



EDUCATE VS. ADVOCATE

FREQUENTLY ASKED QUESTIONS

During the 2018 Legislative Session, the legislature adopted a new law that outlines what activities are permissible by public entities when attempting to pass a bond or levy in an election. The following are considered general guidelines so school districts may better ensure that it complies with restrictions on advocacy. The adoption of Title 74, Idaho Code, prohibits the use of school property, resource, and time to prepare and disseminate election advocacy materials.

May employees or board members work on the campaign during working hours?

No. The district may not use any school resources, time, or property – including employee working time – to advocate for one particular side in the bond or levy election. Additionally, for certain district employees, such as salaried administrators, there are no set working hours as there are for other hourly employees. As a salaried employee, administrators will be viewed as representing the district at all time. Therefore, they should never engage in campaigning and should limit all communication regarding the bond or levy election to informational only.

May employees or board member of the district serve on an election advocacy committee?

The constitutional rights of employees and board members of the district include the right to serve on an election advocacy committee in their individual capacities on their own time, and such service may not be prohibited to the district.

May employees of the district contribute to an advocacy fund?

Yes. Again, constitutional rights guarantee employees of the district the opportunity to contribute to advocacy efforts so long as no public funds, property or resources are used. Employees and board members should likewise be allowed to contribute in their individual capacities.

FAQ CONTINUED....

May the district provide information to students?

Probably. Although the district may not use public funds, property, or resources to advocate, simply providing factual information, such as informative brochures, is permissible. The district should take all precautionary measures to ensure the brochures include only factual information and that faculty does not advocate in any manner while handing out brochures to students or making them available on campus.

Can the election committee meet on school facilities?

No. Because public funds, property, and resources are strictly prohibited under this chapter, the safest course of action is for the committee to meet elsewhere.

Can board members attend meetings of the advocacy committee and express their views, or otherwise express their views in public?

Yes. Generally speaking, board members are not bound by the same constraints as district employees provided that no District resources are used for advocacy. For example, board members can serve on the advocacy committee. A board member may speak at a service club, chamber of commerce or similar gathering and express of his or her individual support for the bond or levy election.

How is advocating defined?

74-106, Idaho Code, defines advocating to mean "campaign for or against a candidate or the outcome of a ballot measure." However, it goes on to clarify what advocating does NOT mean: "providing factual information about a ballot measure and the public entity's reason for the ballot measure stated in a factually neutral manner. Factual information includes, but is not limited to, the cost of indebtedness, intended purpose, condition of the property to be addressed, date and location of election, qualifications of candidates, or other applicable information necessary to provide transparency to electors."

What are the penalties if a district employee or board member violates this law?

There are civil penalties, that mirror Open Meeting Law violations. The first violation is a \$250 fine. If it was intentional, the fine is \$1,500. If there was a prior violation and the board member knowingly violated the statute again, it's \$2,500.

For questions, contact Quinn Perry at quinn@idsba.org or (208) 854 -1476