



TEXAS MUNICIPAL LAW BULLETIN™

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Prohibition on Use of Public Funds for Political Advertising

With the upcoming elections in May, it is important to review what kinds of political activities can and can't be done with public funds.

- Section 255.003 of the Election Code prohibits an officer or employee of the City from knowingly spending or authorizing the spending of public funds on “political advertising.” Spending public funds extends to the use of employees’ work time, the use of existing public equipment, or the use of public facilities.
- “Political advertising” includes any communication, written or verbal, supporting or opposing a candidate for public office, a political party, or a measure.
- The only permissible communication that the City may spend public funds and resources on are those that are 100% factual.
- Public funds cannot be used for producing or distributing information that supports or opposes a candidate or ballot proposition.
- Public funds cannot be used for holding meetings or rallies supporting or opposing a candidate or bond proposal. NOTE: Allowing everyone equal access to public resources or facilities for political advertising will still constitute a violation if city expenditure is biased.

- It is not considered political advertising when a city facility is functioning as a “public forum.” Therefore, hosting a candidate forum open to all and inclusive for all candidates in a city-owned building is allowed.
- City officials and employees who are acting independently, without the use of public funds, have a free speech right to engage in political advocacy. Officials or employees do not need to conceal their positions or claim to be acting as private citizens when advocating on their own time and with their own resources.
- However, some officials and employees, like the Chief of Police, who have duties that require them to appear as city representatives outside business hours or at public events, should comment only factually about candidates and issues or make an extra effort to separate their personal viewpoints from their professional capacity.
- It is highly recommended that all city-prepared communications be reviewed by legal counsel prior to use and distribution.

Texas Ethics Commission:

https://www.ethics.state.tx.us/pamphlet/B09pad_pol.html

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