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# LIBERTY COUNSEL

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## Church Assistance to Vote-By-Mail Voters In California

In 2016, the California Assembly passed AB 1921,<sup>1</sup> permitting a vote-by-mail voter to “designate any person to return the ballot to the elections official from whom it came or to the precinct board at a polling place within the jurisdiction.” Organized efforts to collect mail-in ballots, known by such terms as “get out the vote” efforts, “ballot harvesting,” or “ballot gathering,” have occurred since 2016 in California. Churches and nonprofit organizations may participate in non-partisan get-out-the-vote efforts. At the end of this memo, FAQs taken from the California Secretary of State’s office are provided, including links for a vote-by-mail application that may be printed and distributed to church members.

Churches may hold nonpartisan voter registration and “get out the vote” campaigns, and may provide assistance to vote-by-mail voters, particularly the elderly. Nonpartisan ballot gathering that does not discriminate against mail-in vote collection on the basis of party or candidate, or likelihood of voter support for a particular party or candidate, is a form of “get out the vote” activity, and is permissible. Such activity does not jeopardize church 501(c)3 status.

**Campaign Finance Laws:** The Federal Election Campaign Act (“FECA”, 52 USC §§ 30101 et seq.) requires full reporting of campaign “contributions” and “expenditures.” The Federal Election Commission (“FEC”) has issued guidance on what constitutes a “contribution” or an “expenditure.” 11 CFR 114.4. Nonpartisan voter registration, get-out-the-vote drives, and distribution of registration or voting materials produced by official election administrators fall outside the definitions of “contributions” and “expenditures” and require no reporting. Churches engaged in these nonpartisan activities must not expressly advocate the election or defeat of any clearly identified candidate(s) or candidates of a clearly identified political party, and must not encourage registration with any particular political party. *Id.*

Nonpartisan voter registration efforts are exempt from the California Political Reform Act (Gov. Code §§ 81000 et seq.) Under California law, a voter registration or “get out the vote” campaign is nonpartisan where: (1) The program was not controlled by any candidate or partisan organization or committee; (2) The program was designed to register voters irrespective of party or political views; (3) Any services were offered to any organization; and (4) Any solicitation of funds was not directed at candidates or organizations of a particular political party. (*In re Welsh* (1978) 4 FPPC Ops. 71.).

**Federal and State Election Laws:** Federal law does not permit the offering of any incentive or premium for voter registration efforts, where a candidate for federal office is on the ballot. Where a candidate for federal office is on the ballot, it is illegal to make an expenditure, or solicit, accept or receive an expenditure, “either to vote or withhold” a vote, or “to vote for or against any candidate.” *See* 18 USC

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<sup>1</sup> [https://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201520160AB1921](https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1921)

§ 597. In rare instances where a candidate for federal office is not on the ballot, California law permits incentives to encourage the act of voting, but not for any particular candidate or issue. *See* Elec. Code §§ 18521, 18522.

California Election Code §3017 provides that a vote-by-mail voter who is unable to return the ballot may designate another person to return the ballot. A person designated to return a vote-by-mail ballot may not receive any form of compensation on a per-ballot basis (i.e., the number of ballots that the person returns). No one distributing a vote-by-mail application may preprint a mailing address in the “changed address” block. Any person or organization providing the application to a voter must enter their name, address, and telephone number on the form, and these may be preprinted. The name and home address of the voter as it appears on the Voter Registration Card may be preprinted, as may the name and date of the election for which the ballot is requested.

### California Vote-By-Mail FAQs<sup>2</sup>

#### **How can I vote using a vote-by-mail ballot?**

Any registered voter may apply for a "vote-by-mail" ballot by:

1. Completing the vote-by-mail ballot application that is included in your county voter information guide, which your [county elections official](#) will mail to you prior to each election,
2. Downloading and completing a [California Vote-By-Mail Ballot Application](#) from our website, or
3. Contacting your [county elections official](#) to see if you can apply by telephone.

#### **When and where may I apply for a vote-by-mail ballot?**

If you apply by mail, your application should be delivered directly to your [county elections office](#) and must be received no later than 7 days before Election Day. Any time after 7 days, you must apply in person at your [county elections office](#) to get a vote-by-mail ballot for that election.

#### **Can anyone distribute vote-by-mail ballot applications?**

People and organizations may distribute the [California Vote-By-Mail Ballot Application \(PDF\)](#)<sup>3</sup> or an application, provided they use the uniform format specified in the California Elections Code.

