

Patricia Perez

From: Patricia Perez
Sent: Tuesday, January 30, 2024 11:44 AM
To: Patricia Perez
Subject: FW: Agenda Items

FYI: Board Agenda Request – Frank Ortiz

From: Frank Ortiz
Sent: Tuesday, January 30, 2024 11:35 AM
To: Patricia Perez <pperez@bisd.us>
Subject: Agenda Items

Ms. Pat,

I am requesting that the following items be placed on the Agenda for the February 6, 2024, Board Meeting:

- Presentation and discussion on the status of Substitute Teachers in the Brownsville ISD.
- Presentation and discussion on the DO's and Don'ts of campaigning on District property.

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Patricia Perez

From: Denise Garza
Sent: Tuesday, January 30, 2024 12:21 PM
To: Patricia Perez
Subject: Re: Agenda Items

I approve this item

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From: Patricia Perez <pperez@bisd.us>
Sent: Tuesday, January 30, 2024 11:43:33 AM
To: Patricia Perez <pperez@bisd.us>
Subject: FW: Agenda Items

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Patricia Perez

From: Carlos Elizondo
Sent: Tuesday, January 30, 2024 6:04 PM
To: Patricia Perez
Subject: Re: FW: Agenda Items

Approve

Carlos A. Elizondo

On Jan 30, 2024 11:43, Patricia Perez <pperez@bisd.us> wrote:

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School Electioneering

School electioneering and campaign rights in Texas schools are regulated by State statute, the U.S. and Texas Constitution, court decisions and Attorney General Opinions.

Texas Election Code

Under Section 255.003(a) of the Texas Election Code, an officer or employee of a political subdivision, (including a school district), may not knowingly spend or authorize the spending of public funds for political advertising. The practical effect of Section 255.003(a) is that it prohibits school district employees and officials from using public resources for political advertising to advocate for or against a candidate or ballot measure.

The Texas Election Commission (TEC), interprets this broadly to prohibit the use of district equipment, supplies, employee time, or students to create or distribute political advertising. Board members and school employees who violate this prohibition could face fines, criminal penalties or both. (A violation of Section 255.003 is a Class A misdemeanor).

Texas Education Code

In addition to the restriction imposed by TEC Sections 255.003, the Texas Education Code has additional restrictions on school electioneering. Section 11.169 of the Texas Education Code prohibits a school board from using state or local funds or other district resources to electioneer for or against any candidate, measure, or political party. (The Education Code does not define electioneer).

May the District communicate about an election

A School District may use public funds to disseminate purely factual information such as a description of the purpose(s) of a measure as long as the communication does not advocate passage or defeat of the measure. TEC warns that even primarily factual information may run afoul of Section 255.003 if it includes persuasive slogans or advocacy such as “Do the Right Thing for our Kids,” or a thumbs up in brochures containing what is otherwise factual information.

School Board members must also be wary of school publications that highlight a school board member’s achievement in his or her role as a Board member. The TEC will look at things such as proximity to an election, direct or indirect implications about the member’s campaign for reelection, the board member’s qualifications, and personally phrased references to the member’s achievements at the School Board. TEC will look at the information as a whole and decide on whether the information is self-promotional. Board members may be fined for such activity. (Board members may; however, use their own personal time and money to advocate for their reelection or in support of other candidates. TEC states, “Although you may not use political subdivision resources for political advertising, you are free to campaign for or against a proposition on your own time and with your own resources”).

May Candidates speak at school events

A candidate or citizen may come on school property and hand out campaign literature only if school district policy has created a limited public forum for such activity. (BISD has not created a limited public forum for campaign related use. Specifically, GKD Local, states “District facilities shall not be available for use by individuals or groups for political advertising, campaign communications, or electioneering as those terms are used in state law.)

Public officials or candidates may visit schools even if they are running for office, but the event should not be a campaign opportunity. The Superintendent has directed if a campus invites a candidate running for office to their school, the same opportunity should be afforded to other candidates running for the same office. The District recognizes that allowing public officials to speak at a campus can be beneficial and serve a public purpose, but always with the awareness that the purpose of the visit by the public official should be non-partisan and in compliance with Section 255.003 of the Election Code.

Advertising in school publications

Policy GKB Local states advertising shall be accepted solely for the purpose of generating revenue for the District and not for the purpose of establishing a forum for communication. The policy further states “The District shall not accept paid political advertising.” The District allows candidates for office to advertise in District publications if the advertising is non-partisan and non-promotional, i.e. “Joe Smith says go Chargers.” Under GKB Local, the District reserves the right to reject advertising it considers inconsistent with federal or state law, Board policy and District or campus regulations.

Use of District Logo

The District has taken the position that the District logo is its intellectual property and may not be used without express permission. The District has sent cease and desist letters to candidates who have used the District logo without authorization.

Use of campaign t-shirts at campus events

Parents and community members are free to express themselves with campaign messages on their own clothes at school district events or when visiting the campus. School district employees; however, are subject to restriction in order to prevent the use of public funds or District resources for political advertising. The District reserves the right to restrict all use of campaign paraphernalia if the message is disruptive to the conduct of school activities or violates school rules for some other reason such as it is profane.

Endorsement of candidates by school employees

District employees retain their First Amendment right to campaign, advocate, support a candidate or measure on their non-work time using their personal resources. They may also affix a bumper sticker in support of a candidate as long as it is not profane or in violation of other district policies regarding employee conduct.

School District employees may not place political advertising in an area that is not part of the campus' limited public forum. They may also not place campaign flyers in a teacher's lounge even if they do it on their own time, because the TEC has concluded that the "spending" of public funds includes not only the employees' work time but also the use of district facilities.

Endorsement of candidates by students

Students like employees and the general public maintain their First Amendment rights while at school.

