

Opponents of Politics-Ban Repeal Speak Out

03.16.17 | Linda J. Rosenthal, JD



In September 2016, after several months of rhetoric by candidate Trump that he planned to “totally destroy” the Johnson Amendment, followed by adoption of a GOP Platform Plank supporting repeal, Americans United for Separation of Church and State pushed back. They prepared and published an article called “[Trumpeting Church Politicking](#),” responding specifically to an apparent hard-line stance in favor of total repeal, at least for churches and religious organizations, if not for all 501(c)(3)s.

At the same time, the National Council of Nonprofits published its paper, “[The Power of Nonpartisanship](#).”

Opposition Coalescing

Now that the possibility of partial or full repeal of the Johnson Amendment is becoming all too real, the charitable community has aggressively pulled together to oppose this action. The National Council of Nonprofits is continuing to take a lead role in galvanizing opposition by the philanthropy community.

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*The National Council of Nonprofits has taken a **strong stance in support of nonprofit nonpartisanship** and has created a dedicated webpage on Protecting Nonprofit Nonpartisanship with analysis and other resources on this serious challenge to nonprofit identity, independence, and integrity.*

Readers are asked to share your insights on what repeal or revision of the Johnson Amendment would mean to your operations and to the integrity and trust of the nonprofit community.

We seek your input on how best to communicate the benefits of nonpartisanship, and to help imagine the challenges that would arise if nonprofits were subject to demands for endorsements by politicians, their operatives, and politically motivated donors. Provide your insights today!”

Just after Senator Lankford and Representative Scalise filed their companion legislation on February 2, 2017, proposing a carve-out-type, limited exception to the politics ban, NCN issued a press release titled “National Council of Nonprofits Opposes Latest Efforts to Politicize Charitable Nonprofits and Foundations,” specifically critiquing those mirror bills.

This document included as well a strong statement about the role of “nonpartisanship” in the charitable world:

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Nonpartisanship is vital to the work of charitable nonprofits. It enables organizations to address community challenges, and invites the problem-solving skills of all residents, without the distractions of party labels and the caustic partisanship that is bedeviling our country. Indeed, current law is the reason that charitable nonprofits are safe havens from politics, a place where people can come together to actually solve community problems rather than just posture and remain torn apart.

“Nonprofits are already free,” the document continued, “to exercise their First Amendment rights to advocate for their missions. Allowing political operatives to push for endorsements would put nonprofits in a position where they become known as Democratic charities or Republican charities and put missions at risk.”

The NCN then reached out to the GOP sponsors of current legislation, expressing appreciation for “the concern for the nonprofit sector,” but asking for a more cooperative approach, including:

- “Guaranteeing a seat at the table in upcoming policy discussions for a sector that employs more than 10 percent of the American workforce;
- Preserving and expanding charitable giving incentives in any tax reform measure that is considered; and
- Considering the ramifications of domestic spending cuts on organizations that serve as the backbone of our communities and are already heavily subsidizing governments at all levels.”

Additional Resources

There’s no lack of opinion pieces, position papers, and information from the opponents’ perspective. Here are just a few:

- BoardSource: [Why Repealing the Johnson Amendment is a Bad Idea](#)
- Independent Sector: [Statement on Johnson Amendment and Political Activity by Charities](#)
- The Nonprofit Quarterly: [Losing the Johnson Amendment Would Destroy the Unique Political Role of Nonprofits](#)
- Rabbi David Wolpe, The Atlantic: [A Rabbi Defends the Johnson Amendment](#)
- Professors Philip Hackney & Brian Mittendorf, Newsweek [Trump May Upend Nonprofits With Vow To ‘Destroy’ Johnson Amendment](#)
- Gene Takagi, Esq.: [Converting Charities \(including Churches\) into Dark Money Political Organizations](#)

Conclusion

Undoubtedly, the next few months will be interesting and challenging, as rhetoric and action heat up on this volatile issue.