan voter registration

- Must register everyone who wants to be registered (no withholding based on party affiliation, not agreeing with your positions, etc.)
- Don't give anything of value in exchange for voter registration, BUT you can have free pizza/donuts available to everyone, not just to people who register
- Always check STATE laws – many have more specific limitations and restrictions on what nonprofits can do, even for nonpartisan efforts



# Nonpartisan voter registration

- Train staff/volunteers on what it means to be nonpartisan
  - “Who are you all supporting?”
  - “What’s the best candidates/party on these issues?”
  - “Who are you voting for personally?”
  - Answers for all the above... we’re nonpartisan and don’t take a stance on the election. We only care that every eligible person is registered and has their vote count.



# Nonpartisan how-to-vote education



National Low Income Housing Coalition @NLIHC · Oct 22, 2020



12 Days to Election Day! #OurHomesOurVotes2020 -  
[mailchi.mp/nlihc.org/ohov...](mailto:mailchi.mp/nlihc.org/ohov...)



# Targeting Messages

- Permissible to target activities if based on nonpartisan criteria
  - Location
  - Audience
- Discuss a broad range of issues
- Don't suggest a correct position (leave for the (c)(4)s)

May *not* target based upon the way a group votes

May target because it is a disadvantaged or underrepresented group or the targeted group has a common interest or problem





# Voter Education



# 501(c)(3) Voter Guides

- Broad range of issues
- Unbiased questions
- No pledges
- Present candidate responses equally
- Similar format
- No editing responses

Representative to Congress, 3rd District

 <b>Joyce Beatty (Dem)</b> Member of Congress	 <b>Morgan Harper (Dem)</b> Candidate for Congress
<b>Biographical Information</b>	
<b>Address</b> 222 E. Town Street, Suite 2W Columbus, Ohio 43215	<b>Address</b> 139 E Main St Columbus, OH 43215
<b>Email</b> beattyforcongress@gmail.com	<b>Campaign Phone</b> (860) 869-5665
<b>Website</b> www.beattyforcongress.com	<b>Email</b> morgan@morganharper.org
<b>Mailing Address</b> 222 E. Town Street, Suite 2W Columbus, OH 43215	<b>Website</b> morganharper.org
	<b>Mailing Address</b> 139 E Main St Apt 1101 Columbus, OH 43215
<b>Education</b>	
<b>Joyce Beatty:</b> BA, Central State University; MS, Wright State University; ABD, University of Cincinnati; Honorary Doctorate Degrees: Capital Law School, Ohio Dominican University, & Central State University	<b>Morgan Harper:</b> • BA: Tufts • MA: Princeton • JD: Stanford
<b>Qualifications for Office</b>	
<b>Joyce Beatty:</b> The best qualified knowledgeable experienced leader. First female Ohio Democratic Leader. Most engaged in the District. Tested success record, 10 tele-town halls, recovered \$3+million owed to constituents, responded to 176,000 letters, passed	<b>Morgan Harper:</b> I worked at the Consumer Financial Protection Bureau to prevent companies from cheating working people, and LISC, a community development organization, that invests in affordable housing and economic development.

# Debates and Forums

- Broad range of issues
- Unbiased questions
- Give candidates equal opportunity
- Safe harbor is only for debates... everything else is "facts & circumstances"



# Personal activity

The rules we've covered apply to 501(c)(3) staff and volunteers who act on behalf of 501(c)(3).

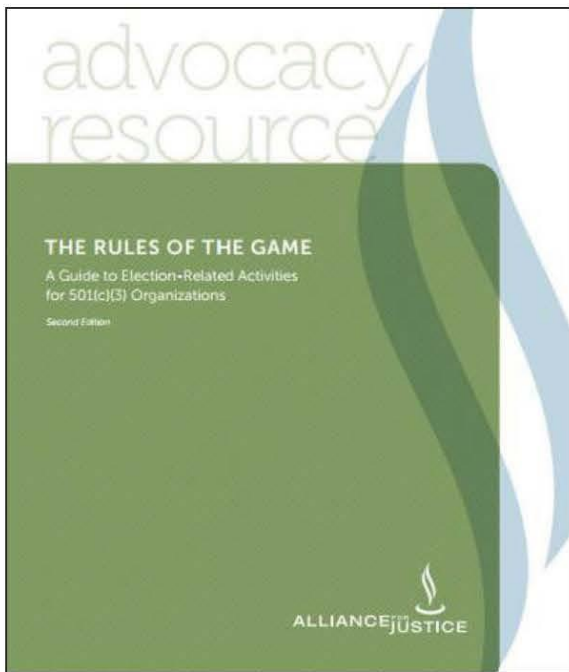
They do *not* apply to people acting as individuals on their own time.

