

BOND & LEVY CAMPAIGNS: Practical Guidance in a Polarized Environment



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1

Recent Developments



- Heightened Scrutiny by AOS
- Prosecutions of School Board Members & Administrators
- Future Guidance from AOS

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2

2

Use of Public Funds – The Law (R.C. 9.03)



Local Government shall **not** use public funds to:

- Support or oppose ... the passage of a levy or bond issue; or
- Compensate any employee of the [Local Government] for time spent on any activity to designed to influence the outcome of an election“

The Local Government **may** use public funds to:

- Attend public meetings to present information about “finances, activities and governmental actions in a manner that is not designed to influence the outcome of an election”

Hot Topics



- The following slides will focus on some common questions that arise.
- Local Government officials should exercise caution when engaging in any of these activities, even where an activity is listed as “permitted.”
- Always consult with legal counsel on specific facts of proposed use of funds or resources.
- When in doubt, anything potentially persuasive should be left to the levy committee.

Hot Topic #1: Communications & Information



Examples:

- Newsletters
- Social Media
- In-Person Meetings

Caution should be taken with all communications to the public.

Likely Permitted:

- Factual information regarding the Local Government's current finances.
- Information on current condition of facilities, if funds will be used for construction projects.

Prohibited/Likely Prohibited:

- Encouraging "vote yes" or "support our municipality" language
- Analysis or editorial on finances.
- "Scare tactics" with proposed cuts.

Hot Topic #2: Local Government Resources



Examples:

- Use of municipal facilities for meetings
- Use of municipal email
- Campaign signs stored on Local Government property

No minimum dollar threshold; *de minimus* is still violation.

Likely Permitted:

- Allowing levy committee to use facilities, where consistent with existing policy and all public groups (including anti-levy) are entitled to use space
- Use of municipal email for non-campaign uses (ordinary municipal business)

Prohibited/Likely Prohibited:

- Unequal treatment of pro-levy groups and anti-levy groups in use of facilities
- Using municipal email for campaign activities
- Storing campaign materials on municipal property

Hot Topic #3: Board/Council Members & Administrators



When may Board/Council Members and Administrators engage in pro-levy activity?

- Board members and administrators have a *personal* First Amendment right to engage in political speech . . . **BUT** . . .
- **When are they using their “own time”?**

Hot Topic #4: Outside Firms & Surveys



Restrictions equally apply to conduct of outside firms hired by the Local Government (e.g., communications firms, design firms)

- Firms must avoid engaging in activity designed to promote the passage of the levy.
- These firms will often seek to obtain input from the community.
- AOS has recently viewed use of surveys with great scrutiny.

Contributions



Local Government employees **may** contribute to levy committee.

BUT: “No person shall ***coerce, intimidate, or cause harm to another person (or threaten to)***, because that person makes or does not make a contribution to a political action committee.”

- Care must be taken in communicating with Local Government employees to ensure nothing may be construed as coercion.

Soliciting Donations



Two restrictions on soliciting donations:

- “No public employee shall solicit a contribution from any person while the public employee is performing the public employee’s official duties or is in those areas of a public building where official business is transacted or conducted.”
- “No person shall solicit a contribution from any public employee while the public employee is performing the public employee’s official duties or is in those areas of a public building where official business is transacted or conducted.”

Payroll Deductions



Local Government **may** deduct from the wages and salaries of its employees for support of a ballot issue committee, but must be by **written authorization** from the employee.

- Employee may revoke that authorization **at any time**.
- A revocation of the authorization does **not** affect any deduction **already made**.
- Local Government must maintain the authorization forms for a period of at least six years.

Questions?



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