#### **When is the last day to return my voted vote-by-mail ballot?**

Vote-by-mail ballots that are personally delivered must be delivered no later than the close of polls at 8:00 p.m. on Election Day. Vote-by-mail ballots that are mailed must be postmarked on or before Election Day and received by your county elections office no later than 3 days after Election Day. If you are not sure your vote-by-mail ballot will arrive in time if mailed, take it to your [county elections office](#) on or before Election Day or to any polling place in your county between 7:00 a.m. and 8:00 p.m. on Election Day.

#### **How do I turn in my vote-by-mail ballot on Election Day?**

You may return it in person to any polling place in your county or to your [county elections office](#) on Election Day. If you are unable to return the ballot yourself, you may designate any person to return the ballot to the elections official or the precinct board at any polling place within the jurisdiction. The ballot must be received by the elections official or the precinct board before the close of the polls at 8:00 p.m. on Election Day in order to be counted.

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<sup>2</sup> <https://www.sos.ca.gov/elections/frequently-asked-questions/>

<sup>3</sup> <https://elections.cdn.sos.ca.gov/vote-by-mail/pdf/vote-by-mail-application.pdf>

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## POLITICAL AND LEGISLATIVE GUIDELINES FOR PASTORS AND CHURCHES

by Mathew D. Staver, Esq.

<b>SUPPORTING OR OPPOSING CANDIDATES</b>	<b>CHURCH</b>	<b>PASTOR</b>
Endorsing or opposing political candidates	No	Yes
Contributions to political candidate	No	Yes
In-kind and independent expenditures for or against political candidates	No	Yes
Contributions to Political Action Committees	No	Yes
Appearance of political candidate at church meeting or service	Yes	N/A
Introduction of political candidates at church	Yes	Yes
Political candidate to preach or read scripture (contributions should not be solicited & message should not urge people to vote for the candidate)	Yes	N/A
Voter registration programs and campaigns (non-partisan)	Yes	Yes
Distribution of candidate surveys and incumbent voting records (avoid editorial opinions)	Yes	Yes
Distribution in church parking lot of political statements and opinions on political issues (so long as no church endorsement)	Yes	N/A
Rent or loan church mailing lists to political candidates (list must be made available to all candidates on similar terms and prices)	Yes	N/A
Church bulletin political ads at regular price and news stories	Yes	N/A
Church bulletin editorial where the pastor or staff member endorses or opposes a candidate	No	No
Church bulletin editorial regarding political issues or two different church members take opposing views on a candidate	Yes	N/A
Use of church facilities by political candidates (if all other candidates are allowed or invited)	Yes	N/A
Fund-raising for candidates	No	Yes
Campaigning for candidates	No	Yes
Educate members of the public about viewpoints of candidates	Yes	Yes
Discuss church doctrine pertaining to candidate views such as abortion, homosexuality and marriage	Yes	Yes
Granting use of name to support a political candidate	No*	Yes*
Support or oppose judicial, department or cabinet appointments	Yes	Yes
Support or oppose judicial candidates	No	Yes
Support or oppose other political appointments of non-elected officials	Yes	Yes
<b>SUPPORTING OR OPPOSING LEGISLATION</b>	<b>CHURCH</b>	<b>PASTOR</b>
Use of church facilities by lobbying groups to discuss social issues	Yes	N/A
Rent or loan church mailing list to lobbying groups	Yes	N/A
Preach sermons on social issues and political issues and activism	Yes	Yes
Educate on political process and political/social/legislative issues	Yes	Yes
Petition drives supporting or opposing legislation or citizen initiatives	Yes	Yes
Support or oppose legislation unrelated to the church organization	Yes**	Yes
Support or oppose legislation that directly relates to the organization	Yes***	Yes
Encourage people to voice for or against legislation or citizen initiatives	Yes**	Yes
Lobby candidates to support or oppose legislation or citizen initiatives	Yes**	Yes
Distribute position papers supporting or opposing legislation or citizen initiatives	Yes**	Yes

\*A pastor may include title and church affiliation in a personal endorsement along with the following notation: "Title and affiliation for identification purposes."

\*\*Churches and other 501(c)3 organizations may support or oppose legislation so long as such activity comprises an insubstantial part of the overall operation. A 501(c)4 organization may support or oppose legislation without any limitations.

\*\*\*A church or any other 501(c)3 organization may without limitation support or oppose legislation that directly affects the organizational structure and operation of the organization. For example, a church may without limitation oppose legislation attempting to repeal the tax-exempt status of the church.