The background of the slide features three vertical panels, each showing a woman wearing a different style of elaborate hat. The left panel shows a woman in a white hat with dark feathers. The middle panel shows a woman in a grey hat with a large floral or leaf-like decoration. The right panel shows a woman in a light-colored hat with a large, multi-looped ribbon or fabric structure. The text is overlaid on the left and middle panels.

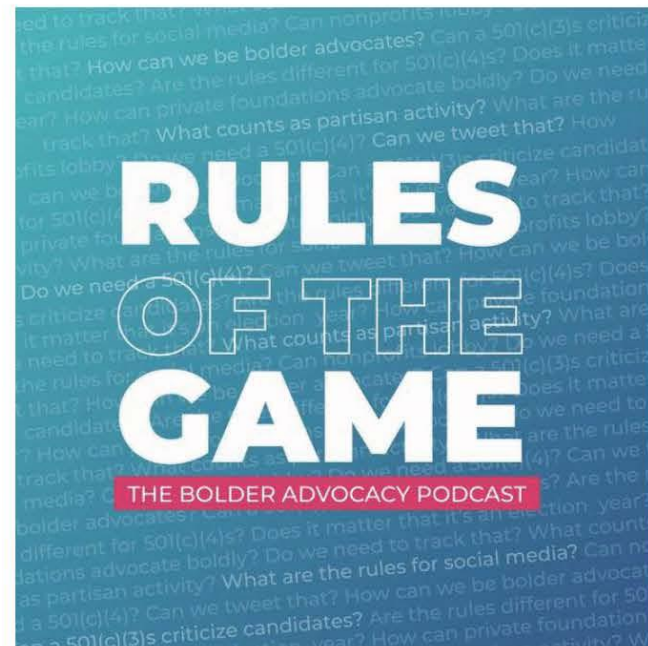
## Personal partisan activity

1. Remember which hat you have on and when.
2. Don't use your organization resources (staff time, email, copier, etc.).
3. Distinguish yourself as an organization representative and you as an individual.
4. Use disclaimers as appropriate:  
"Organization name for identification purposes only."  
"I'm not representing my 501(c)(3) right now. I'm at this event as a private citizen."

# Resources



 Free PDF guides and fact sheets



 [bolderadvocacy.org/podcast](https://bolderadvocacy.org/podcast)



**EAST COAST**

Washington, DC

**TEXAS**

Dallas  
Houston

**WEST COAST**

San Francisco  
Los Angeles

866-675-6229

advocacy@afj.org  
bolderadvocacy.org



@AFJBeBold | @AFJTim



facebook.com/BolderAdvocacy

# Considerations for Federally Funded Organizations

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## Public Housing Authorities (PHAs) CAN participate in voter registration activities!

- Providing household documentation of residence (e.g., address verification) to public housing residents upon request.
- Applying to states to operate as a voter registration agency.
- Making voter registration resources (e.g., voter registration forms) available to residents and (if state law allows) accepting completed voter registration application forms and transmitting them to election officials, as well as running PHA-initiated voter registration drives.
- Permitting the use of PHA community spaces to hold meetings, candidate forums, and voter registration.
- Collaborating with local election administrators to permit the use of PHA spaces for voter drop boxes and voting sites, including early voting



# Legal Considerations for Federally Funded Organizations

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## Federal Funds Do Place Restrictions on Certain Organizations:

- Staff who are paid through AmeriCorps or HeadStart funding cannot participate in voter registration activities.
- Legal Services groups cannot participate in any election activity, even if nonpartisan.
- Recipients of Community Services Block Grant funding can participate in voter registration and engagement, but CSBG funds cannot be used.
- More information on federal funds and voter registration restrictions can be found at: <https://bit.ly/3MAVV16>

## Monday, May 16: With a Little Help from Our Friends...

The next webinar will describe the tools and templates housing organizations can use to jumpstart their election initiatives. Maggie Bush from the League of Women Voters and Dominique Espinoza from the Coalition on Human Needs, will be presenting on what kind of partnerships housing organizations can form on the local and national scale to launch their voter and candidate engagement work.



Be Inspired.  
Be Engaged.  
Go Vote!

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## Newsletter

- National updates, field updates, NLIHC resources, research, upcoming and past events, and more!

# Follow the Campaign!

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**Twitter: @OurHomesVotes**

**Facebook @OHOV2022**

**Email: [ourhomes@nlihc.org](mailto:ourhomes@nlihc.org)**

**Website: [ourhomes-ourvotes.org](http://ourhomes-ourvotes.org)**

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**OURHOMES-OURVOTES.ORG**