

## MEMORANDUM

**FROM:** Jordan T. Ellel, Tempe Tri-District Legal Counsel  
**SUBJECT:** Election Dos and Don'ts - Limitations on Election Activities for Arizona School Districts  
**DATE:** August 3, 2017

As employees of an Arizona school district, it is important to be aware of the limits that are placed on school employees when it comes to the use of District resources for election activities, and the substantial penalties that can be assessed for the misuse of school/District property.

**Arizona Law:** Arizona Revised Statutes § 15-511 sets forth many of the limitations on election activities for Arizona School District employees. Its pertinent provisions include the following rules:

**A.R.S. § 15-511: Use of school district or charter school resources or employees to influence elections; prohibition; civil penalty; definition**

A. A person acting on behalf of a school district or a person who aids another person acting on behalf of a school district **shall not spend or use school district . . . resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, web pages, personnel, equipment, materials, buildings or any other thing of value of the school district . . . for the purpose of influencing the outcomes of elections. . . .**

B. The prohibition on the use of public resources to influence the outcome of bond, budget override and other tax-related elections includes the use of **school district-focused promotional expenditures** that occur after an election is called and through election day. . . .

D. An employee of a school district . . . acting as an agent of or working in an official capacity for the school district . . . **may not give pupils written materials to influence the outcome of an election or to advocate support for or opposition to pending or proposed legislation.**

E. Employees of a school district . . . **may not use the authority of their positions to influence the vote or political activities of any subordinate employee. . . .**

J. For *each* violation of this section, the court may impose a **civil penalty** not to exceed five thousand dollars [**\$5,000.00**] **plus** any amount of misused funds subtracted from the school district budget against a person who knowingly violates or a person who knowingly aids another person in violating this section. **The person determined to be out of compliance with this section shall be responsible for the payment of all penalties and misused funds.** School district funds or insurance payments **shall not** be used to pay these penalties or misused funds. . . .

**What resources can't be used?** Employees must understand that this is a broad prohibition; in particular, the following terms were defined by the Attorney General in its Guideline discussed below. "*Personnel*" includes both salaried employees and non-salaried volunteers. "*Equipment*" includes copiers, bulletin boards, telephones, fax machines, computers, school mailboxes, furniture, vehicles, postage meters, internet connections and any district communication networks, such as school newsletters, public announcement systems or devices, web pages and advertising space in student newspapers. "*Materials*" includes paper, labels, pens, pencils, markers, paints, art supplies, food, cafeteria supplies and postage. "*Buildings*" include District buildings, playing fields, parking lots, walls and fences.

**What if I just receive campaign email?** It's impossible to avoid receiving emails in your School District inbox that advocate election of a candidate, or passage of a ballot measure (like an override). But the distribution of such emails from your School District email account is considered a violation of the statute by the Attorney General Guidelines, even to your own private e-mail account.

## **THE ATTORNEY GENERAL'S GUIDELINES**

The Arizona Attorney General, pursuant to A.R.S. § 15-511(H), has published detailed Guidelines explaining how to apply these rules. Unfortunately, these Guidelines were last updated in 2004, but they still provide useful information regarding permitted and prohibited activities. If you would like to review these, a copy can be obtained from your Superintendent's Office.

*Overriding Principle: Don't use school resources (including equipment, materials, bulletin boards, furniture, employees' or volunteers' duty time, etc.) to influence the outcome of any election.*

### **What you *can't* do**

- Display campaign signs, banners, stickers or other advocacy for or against any party, candidate or ballot item in classrooms, on school walls, fences, etc. *Sole exception:* if displayed during an appropriate lesson as part of the approved curriculum a teacher is hired to teach, and campaign items are presented from all candidates or sides of an issue.
- Wear political buttons, T-shirts, etc., designed to influence an election while on duty at work, supervising activities, etc., whether in school or at school-sponsored extracurricular events on or off campus.
- Permit use (whether paid or free) of school premises for meetings by one side only in an election; users must have equal access, subject to facility use policies and fee schedules.
- Use the authority of your position to influence the vote or political activity of a subordinate
- Use school mailboxes, mail distribution services, e-mail, telephones, etc. to distribute literature or communicate to influence the outcome of elections, including forwarding emails you receive (even to your own personal email), or using school phones as phone banks.
- Give students literature advocating for a candidate or ballot measure, or proposed legislation.
- Circulate petitions or fund-raise for candidates or ballot measures, except during non-duty hours outside instructional settings; *best practice – don't do this at school ever.*
- Solicit contributions to be used in support of or opposition to a candidate, recall, ballot measure or political party. This does not prohibit individual employees from voluntarily exercising their right to solicit contributions on non-duty time, outside the classroom or other instructional settings.

### **What you *can* do:**

- As private citizens, during non-duty time, off campus, using private resources (computers, phones, paper, etc.), advocate, circulate petitions, express your opinions, distribute literature, wear buttons, use bumper stickers (even when parked for the day at work), make speeches, make contributions, etc. Employees should make it clear you're not representing or acting on behalf of the District when you do any of these things.
- Receive literature in a school mailbox, e-mail, etc. which attempts to influence elections – just don't redistribute or forward it. Don't forward a political "rant."
- If at an extracurricular activity (*e.g.*, football game) campaign only if not on duty/assisting with supervision, etc.
- Conduct non-partisan activity designed to encourage individuals to register to vote and make voter registration forms available on school district property if you regularly do so throughout the year.
- Respond to questions about ballot measures so long as the responses provide factual information in a neutral manner and do not present a clear and unmistakable plea for or against the measures.
- May prepare and distribute informational reports required by statute in connection with a bond election or a budget override (including publicity pamphlet), and investigate fiscal impact of ballot measures on the district.
- Host non-partisan forum for the purpose of educating voters on an issue, and allow the renting or lease of buildings and facilities if all groups have the same rights and conditions attached to their use.

*Best practice – avoid electioneering at school events (or at YOUR SCHOOL's events).*

### **The Bottom Line**

When in doubt, don't! Talk with your administrators first! It's better to ask first than to risk being penalized for the inappropriate use of school resources.