

# Protecting Endangered NONPARTISAN Space

by Marcia Avner and Laura Wang

Supporting issues directly related to their mission is one of the things that nonprofits do, but the Citizens United decision and an increasingly polarized political landscape have put nonprofits under intense scrutiny. In this article, the authors lay out a dozen strategies for protecting our nonpartisan space.

**M**INNESOTANS WILL BE ASKED ON THEIR 2012 ballot to weigh in on a proposed constitutional amendment requiring valid photo identification to vote—a strictly party-line effort approved by the state legislature in 2011. Many nonprofit groups and foundations opposed the amendment because it would discourage voting by ending Election Day registration and creating a messy system of provisional balloting. AARP was one of many organizations opposing the photo ID requirement, along with the League of Women Voters, TakeAction

Minnesota, the Minnesota Council of Nonprofits, the American Civil Liberties Union, Citizens for Election Integrity, Common Cause, and several unions. Prominent Minnesota political leaders such as Democratic former vice president Walter Mondale and Republican former governor Arne Carlson agreed to serve as co-chairs of the opposition campaign, which was named “Our Vote Our Future.”

Backing the amendment was the organization Minnesota Majority, styling itself as a conservative voice supporting “traditional values”<sup>1</sup> and holding a press conference to criticize AARP’s opposition, alleging that a majority of AARP members would not be in agreement—at which point several people identifying themselves as AARP members cut up their membership cards and chided AARP for opposing the proposed measure. Notwithstanding that bit of political theater, Minnesota Majority had no real basis for its claim. A few days later, news reports noted that the ballot fund supporting the amendment, Protect My Vote, was itself started by Minnesota Majority, and that its largest contributor was Joan Cummins, wife of Bob Cummins—who, according to Minnesota Public Radio, is “one of Minnesota’s most generous Republican donors” as well as founder of the Freedom Club, an organization that

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was instrumental in the GOP's having won control of an historic number of state legislatures in 2010.<sup>2</sup> However, the creative visuals and attacks in the Protect My Vote press conference got more attention than the questionable practices and affiliations of the attackers of AARP. Accustomed to operating in a nonpartisan space where it could advocate for positions without regard to political party affiliations, AARP nonetheless felt moved to argue that its position on the proposal was a long-standing formal and fully vetted part of its government accountability agenda.

### A Polarized Political Environment

While Minnesota has endured increasing polarization in political dialogue for a decade now, the political environment for nonprofits underwent a major shift with the Citizens United decision in 2010 blocking government regulation of political spending. The decision affected twenty-four states and led to a slew of vehicles for moving money through nonprofits to support partisan agendas. This shift raises some critical challenges to protecting the nonprofit sector's nonpartisan role. When an increasing number of issues are defined as partisan, nonprofits that work on those issues to advance their missions are tossed into the hyperpartisan arena—as are their members, donors, recipients of services, party activists, and the media. What should nonprofits do to avoid or manage risk in this politicized partisan environment? What strategic responses work for nonprofits accused of partisanship? And, is it possible for nonprofits to use their nonpartisan status to mitigate the detrimental effects of political polarization?



The vast majority of nonprofits are nonpartisan—most U.S. nonprofits have IRS 501(c)(3) status, prohibiting them from partisan political activity. However, being “nonpartisan” does not mean the same thing as being neutral, or having no positions on public policy issues. Nonprofits are called on not just to effectively deliver their services but also to endeavor to influence the systems, structures, and policies that affect the causes of problems—for good or for bad—or that create opportunities. Having a voice in policy debates is essential to the work done by many organizations. Nonprofits feed and house people, prepare kids for kindergarten, protect the environment, promote an engaged and informed citizenship, and deliver any number of services to the more vulnerable segments of the population—from the elderly to people living with disabilities to victims of natural disaster—but progress toward their goals is often dependent on decisions about systems and resources made by the legislative bodies around the country; nonprofits’ on-the-ground experience and expertise provide both practical information and community perspective that help inform these decisions.

Participating in legislative conversations does not come without risk. When nonprofits move beyond the world of service delivery and enter

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the policy arena, many of their leaders find that the outside perceptions of their organizations change. Any number of nonprofit advocates have delivered powerful testimony to legislative committees—backed by sound data about their programs and powerful personal stories about the impact of a debated policy—only to be caught in the cross fire of political fights, with their mere presence in the debate used as a weapon to challenge their nonpartisanship, tax-exempt status, and the good work they are doing in the community. Increasingly, nonprofit positions are being cast as “conservative” or “progressive” (or often “liberal”)—and, implicitly, “Republican” or “Democratic”—as those terms are understood in our increasingly polarized political landscape.

While times have changed, with a twenty-four-hour news cycle and a seemingly permanent campaign influencing our dialogue, it is worth remembering that significant social change has frequently correlated with breakdowns in civil discourse. The abolition of slavery, the fight for suffrage, the civil rights movement, and the Vietnam War were each accompanied by politics of divisiveness. Civic organizations played a significant role in these issues, bringing the problems to public attention, advocating for fair and just solutions, and healing communities as the debates subsided. Nonprofit organizations are again at the forefront on all sides of major issues that divide communities today, such as immigration, LGBT rights, and healthcare reform, but now they face a serious challenge. The strategy of “guilt by association” promotes a belief that anyone supporting or opposing an issue position must be in cahoots with a political party and loyal to its agenda if that agenda aligns with the position. This tactic allows opponents to dismiss the value of nonprofit advocacy—no matter how compelling or well supported by evidence—as being mere politics.

