

# James Madison

James Madison Center for Free Speech

## **DO'S and DON'TS for POLITICAL ACTIVITIES of PASTORS**

March 2006

---

by James Bopp, Jr. General Counsel  
*James Madison Center for Free Speech<sup>1</sup>*  
*in association with the Alliance Defense Fund<sup>2</sup>*



Pastors, as individuals, have the same rights as all other American citizens to involve themselves in political activity. Pastors thus have much greater latitude to involve themselves in political activities than does a church.

Pastors are concerned about the legal effects of political activity on themselves and their churches. Churches are exempt from federal tax only so long as they do not intervene in political campaigns. Federal election law also places restrictions upon political activities regarding federal candidates by individuals and entities, particularly corporations, both profit and non-profit. The scope of proper political activity varies from case to case, but the following do's and don'ts are applicable in many cases.<sup>3</sup>

---

<sup>1</sup>James Madison Center for Free Speech, 1 South 6th Street, Terre Haute, IN 47807, voice 812-232-2434, fax 812-235-3685, [www.jamesmadisoncenter.org](http://www.jamesmadisoncenter.org), e-mail [madisoncenter@aol.com](mailto:madisoncenter@aol.com).

<sup>2</sup>Alliance Defense Fund, 15333 North Prima Road, Suite 165, Scottsdale, AZ 85260, [www.alliancedefensefund.org](http://www.alliancedefensefund.org).

<sup>3</sup>These do's and don'ts summarize the requirements of the Federal Election Campaign Act and the Internal Revenue Code as they apply to churches and pastors. These guidelines should not be construed as legal advice regarding your particular situation. Churches and pastors may obtain legal advice free of charge regarding their particular situation by contracting the James Madison Center for Free Speech or the Alliance Defense Fund.

*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*

The following should guide a pastor regarding personal political activities which may relate to his church position:

- (1) A pastor may individually and personally endorse candidates for political office.
- (2) A church may not endorse candidates for political office, and a pastor may not endorse candidates on behalf of the church.
- (3) A pastor may allow his name to be used as a supporter of a candidate in the candidate's own political advertisements. In this connection, the pastor may be identified as pastor of a particular church, if it is indicated that this is for identification purposes only and if it is indicated that the endorsement is by the pastor personally and not by the church.
- (4) Churches may engage in non-partisan voter registration, voter identification, get out the vote, and voter education activities so long as such activities are not intended at the supporters of any particular candidate or political party.
- (5) A church may distribute a voter guide regarding candidates' positions on various issues or a scorecard reporting on the voting records of incumbents. In such publications, the church or pastor may not state whether the candidate's position or vote is consistent with the church's.
- (6) A church or pastor is free to state the position of a candidate on any issue and may comment on that position (including praising or criticizing the candidate for it).
- (7) A church may allow political candidates to speak on church premises; however, all candidates should be invited and given equal opportunity to speak. A candidate should not be allowed to appeal to a church congregation at a church service for funds to be used in his political campaign and no member of the church should endorse a candidate in conjunction with the candidate's visit.
- (8) Church facilities may be used by political candidates on the same basis that civic groups are allowed to. If civic groups are required to pay some rent for using the church property, a political candidate should be charged the same amount.
- (9) Lists of members of the church congregation may be provided to candidates for use in seeking support or raising funds only if rented at fair market value.
- (10) A church may not establish a political action committee.

- (11) Pastors and other like-minded individuals may establish a political action committee, but care should be taken that the committee is separate from the church and does not use the assets of the church.