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From: Sandy Otto on behalf of Eddie Hadlock
Sent: Tuesday, March 01, 2011 9:34 AM
To: EMPMAIL - All Campuses
Subject: FW: Video Message from the President
Attachments: Summary of Bond Projects - 2011.pdf; Election Guidelines for Staff.pdf; Cans and Can Nots.pdf; Advocating_Passage_or_Defeat_of_a_Measure.pdf; Citizens Advisory Committee Recommendation.pdf

Importance: High

I have posted another Update on a [new NCTC Podcast page](#) (click on link below and bookmark for future reference) set up exclusively for video messages from me to our faculty and staff. Doing it this way allows for higher quality video and works better than sending videos via email. This podcast page also has the video update from last week and will serve as an archive for all future video messages.

In this update I talk about the most recent meeting of our Board of Regents (2-25-11) at which they voted unanimously to call a \$32.5 million bond election for new facilities on the Gainesville Campus. A summary of projects included is attached to this email, along with the complete recommendation of the Citizens Advisory Committee.

Also attached are three other VERY important documents, which I urge you to read carefully, about what NCTC faculty and staff, including me, can and cannot do in regard to advocating for passage of the bond during college work hours or using college resources (email, college telephone system, college stationery, etc.).

<http://nctcfacstaff.podbean.com/>

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Violations of the law often occur because someone finds it irresistible to wrap up a factual explanation with a motivational slogan such as:

**GOOD SCHOOLS ARE THE FOUNDATION
OF A GOOD COMMUNITY.**

or

EVERY CHILD DESERVES A GOOD EDUCATION.

Another common misstep is to include "calls to action" such as:

PUT CHILDREN FIRST.

or

SHOW THAT YOU CARE ABOUT EDUCATION.

Remember: No matter how much factual information about the purposes of a measure election is in a communication, *any amount* of advocacy is impermissible.

★ A violation of the prohibition is a **Class A misdemeanor**. This means that a violation could lead to criminal prosecution. Also, the Ethics Commission has authority to impose fines for violations of section 255.003.

Another provision of the Texas Election Code prohibits a school district board member or employee from using or authorizing the use of an internal mail system to distribute political advertising. An internal mail system is a system operated by a school district to deliver written documents to its board members or employees. A violation of this prohibition could also lead to the imposition of fines by the Ethics Commission or to criminal prosecution.

Although you may not use *school district resources* for political advertising, you are free to campaign for or against a proposition on your own time and with your own resources. If you do plan to become involved in a campaign, you should educate yourself about filing requirements and about the rules regarding disclosures on political advertising.

Information is available from the Texas Ethics Commission by phone at (512) 463-5800 or on the commission's web site at www.ethics.state.tx.us.

Texas Ethics Commission

A Short Guide to the Prohibition Against Using School District Resources for Political Advertising in Connection with an Election



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A Short Guide to the Prohibition Against Using School District Resources for Political Advertising in Connection with an Election

No matter how enthusiastic you are about an election, it is important to remember that the Texas Election Code prohibits the use of political subdivision resources to produce or distribute political advertising in connection with an election. Section 255.003 of the Election Code provides as follows:

- An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising.
- This section does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.
- A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

New legislation effective September 1, 2009, further clarifies that an officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

- (1) the officer or employee knows is false; and
- (2) is sufficiently substantial and important as to be reasonably likely to influence a voter for or against the measure.

To understand the practical significance of this prohibition, it is useful to look at some of the specific words and phrases used in the law.

- ★ **“Political advertising”** is a communication that advocates a particular outcome in an election. It can be a communication in almost any written or broadcast form, such as a billboard, a flier, a newsletter, a poster, a television or radio ad, or an Internet site.

Newsletter of Public Officer of a Political Subdivision. The Ethics Commission adopted a rule providing guidelines for when a newsletter of a public officer of a political subdivision is not political advertising. Texas Ethics Commission Rule 26.2 provides as follows:

For purposes of section 255.003 of the Election Code, a newsletter of a public officer of a political subdivision is not political advertising if:

- (1) It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
- (2) It includes no more than eight personally phrased references (such as the public officer's name, “I”, “me”, “the city council member”) on a page that is 8 ½” x 11” or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 ½” x 11”; and
- (3) When viewed as a whole and in the proper context:
 - (A) is informational rather than self-promotional;
 - (B) does not advocate passage or defeat of a measure; and
 - (C) does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

- ★ The prohibition applies to any **“officer or employee of a political subdivision.”** In other words, if a school district employee makes a decision to use district resources in violation of the prohibition, the employee could be fined by the Ethics Commission or held criminally liable. School board members, as “officers” of a school district, are also subject to the prohibition.