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## DIRECTRICES POLÍTICAS Y LEGISLATIVAS PARA PASTORES E IGLESIAS

por Mathew D. Staver, Esq.

<b>APOYAR U OPONERSE A LOS CANDIDATOS</b>	<b>IGLESIA</b>	<b>PASTOR</b>
Apoyar u oponerse a candidatos políticos	No	Sí
Contribuciones a un candidato político	No	Sí
Gastos en especie e independientes en apoyo o en contra de candidatos políticos	No	Sí
Contribuciones a Comités de Acción Política	No	Sí
Acto de presencia de un candidato político en la iglesia reunión o servicio	Sí	N / A
Presentación de los candidatos políticos en la iglesia	Sí	Sí
El candidato político predica o lee las Escrituras (las contribuciones no deben ser solicitadas y el mensaje no debe instar a la gente a votar por el candidato)	Sí	N / A
Programas para registrar votantes y campañas(no partidista)	Sí	Sí
Distribuir encuestas de candidatos y registros de votación correspondientes (evitar opiniones editoriales)	Sí	Sí
Distribuir propaganda política en el estacionamiento de la iglesia y opiniones sobre temas políticos (siempre y cuando no haya apoyo de la iglesia)	Sí	N / A
Alquiler o préstamo de las listas de correo de la iglesia para los candidatos políticos (la lista debe estar a disposición de todos candidatos en términos y precios similares)	Sí	N / A
Anuncios políticos y noticias en el boletín de la iglesia a precio regular	Sí	N / A
Boletín editorial de la iglesia donde el pastor o miembro del personal apoya o se opone a un candidato	No	No
Boletín editorial de iglesia con respecto a temas políticos o dos miembros de la iglesia tienen diferentes puntos de vista sobre un candidato	Sí	N / A
Uso de las instalaciones de la iglesia por los candidatos políticos (si todos los demás candidatos se les permite o se les invita)	Sí	N / A
La recaudación de fondos para los candidatos	No	Sí
Hacer campaña para los candidatos	No	Sí
Educar a los miembros del público acerca de puntos de vista de los candidatos	Sí	Sí
Discutir la doctrina de la iglesia en relación a las opiniones de un candidato, como el aborto, la homosexualidad y el matrimonio	Sí	Sí
Conceder uso del nombre para apoyar un candidato político	No*	Sí*
Apoyar u oponerse a nombramientos, judiciales, a un departamento o a un gabinete	Sí	Sí
Apoyar u oponerse a candidatos judiciales	No	Sí
Apoyar u oponerse a otros nombramientos políticos de funcionarios no electos	Sí	Sí
<b>APOYAR U OPONERSE A LEGISLACIÓN</b>	<b>IGLESIA</b>	<b>PASTOR</b>
Uso de las instalaciones de la iglesia para grupos de cabildeo para discutir temas sociales	Sí	N / A
Alquiler o préstamo de la lista de correos de la iglesia para grupos de cabildeo	Sí	N / A
Predicar sermones sobre temas sociales y activismo político	Sí	Sí
Educar sobre el proceso político y temas políticos/sociales/legislativos	Sí	Sí
Recogida de firmas de apoyo o de oposición a legislación o iniciativas de los ciudadanos	Sí	Sí
Apoyar u oponerse a la legislación Sí relacionada con la organización religiosa	Sí***	Sí
Apoyar u oponerse a la legislación que directamente se relacione a la organización	Sí***	Sí
Animar a las personas a expresarse a favor o en contra de la legislación o iniciativas de los ciudadanos	Sí**	Sí
Cabildeo a los candidatos para apoyar u oponerse a la legislación o iniciativas de los ciudadanos	Sí**	Sí
Distribuir documentos expositivos a favor o en contra de la legislación o iniciativas de los ciudadanos	Sí**	Sí

\*Un pastor puede incluir el título y la afiliación a la iglesia en un aval personal, junto con la siguiente notación: Título y afiliación sólo para efectos de identificación.

\*\* Las iglesias y otras organizaciones 501(c)3 pueden apoyar u oponerse a la legislación, siempre y cuando dicha actividad constituya una parte insustancial de su operación general. Una organización 501(c)4 puede apoyar u oponerse a la legislación, sin ningún tipo de limitaciones.

\*\*\*Una iglesia o cualquier otra organización 501(c)3 sin limitación puede apoyar u oponerse a la legislación que afecte directamente a la estructura organizativa y el funcionamiento de la organización. Por ejemplo, una iglesia puede, sin limitación, oponerse a la legislación de intentar derogar la exención de impuestos de la iglesia.