



Maine
Philanthropy
Center

Concerns About Efforts to Repeal and Weaken the Johnson Amendment

The Issue

- The Administration and some members of Congress are trying to weaken and repeal the Johnson Amendment in order to fulfill a campaign promise.
- This tax law enables individuals of all beliefs to come together to solve community problems free from partisan divisions.
- Nonpartisanship protects the integrity and independence of charitable nonprofits, houses of worship, and foundations and allows them to focus on the common good and the communities they serve.
- For 60+ years, the Johnson Amendment has been a valuable protection that keeps charitable nonprofits, religious institutions, and foundations focused on their missions rather than diverting their time, money, and other resources to engage in raw partisan politics.

What is the Johnson Amendment?

- The Johnson Amendment is a 1954 amendment to the tax code.
- It prohibits 501(c)3 tax-exempt organizations from endorsing or opposing candidates for office, making campaign contributions, or coordinating activities with candidates, Political Action Committees (PACs), and political parties.
- Then-Senator Johnson offered the amendment to the Tax Reform Act of 1954. It was signed into law by President Eisenhower and was re-enacted and strengthened in bills signed by President Reagan.

Potential Consequences

- If enacted, the legislative proposals could politicize charitable nonprofits, houses of worship, and foundations, plunging them into partisanship. It could hurt the public and damage the capacity of organizations in a wide variety of ways, including:
 - Erosion of public trust as organizations come to be considered as party-affiliated charities.
 - Insistence on endorsements by candidates and their operatives.
 - Pressure on charitable nonprofits by donors to endorse favored candidates.
 - Diversion of resources from mission as pressure is applied to 501(c)3 organizations to redirect charitable resources to partisan political campaigns.

Arguments in Support of Maintaining the Johnson Amendment

- It supports nonpartisanship.
- It reaffirms nonprofits as being trusted, effective problem solvers. Being nonpartisan and non-electoral is believed to be fundamental to nonprofits' success.
- Pressure to engage in electoral activities would redirect resources away from the mission work.

Arguments in Support of Repealing the Johnson Amendment

- The amendment interferes with free speech.
- Church and state should be separate. The government shouldn't be interfering or intruding in church affairs.

A Further Perspective that the Proposed Change Is Not Needed

- Nonprofits – and their individual leaders – already have tremendous free speech protection under existing law.
- Charitable nonprofits, houses of worship, and foundations are allowed to advocate on policy issues relevant to their missions and the people they serve.
- In their personal capacity, nonprofit board members, volunteers and staff can freely speak out on partisan issues, make campaign contributions, and even run for office.
- There's not a problem. The Internal Revenue Service (IRS) is not currently investigating churches or other nonprofits in regard to the Johnson Amendment.

Recent Activity

- The President released a vague Executive Order this spring which has been interpreted as discouraging the IRS from enforcing the Johnson Amendment and encouraging religious institutions to violate the amendment.
- Subcommittees of the House Oversight Committee have held hearings focused on the Johnson Amendment's effect on churches' and other nonprofit organizations' freedom of speech.
- An anti-Johnson Amendment rider has been attached to an appropriations bill, the Financial Services and General Government Appropriations Act of 2018, by the House Financial Services subcommittee.

Organizations Opposed to Weakening/Repealing the Johnson Amendment

- The National Council of Nonprofits is leading the national effort opposing the attacks on the Johnson Amendment and has created a very successful community letter effort. Sixty-seven organizations in Maine signed onto the letter which now has over 4500 signers nationwide.
- The Forum of the Regional Associations of Grantmakers
- The Maine Association of Nonprofits