Being involved in political arenas where policies are shaped is an appropriate and responsible nonprofit role, and while maintaining nonpartisan status is an ongoing challenge, nonprofits can protect their nonpartisan brand by insulating their organization from assumptions of partisanship and attacks, using the following core strategies:

1. *Know and comply with rules limiting*

*partisan activity.*<sup>3</sup> Nonprofits may not do anything to overtly or implicitly support a particular candidate or party. Nonprofits may lobby and advocate, and it is often the best strategy for meeting their missions. Enforce best practices throughout your organization.

2. *Base policy positions on solid information.* Even if emotions and partisan politics trump evidence or facts for decision makers, nonprofits need to build their activism on a defensible rationale.
3. *Ensure that board and staff separate any personal political activity and identity from their roles as nonprofit spokespersons.* This is easier said than done, but the nonprofit advocate has to identify when she or he is the voice of the organization. This is worth some robust discussion and establishment of guidelines for your nonprofit’s specific situation. Some leaders choose to step back from political activity to avoid confusion; others are careful to identify their partisan presence as personal.
4. *Work to build relationships and support from allies and elected officials of all political leanings.* Seek out unexpected partners who are with you on the particular issue. Keeping the focus on the issue and finding the sweet spot where the issue connects with the intellect, enlightened self-interest, and emotions of a potential ally is the art of effective base building and advocacy.
5. *Sustain the argument that your position is in the best interest of the community, and validate that by including community organizing and mobilization in your policy-related work.* Let the community members who are affected by decisions have a voice in those decisions. Have the community opinion leaders and press stand with you on the basis of the positive impact that your proposal will have.
6. *Don’t make nonpartisan issues political by personalizing opponents.* Being nonpartisan requires some political savvy—a characteristic not too evident in the case a decade or so ago of a Minnesota nonprofit that

placed ads in local papers statewide with pictures of legislators who opposed its bill to ban public smoking. The ads each showed a scowling House member and called on constituents in eight districts to “tell your representative that he/she is voting wrong on the smoking ban.”<sup>4</sup> All of the named opponents were members of one political party—and legislators, in their anger at the personalization and assumed political divisiveness of the action call, demanded an end to all lobbying by nonprofits.

7. *Create coalitions.* In many places, when a volatile and overly politicized issue is identified with a specific nonprofit, that nonprofit and its sibling organizations join together in coalitions (or even create separate organizations) that serve to attract diverse groups and/or separate them from a single organization’s interests and identity. In this way, they avoid the impression of partisanship.

Going forward there will no doubt be more attacks on nonprofits that support or oppose an issue claimed or identified as part of a partisan agenda. Don’t allow this to cause you to back away from taking a position on issues important to your mission. Instead:

1. *Choose issues for the right reasons.* Your first priority is likely to be the issues most closely tied to your mission—with limited time, money, and people you will want to work to advance your mission and the principles that are its underpinning. However, there are issues with broad implications for the communities we serve, where history has shown that a wide coalition of voices is needed to ensure social progress: human rights, fiscal policies, upholding democratic practices. While these may not be part of your regular programming, they are likely to go to your core values, and nonprofits should not hesitate to speak out on such issues, contributing the experience and expertise they possess in knowledge, information dissemination, and mobilization.
2. *Be proactive about establishing what your policy positions are.* Don’t wait to be put in a defensive position.

3. *Be strong.* Especially when the issue is core to your work, be courageous, clear, and focused on the work at hand.
4. *Choose when to respond publicly to an attack, and be intentional about it.* Don’t extend the shelf life of a story unnecessarily. Do correct facts and position your organization as being focused on problem solving.
5. *Promote civility and encourage civic engagement.* Remember that when leadership organizations do important work, they are unlikely to have everyone’s support. Don’t take any assaults on your organization’s positions personally, and don’t jump to an oppositional and argumentative stance when baited. Nonprofits need to set the standard for civil dialogue, not be dragged down to the lowest forms of partisan squabbles. Stay cool, without ceding your position. Let many voices demonstrate the broadest possible support for what you advocate.

#### NOTES

1. “Standing Together for Traditional Values,” banner on the home page of Minnesota Majority, accessed September 12, 2012, [www.minnesotamajority.org/](http://www.minnesotamajority.org/).
2. Catharine Richert, “Voter ID Groups Release First Fundraising Numbers,” *MPRNews*, June 20, 2012, [minnesota.publicradio.org/collections/special/columns/polinaut/archive/2012/06/voter\\_id\\_groups.shtml](http://minnesota.publicradio.org/collections/special/columns/polinaut/archive/2012/06/voter_id_groups.shtml).
3. Resources for nonprofits include Alliance for Justice ([www.afj.org](http://www.afj.org)), the National Council of Nonprofits ([www.councilofnonprofits.org](http://www.councilofnonprofits.org)), and the Center for Lobbying in the Public Interest ([www.clpi.org](http://www.clpi.org)).
4. One of the authors remembers being asked for her opinion and referring the nonprofit to the Alliance for Justice. “They agreed with my concern that it didn’t pass the ‘smell test’—i.e., did not avoid overt or implied partisanship. The nonprofit still ran the ad in several weekly papers. Within a week, a legislator had brought the ad up at a committee and asserted that he took it as a personal and political attack and that it made him want to pass a bill making it illegal for nonprofits to lobby.”

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