

501(C)(4) PARTISAN ACTIVITY



It's not just express advocacy.

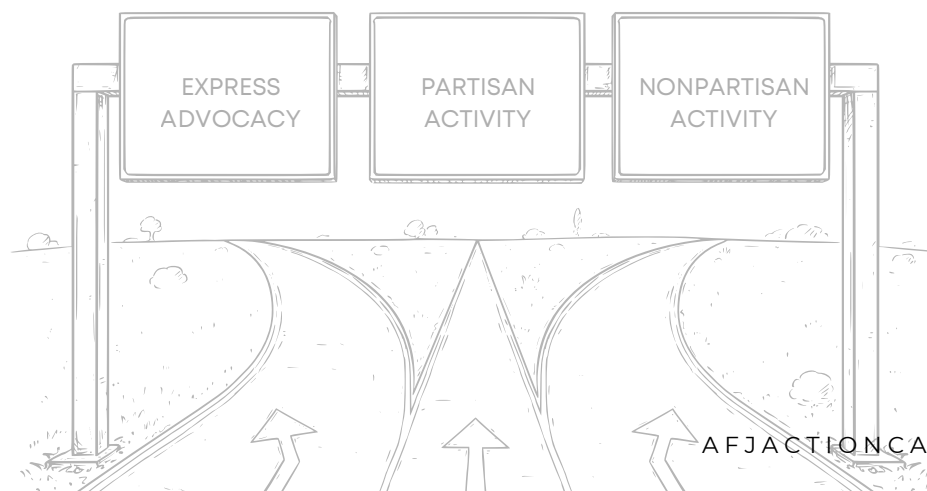
501(c)(4) social welfare organizations are like cars moving along the highway. The main lanes are for primary purpose activities, where issue advocacy, lobbying, and nonpartisan election activity move. The HOV lane is for secondary purpose work, like partisan political activity. Here, the 501(c)(4) may conduct partisan programs with the goal of affecting the outcome of a candidate election so long as that activity remains a secondary purpose of the organization. Much like the HOV lane, which restricts who may utilize its benefits, secondary purpose activity is limited for 501(c)(4)s, which must primarily serve the common good through nonpartisan advocacy. From there, cars may shift to the express lane, which requires the paying of a toll. For 501(c)(4)s, this lane provides an opportunity for express advocacy, which is partisan activity that is not only limited as secondary purpose activity, but also subject to campaign finance regulations at the federal, state, or local level. This is the advantage of a 501(c)(4), it can conduct programs in a variety of different ways, switching between lanes to achieve its policy goals.

A 501(c)(4)'s primary purpose must be social welfare. According to the [Internal Revenue Service](#), they "must operate primarily to further the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements)." Accordingly, lobbying, issue education, and nonpartisan voter engagement all fall under this category.

Elections provide an opportunity for 501(c)(4) social welfare organizations to engage in some partisan electoral activity as well (as a secondary activity). Partisan activity is designed to influence who makes the policy decisions that affect our lives by swaying voters as they decide on which candidates to vote for in a candidate election. It occurs when organizations endorse candidates, encourage people to vote for certain types of candidates based on party or policy platforms, expressly advocate for or against a candidate for office, and more.

It's important to note that some activities may not rise to the level of express advocacy, but they could still be considered secondary or political purpose for a 501(c)(4). Partisan political activity may be broader than you think. It includes communications that discuss an elected official's personal attributes, their fitness for office, and their electability. It could also include get-out-the-vote activities that use partisan targeting.

501(c)(4)s must consider the facts and circumstances test to determine whether a communication or activity is primary purpose (nonpartisan) or secondary purpose (political activity). It is a balancing test of all factors surrounding the program or communication.



FACTORS THAT LEAN PARTISAN INCLUDE:	FACTORS THAT LEAN NONPARTISAN INCLUDE:
<ul style="list-style-type: none"> The communication identifies a candidate for public office; 	<ul style="list-style-type: none"> The absence of one or more of the factors listed in the partisan column indicating that the activity is political;
<ul style="list-style-type: none"> The timing of the communication coincides with an upcoming election/electoral campaign; 	<ul style="list-style-type: none"> The communication identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;
<ul style="list-style-type: none"> The communication targets voters in a particular election; 	<ul style="list-style-type: none"> The timing of the communication coincides with a specific event outside the organization's control that the organization hopes to influence, such as a legislative vote or a committee hearing;
<ul style="list-style-type: none"> The communication identifies a candidate's position on the public policy issue that is the subject of the communication; 	<ul style="list-style-type: none"> The communication identifies the candidate solely as a government official in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and
<ul style="list-style-type: none"> The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and 	<ul style="list-style-type: none"> The communication identifies the candidate solely in a list of key cosponsors of the legislation that is the communication's focus
<ul style="list-style-type: none"> The communications is not part of an ongoing series of substantially similar advocacy 	

Consider the following example of 501(c)(4) advocacy to understand the facts and circumstances analysis.

In January of 2025, the Governor submitted the state budget to the state legislature for passage. A 501(c)(4), Seat Belts for ALL (SBA), lobbied the Governor and the state legislature for the inclusion of funding for more safety equipment and seat belts on all public school buses. The governor will be up for reelection in November 2026 along with many members of the state legislature, including State Representative Money Bags. The Governor has expressed his support for increased seat belt funding, but State Representative Money Bags, who chairs the budget committee, does not support the inclusion of the funding. As the budget was being debated in the state's House of Representatives, there was a major accident in the city of Tomorrow. A school bus full of children was hit by a semi-truck, and some suffered serious injuries. Importantly, if the bus was equipped with more safety equipment (like seat belts), the injuries could have been avoided.

