

# Arizona Election Law and How School Districts are Impacted

*by James Shankland, CPA, Audit Manager*

Posted on September 23, 2020



Election season is upon us once more and with it, endless campaign advertisements, televised rallies and speeches, and those lawn signs that end up on every intersection in town. For most people, discussing politics in the workplace is, at the very least, a social faux pas, but for Arizona school district officials and employees, doing so can actually be a violation of state law. Arizona election law specifically prohibits the use of District or charter school resources to influence the outcome of elections. But what does that really mean? After all, some would argue that public education itself, with its immense responsibility of educating the country's youngest citizens, as well as its sizeable federal and state investment, is inherently political in nature. Politicians at the local and national level have over the years alternately lauded and pilloried the state of public education, using it as a critical issue for their own campaigns. This effect seems to magnify every year, as the political becomes personal for more and more Americans.

In the state of Arizona, there are specific guidelines for what school districts and their employees can and cannot do during an election. As mentioned above, district resources cannot be used to influence the outcome of elections, which includes "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." Additionally, district or charter resources cannot be used to support or oppose a candidate for nomination, nor for the recall of a public officer. They also cannot be used to support or oppose a ballot measure, question or proposition, including any bond, budget or override election. The fines for a transgression are steep, and

include a minimum \$5,000 fine, plus the value of the misused resources. But still, each individual's civil and political liberties as guaranteed by the U.S. and Arizona constitutions must be protected. As a result, there are numerous permissible activities and it is important for each district to thoroughly understand the law so that it can be upheld, and not abused.

Here's a list of some permitted activities:

- **Opinion** – School district employees can express their preference on an election, provided they are not in the classroom or any other instructional setting. This includes being allowed to wear political pins or buttons, putting bumper stickers on their cars, distribute flyers, talk with community members, and even advocating on behalf of a particular campaign when not on work time or work location. Employees should be clear that they are not acting on behalf of the school district or charter while doing so. Private vehicles with electioneering materials (such as a bumper sticker) can be parked on school district property, although on election day, if the school is a polling location, such a vehicle may not be parked within the 75 foot limit designated by election officials.
- **Answering questions about ballot measures** – School district funds can be used to respond to questions regarding ballot measures, although responses should not attempt to persuade anyone in one way or another and should include neutral, factual information. Furthermore, districts can and do distribute informational pamphlets regarding override and bond measures, and in those materials, can answer frequently asked questions or describe the financial impact of the ballot measures.
- **Use of buildings and facilities** – Districts may rent or lease buildings and facilities for a fee to partisan and ballot measure groups on the same basis and conditions as any other group. Districts should consult their Use of Facility policy.
- **Receipt of election information through mail, email, and telephones** – It is not a violation of state law for school district employees and board members to receive election information or literature that advocates for a particular position, although they are prohibited from using district resources to forward on that information. It is recommended that employees delete such communications when received on work emails and phones.
- **Holding a public form** – Districts and charters may host a nonpartisan forum to discuss specific ballot measures, although there should be an equal opportunity to present all viewpoints.

Meanwhile, below are some explicitly prohibited actions:

- **Spending any district monies to promote an election or otherwise influence the outcome of an election.**
- **Using students as messengers of election information** – An employee of a school district or charter school shall not give pupils written materials to influence an election or advocate a particular position, even though no district resources might be used.

- **Placing campaign signs, banners, stickers, or any item of advocacy on school district property** – As mentioned above, private vehicles on school district property may contain election materials, but once out of the parking lot, no such materials are permitted. This includes not only classrooms but playing fields, walls, and fencing.
- **Petition circulation** – District resources cannot be used to circulate ballot measure petitions, although employees can do so on non-duty time, and even at school-sponsored extracurricular events, such as athletic events, as long as that employee is not supervising or organizing the event.
- **Governing board resolutions** – Governing boards are not permitted to adopt resolutions supporting or opposing ballot measures, other than informational pamphlets as authorized by Arizona statute.

Over the next several weeks leading up to the November general election, it will be more important than ever to ensure employees are well educated on the dos and don'ts of participating in political activities while at their school district or charter school. When in doubt, it is always advisable to reach out to District legal counsel for additional guidance.

*The content of these pages is for general information purposes only and does not constitute advice. Heinfeld, Meech & Co., P.C. tries to provide content that is true and accurate as of the date of writing; however, we give no assurance or warranty regarding the accuracy, timeliness, or applicability of any of the contents.*