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Public Finance: Election Do's and Don'ts for Michigan School Districts

THE ACT

School district board members, administrators and employees are required to abide by the Michigan Campaign Finance Act. The Act prohibits the contribution of public funds or resources to a campaign for a candidate or ballot proposal while permitting the dissemination of objective factual information and permitting employees to volunteer services or express their views on their own time. Board members and policy-making administrators (at least the superintendent) may engage in advocacy at any time as long as no district resources are used to disseminate those views.

Section 57 of the Campaign Finance Act, in relevant part, states as follows:

(1) A public body or a person acting for a public body shall not use or authorize the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure or provide volunteer personal services that are excluded from the definition of contribution under section 4(3)(a)...This subsection does not apply to any of the following:

1. The expression of views by an elected or appointed public official who has policy making responsibilities.
2. Subject to subsection (3)*, the production or dissemination of factual information concerning issues relevant to the function of the public body.
3. The production or dissemination of debates, interviews, commentary, or information by a broadcasting station, newspaper, magazine, or other periodical or publication in the regular course of broadcasting or publication.
4. The use of a public facility owned or leased by, or on behalf of, a public body if any candidate or committee has an equal opportunity to use the public facility.
5. The use of a public facility owned or leased by, or on behalf of, a public body if that facility is primarily used as a family dwelling and is not used to conduct a fund-raising event.
6. An elected or appointed public official or an employee of a public body who, when not acting for a public body but is on his or her own personal time, is expressing his or her own personal views, is expending his or her own personal funds, or is providing his or her own personal volunteer services. The basic rule is that school district resources may not be used to advocate for a candidate or ballot proposal.

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The following "Do's and Don'ts" cover commonly asked questions regarding compliance with the Act.

DO'S

- School district employees may engage in campaign activities that support candidates and ballot proposals on their own time (not when acting on behalf of the district as part of employment) and as long as school district funds, facilities and other resources, including district emails and social media accounts, are not used.
- Anyone may recommend individuals for appointment to a campaign committee, but the school district should not make any appointments.
- Campaign committee members and volunteers may attend school district meetings regarding the election and make public comments as members of the audience at those meetings to advocate and pass out literature.
- Information disseminated by the school district must be factual and objective. Factual and objective information may be displayed in school district buildings other than on election day where a building serves as a precinct location.
- The school district may allow a campaign committee to use its facilities, but only on the same terms as it would allow any other nonprofit or other citizens or community group to use school district facilities, and the campaign committee must reimburse the school district for any costs incurred by the school district which would not otherwise have been incurred.
- The school district may produce or disseminate debates, interviews or commentary regarding an election if it's done in the regular course of broadcasting or publications (e.g., the normal, routine publication schedule of the broadcast or publication). n The Board of Education may adopt resolutions stating a position on ballot proposals relating to school district purposes or funding.
- Members of the Board of Education and superintendent are public officials and may engage in advocacy on ballot proposals that relate to school district purposes or funding, provided that, except as described above, school district resources are not used to disseminate those views.
- The school district must maintain objectivity. Steer clear of subjective words and phrasing in informational materials including "needs," modifiers such as "essential" or "critical," or projections of consequences of passage or failure or impact of projects.

DON'TS

- The school district may not give or loan paper, pencils, computers, duplicating equipment, printing supplies, postage and sundry items to a campaign committee or candidate.
- The use of any school district facilities, including emails, phones, or social media accounts, by a campaign committee for the purpose of contacting voters or promoting a yes vote is prohibited.
- Faculty offices, lounges, school district bulletin boards, and other areas within the school district building may not be used to disseminate literature supporting a candidate even if printed by an outside organization, and a campaign committee may not send campaign literature home with students.
- The school district's website and social media pages and accounts may not provide Internet links to campaign sites, organizations, commentary or editorials.
- District officials and employees should not add taglines relating to the proposal or the election to their district emails. n Campaign literature may not be displayed in school district buildings.
- A school district official is prohibited from using school district resources or social media accounts to send a mass email, mass mailing or other communication that expressly advocates for a candidate or ballot proposal.
- Unions and associations may not use school district resources (including mailboxes) to communicate with their members about election campaign matters.
- Do not suggest that the debt millage rate will be a fixed number. It will not. The rate will fluctuate with changes in the tax base.

IDENTIFYING INFORMATION REQUIREMENT

Information disseminated by a school district within 60 days before the general election or within 30 days before the primary election where a ballot question appears must contain certain identifying information if the communication is targeted to the relevant electorate. The identifying information included on the communication should generally be in the following form: "Paid for by ABC School District, 123 Anytown Avenue, Anytown, Michigan." The identifying information included on printed material must be in a place and in a print clearly visible and readable by an observer. Prerecorded telephone messages (robocalls) should also include the school district's telephone number.

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