Talking to the press after the accident, State Representative Money Bags stated, "No more funding! We coddle our children too much. This was just an accident, and there is nothing we can do to prevent accidents from happening."

The organization is now considering responding in two different ways:

- SBA could send this message to individuals in Representative Money Bags' district. "He doesn't care about your children. Moneybags only cares about his cryptocurrency pals and providing them with tax breaks! Why was he put in charge?"
- SBA could send this message to Representative Money Bags, others on the budget committee, and the press: "There could be money in the state budget to fund safety equipment on school buses in every district! Eliminate tax breaks for crypto firms and increase critical funding for our school children instead."

The factors that **lean towards nonpartisan advocacy** for both of these messages are **the timing** and **the issue** itself. The external event (a bus crash) that the organization is responding to is unrelated to the election. Further, the organization has a history of advocating for equipment and practices that promote bus safety.

But, the first message also contains factors that could weigh more heavily toward partisan advocacy. The SBA wants to target that message to Representative Money Bags' constituents, the voters in his district. Further, the message does not speak to the policy or legislative action the organization hopes to secure; it speaks about the Representative's personal characteristics and fitness for office.

Partisan activity is conducted to influence the election, selection, nomination, or appointment of an individual or slate of individuals to a federal, state, or local public office; to an office in a political organization; or as a delegate or elector for President or Vice-President. For example, communications that contain "express advocacy" – those phrases that urge the election or defeat of a clearly identified candidate or when looked at as a whole, considering the proximity to an election, could only be interpreted by a reasonable person as urging the election or defeat of a candidate – are partisan electoral activities.

However, voter outreach does **not** need to contain express advocacy to be considered partisan or secondary activity. For example, an organization could communicate to the public a nonpartisan message that educates voters about when early voting starts or details of how to vote by mail. But that same message would be considered political activity, if looking at the facts and circumstances the organization targets that message to certain voters based on how they are likely to vote in an upcoming election. Targeting a specific community to influence the election of a particular candidate or party is a partisan factor.

SBA's goal of ensuring more safety features on public school buses has gone well during the legislative session, but they haven't met all of their policy objectives. They are now concerned about who serves in the state house and whether they support higher safety standards for public school buses. The Governor supports their legislative goals as does a new candidate, who is running against Representative Money Bags. This new candidate has made public school bus funding one of their campaign priorities and even debated Representative Money Bags on the issue. As a result, SBA determined how much funding they had remaining in their budget for political work and decided to conduct partisan voter outreach.

The first communication they push on social media states that – "This election is about our children. Remember Safety First when you vote!"

The second phase of the program sent text messages to constituents in Representative Money Bags district that included additional language stating "Remember early voting starts October 10." The message was sent to specific voters based on their political party.

Looking at the previous examples, we can see that both could be considered partisan activity by SBA. Although SBA has a history and track record of advocacy on school bus safety, the following factors tip the scale towards considering these text campaigns political activity: the timing around the election, the use of partisan targeting, and the emphasis of a wedge issue in the campaign.

The communication examples above most likely would not rise to the level of campaign finance disclosure, because neither expressly advocate for a candidate or uses the name or image of a candidate. However, whether the activities above rise to that level of reporting will depend on state law.

Further down the highway and election year advocacy is the exit ramp to express advocacy. 501(c)(4) social welfare organizations have the option to expressly advocate for candidates or a slate of candidates as a secondary purpose activity. Statements like “Defeat Money Bags!” or “Vote for New Candidate!” will rise to the level of express activity and may trigger campaign finance reporting, depending on specific local, state, or federal thresholds. Although every state is different, each state (and the federal government and many local municipalities) has a set threshold for reporting the raising or spending of funds in connection with an election. See AFJ Action’s [campaign finance spreadsheet](#) for links to relevant federal and state campaign finance laws.

As mentioned above, 501(c)(4) organizations can conduct this activity in line with IRS and campaign finance regulations. They may also establish connected political action committees. These could take the form of a traditional PAC, a separate segregated fund, or an independent expenditure committee. See our [Independent Expenditure factsheet](#) for more information on the different types of political committees.

When SBA was considering whether to expressly advocate for candidates, there were many factors for them to examine. They included the organization’s budget, the ratio between primary and secondary activities, and relevant state campaign finance regulations. These factors helped them determine the amount of political activity they could undertake and the bandwidth needed to comply with relevant reporting requirements.

SBA decided to endorse candidates that support expanding the state budget to address school bus safety issues. In September of the election year, they posted on their website endorsements for the reelection of the Governor, and several state representative candidates, including New Candidate. They made several independent expenditures, and they conducted a texting program and social media campaign all aimed at the election of New Candidate and the defeat of Representative Money Bags. Happily, because of their activity, New Candidate defeated Money Bags. SBA has already started planning its 2025 legislative agenda, lobbying activities, and education on public school bus safety with one more new legislator in their corner.

The Alliance for Justice Action Campaign (AFJ Action) serves as the nation’s leading resource on the legal framework for 501(c)(4) nonprofit advocacy efforts. AFJ Action provides invaluable resources, training, and technical assistance to help nonprofit organizations and their donors advocate more efficiently and effectively. The information contained in this fact sheet and any attachments is being provided for informational purposes only and not as part of an attorney-client relationship. The information is not a substitute for expert legal, tax, or other professional advice tailored to your specific circumstances, and may not be relied upon for the purposes of avoiding any penalties that may be imposed under the Internal Revenue Code. Alliance for Justice Action Campaign publishes plain-language guides, offers educational workshops, and provides technical assistance for nonprofits engaging in advocacy.