

National Commission of Religious and Nonprofit Leaders Proposes New Solutions to Congress on Political Speech by Nonprofit Groups

In Final Report to Sen. Charles Grassley, Commission Calls Regulation of Speech of Religious Organizations “Disturbing and Chilling”

Washington, Aug. 14, 2013—A National commission, with input of leaders from nearly every major faith group in America and other prominent nonprofit groups, has issued a 60-page report offering Congress and the Treasury Department new proposals for bringing clarity to current IRS restrictions on political expression by nonprofit organizations.

After issuing a report to **Sen. Charles Grassley** (R-Iowa) on national tax policy for religious and other nonprofit organizations in December, the **Commission on Accountability and Policy for Religious Organizations** (“Commission”) turned its attention to a Grassley request to address the prohibition against political campaign participation for nonprofits exempt under Section 501(c)(3) of the Internal Revenue Code.

The Commission strongly concluded three things:

- Members of the clergy should be able to say whatever they believe is appropriate in the context of their religious services or their other regular religious activities without fear of IRS reprisal—*even when such communication includes content related to political candidates*.

Such communications would be permissible provided that the organization does not expend incremental funds in making them. In other words, as long as the organization’s costs would be the same with or without a political communication, the communication would be permissible.

- Secular 501(c)(3) organizations should have comparable latitude when engaging in their regular, exempt-purpose activities and communications.
- Current IRS policy of not permitting tax-deductible funds to be disbursed for political purposes *should be preserved*—even though many have suggested repeal.

In January 2011, Sen. Grassley asked the Evangelical Council for Financial Accountability (ECFA) to coordinate a national effort to provide input on accountability, tax policy, and electioneering and political expression for nonprofit organizations in general, and religious groups in particular. ECFA then created the Commission (www.religiouspolicycommission.org), including panels of legal experts, religious sector representatives and nonprofit sector representatives.

In the new report to Sen. Grassley, Commission Chairman Michael E. Batts writes, “***It is both disturbing and chilling that the federal government regulates the speech of***

religious organizations....*The prohibition against participation or intervention in a political campaign included in Section 501(c)(3) of the Internal Revenue Code...is the only law of its type on the books...the only law that allows the IRS to evaluate the content of a sermon delivered by a member of the clergy...the only law that could cause a church to lose its federal tax exemption based on the words spoken by its leaders in a worship service.”*

The Commission maintains the electioneering prohibition for nonprofit organizations, as currently applied and administered, “*lacks clarity, integrity, respect and consistency—and that something needs to change.*” Current application of the law, the Commission believes, is untenable for several reasons:

- Guidelines are often vague, causing uncertainty as to what is permissible—and as a result, religious and nonprofit leaders often avoid speaking out on issues in permissible ways, due to fear of government reprisal. The vagueness of current guidelines also makes it difficult for the IRS to administer the law.
- IRS enforcement actions have been inconsistent or selective—there are ample cases of prohibited political activity being ignored by the IRS.
- For some faith communities, engagement in political communications is inextricably steeped in their history and culture. For example, a 2012 Pew Research Center study reveals black Protestant churchgoers are eight times as likely to hear about political candidates at church as their white mainline counterparts.

The Commission is comprised of 14 members and 66 panel members representing every major faith group in America, prominent attorneys with expertise in exempt organization and constitutional law, and other prominent leaders from across the U.S. nonprofit sector. A full copy of the Commission’s report to Sen. Grassley is available at www.religiouspolicycommission.org.