

## 501(c)(3) Legislative Scorecards

Legislative scorecards are a particularly useful way for 501(c)(3) nonprofit organizations to update members on policy issues of importance to the organization. Both public and private foundations can create – and can fund their 501(c)(3) grantees to create – legislative scorecards to educate their members about policy positions that elected legislators have taken on these issues.

In fact, legislative scorecards are the *only* permissible way 501(c)(3)s, including public and private foundations, can let their members know how legislators have voted on legislative proposals and what the organization thinks about those votes. It is important to note that scorecards are a means for informing members about recorded legislative votes and should never be used to pass on a legislative candidate's campaign positions.

The IRS has provided some guidance on how all 501(c)(3)s can create and distribute legislative scorecards to their members without engaging in impermissible partisan political activities.

### **To whom can a 501(c)(3) distribute legislative scorecards?**

A 501(c)(3) can *only* distribute legislative scorecards to the organization's *members*. Members are defined as people who contribute more than a nominal amount of time or money to the organization (*e.g.*, frequent volunteers and regular donors). Scorecards sent to the general public or to targeted subsets of the general public (other than the organization's members) will be considered impermissible election-related activity by the IRS.

### **When can a 501(c)(3) organization distribute a legislative scorecard?**

A 501(c)(3) should not time the distribution of scorecards to an election. The purpose of issuing the scorecard is to evaluate sitting legislators, not to influence who members should support in an election. Scorecards should not be issued in September or October of an election year; instead, they should be issued annually at the conclusion of the legislative cycle.

### **Which legislators should be included in a 501(c)(3) scorecard?**

A 501(c)(3) should include *all* legislators in a particular legislative body (*i.e.*, U.S. Senate, state senate) in the scorecard. The nonprofit may narrow this list by geographic boundaries (*e.g.*, if the organization works in New Jersey only, it can list only New Jersey federal representatives), but the scorecards may *not* target a particular swing district. The scorecard also must not identify which legislators are running for re-election.

### **What issues can a 501(c)(3) discuss in a legislative scorecard?**

A 501(c)(3) scorecard can focus on legislative issues of concern to the organization. For example, an AIDS organization could limit the scorecard to only proposals that impact AIDS issues.

### **Can a 501(c)(3) actually score legislators?**

A 501(c)(3) is allowed to score legislators. The organization can describe its position on the legislation and then compare that position to how each legislator voted. For example, the scorecard can say Senator Smith voted according to the organization's position 50% of the time.

Both public and private foundations should feel comfortable funding their grantees to develop legislative scorecards. Both types of foundations can even create scorecards themselves, as an educational tool for their members. Since 501(c)(3) legislative scorecards can be distributed to members only, scorecards intended for the general public must be prepared by 501(c)(4) organizations.

*This handout provides general guidelines only, and should not be relied upon as legal advice.*

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