- ★ A school district board member or employee would violate the prohibition by **“spending or authorizing the spending of public funds”** for political advertising. Not only does this mean that the school district may not purchase or authorize the purchase of new materials for use in creating political advertising, it also means that a school district board member or employee would violate the prohibition by using existing paper and machinery to generate, display, or distribute political advertising.

Also, it is not permissible to authorize the use of the paid time of school district employees to create or distribute political advertising. For example, school district staff may not copy, staple, or distribute political advertising on work time. Nor is it permissible to have school children work on political advertising during school time.

- ★ The prohibition does not apply to **“a communication that factually describes the purposes”** of a measure election. In other words, it is permissible to use district resources to produce explanatory material about what is at stake in a measure election. However, the communication may not contain information that an officer or employee of a political subdivision knows is false. The information must not be sufficiently substantial and important, such that it would be reasonably likely to influence a voter to vote a certain way.

COLLEGE &
CANs &
OF COMMUNICATING

BOARD OF REGENTS
CAN NOTs
A BOND CAMPAIGN

CAN:

- Organize a citizen-based committee to assess needs
- Serve as facilitator & advisor to the committee
- Communicate the committee's efforts to the public
- **COMMUNICATE THE FACTS. ONLY THE FACTS.**
- Communicate with community organizations/clubs
(i.e. Chamber of Commerce, PTA, Rotary Club, etc.)
- Produce factual materials for circulation
- Communicate regularly with College employees
- Capitalize on the WWW & Email to communicate

CAN NOT:

- **ADVOCATE THE BOND - IN ANY FORM OR FASHION**
- Use college resources for "political advertising"
- Spend or authorize spending for "political advertising"
- Use paid time for "political advertising"
- Host PAC meetings on college-owned property

"Political Advertising" - A communication that advocates a particular outcome of an election. It can be a communication in almost any written or broadcast form, such as a billboard, a flier, a newsletter, a poster, a television or radio ad, an Email message, or a web site.

Advocating Passage or Defeat of a Measure

The following are examples of sentences/phrases that the Texas Ethics Commission has determined advocate passage or defeat of a measure. See political advertising for more information.

Remember: No matter how much factual information about the purposes of a bond election is in a communication, any amount of advocacy is impermissible.

1. "Light rail is a solution that contributes to the long term sustainability of our region and we support it 100-percent."
2. "Seeks Voter Approval" . . . "We want to sustain the excellence. And we are now asking voters if they too want to sustain the excellence."
3. "That is why voters are also being asked to approve a new 1/4 cent sales tax dedicated to continually fund street improvements for the next four years . . . Passage of this proposition, coupled with the trails option of Proposition 4, will create an attractive amenity for all of [City's] residents to enjoy."
4. "Vote to Continue the Progress Being Made in Street Improvement and in Crime Prevention/Crime Control by Approving to Renew the Current Quarter-Cent Sales Tax. Election Day-Saturday, Jan. 20, 2001."
5. "It is very important for your children and the school district that the Tax Rollback Election pass."
6. "The important point is that a vote to authorize this 'Our Children, Our Schools, Our Future' bond package gives [School District] the flexibility needed to match the pace of coming growth, fast or slow."
7. "Keep the control here - among the residents - not in the hands of outsiders."
8. "The bond proposal provides the "best solution" to the needs generated by the school district's population growth."
9. "This bond is the right thing to do for the children of this community."
10. "After examining our options and each department's budget, we are left with only one way to generate the monies needed to continue programs and services that are essential to our students' success. We must have a change in our tax rates. That means asking voters to go to the polls and vote in a tax rate election. If approved, the district's rate would still be considerably lower, than it was just three years ago."
11. "The [School District] and Board of Trustees believe this rate increase is vitally important."

12. "What do you think it takes to educate our children in [School District] . . . And it takes your tax contributions. So let your voice be heard by casting an early vote November 3rd through the 17th in the tax rollback election or on November 20th, election day. . . . The bottom line is: whatever it takes."
13. "Our citizens now have the opportunity to position the [School District] for the 21st century. Please support the vision - our future depends on your commitment."
14. "It's time to change to meet the needs of our students . . . While the [safety issues] may not yet be matters of student safety, they will be soon if the situations are not addressed."
15. "Given today's construction costs and the needs of the district, a long-term bond is the only viable financial solution."