The District should permit t-shirts with political messages as long as the message conforms to the District's student dress code regulations.

**Promotional
Activities**

District facilities shall not be used to advertise, promote, sell tickets, or collect funds for any nonschool-related purpose without prior approval of the Superintendent or designee.

[For information relating to nonschool use of facilities, see GKD.]

Advertising

For purposes of this policy, "advertising" shall mean a communication designed to attract attention or patronage by the public or school community and communicated through means under the control of the District in exchange for consideration to the District. "Advertising" does not include public recognition of donors or sponsors who have made contributions, financial or otherwise, to the District or school support organizations.

Advertising shall be accepted solely for the purpose of generating revenue for the District and not for the purpose of establishing a forum for communication. The District shall retain final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment. The District shall retain the authority to determine the size and location of any advertising. The District reserves the right to reject advertising that:

1. Is inconsistent with federal or state law, Board policy, District or campus regulations, or curriculum;
2. Is inappropriate in a school setting with a student audience;
3. Advertises products presenting a health hazard;
4. Creates a substantial likelihood of material disruption, including adding to the District's obligations for security and facilities maintenance; or
5. Adds to the District's administrative burden by exposing the District to complaints, controversy, or litigation.

The District shall not accept paid political advertising.

Acceptance of advertising shall not constitute District approval or endorsement of any product, service, organization, or issue referenced in the advertising, nor shall acceptance of advertising from a vendor determine whether the District will purchase goods or services from the vendor through the District's formal procurement process.

[For information relating to school-sponsored publications, see FMA.]

**Sponsorships and
Donations**

If the District or any campus accepts financial or in-kind donations to support District-sponsored activities, the District reserves the right to acknowledge donors through whatever means the District

Brownsville ISD
031901

COMMUNITY RELATIONS
ADVERTISING AND FUNDRAISING

GKB
(LOCAL)

deems appropriate. The District retains full editorial control over its acknowledgment or display of donations, even if donors are permitted to suggest text for the acknowledgment.

The District has established a limited open forum for nonschool use of District facilities in accordance with this policy.

The District shall provide equal access to youth groups designated in federal law, including the Boy Scouts, as it provides to other nonschool users of District facilities. [See Patriotic Societies in GKD(LEGAL)]

Scope of Use

The District shall permit nonschool use of designated District facilities for educational, recreational, civic, or social activities when these activities do not conflict with school use or with this policy.

Approval shall not be granted for any purpose that would damage District property or to any group that has damaged District property.

Note: See the following policies for other information regarding facilities use:

- Use by employee professional organizations: DGA
- Use of facilities for school-sponsored and school-related activities: FM
- Use by noncurriculum-related student groups: FNAB
- Use by District-affiliated school-support organizations: GE

Nonprofit Fundraising

The District shall permit nonprofit organizations to conduct fundraising events on District property when these activities do not conflict with school use or with this policy.

For-Profit Use

The District shall not permit individuals or for-profit organizations to use its facilities for financial gain; however, an exception to this prohibition shall be made for private academic instruction and recreational activities when these activities benefit school-aged children and do not conflict with school use or with this policy.

Campaign-Related Use

Except to the extent that a District facility is used as an official polling place, District facilities shall not be available for use by individuals or groups for political advertising, campaign communications, or electioneering, as those terms are used in state law.

Scheduling

Requests for nonschool use of District facilities shall be considered on a first-come, first-served basis.

Academic and extracurricular activities sponsored by the District shall always have priority when any use is scheduled. [See FM] The Superintendent shall have authority to cancel a scheduled nonschool use if an unexpected conflict arises with a District activity.

COMMUNITY RELATIONS
NONSCHOOL USE OF SCHOOL FACILITIES

GKD
(LOCAL)

Approval of Use	The Superintendent is authorized to approve any nonschool use of any District facility.
Exception	No approval shall be required for nonschool-related recreational use of the District's unlocked, outdoor recreational facilities, such as the track, playgrounds, tennis courts, and the like, when the facilities are not in use by the District or for a scheduled nonschool purpose.
Emergency Use	In case of emergencies or disasters, the Superintendent may authorize the use of District facilities by civil defense, health, or emergency service authorities.
Dates Not Available	District campuses shall not be available for nonschool use on District holidays, nonduty days, and staff development or preparation days.
Use Agreement	Any organization or individual approved for a nonschool use of District facilities shall be required to complete a written agreement indicating receipt and understanding of this policy and any applicable administrative regulations and acknowledging that the District is not liable for any personal injury or damages to personal property related to the nonschool use.
Repeated Use	The District shall permit repeated use by any group or organization for nonschool purposes for no longer than a calendar year.
Exception	The limitations on repeated use by a nonschool group or organization shall not apply to any group or organization when the primary participants in the activities are school-aged children.
Fees for Use	<p>Nonschool users shall be charged a fee for the use of designated District facilities.</p> <p>The chief financial officer shall establish and publish a schedule of fees based on the cost of the physical operation of the facilities, as well as any applicable personnel costs for supervision, custodial services, food services, security, and technology services.</p> <p>Fees shall not be charged when District facilities are used:</p> <ol style="list-style-type: none">1. For public meetings sponsored by state or local governmental agencies; or2. By District employee professional organizations. [See DGA]
Required Conduct	<p>Persons or groups using District facilities shall:</p> <ol style="list-style-type: none">1. Conduct business in an orderly manner.2. Abide by all laws and policies, including but not limited to those prohibiting the use, sale, or possession of alcoholic

COMMUNITY RELATIONS
NONSCHOOL USE OF SCHOOL FACILITIES

GKD
(LOCAL)

beverages, illegal drugs, and firearms and the use of tobacco products or e-cigarettes on school property. [See GKA]

3. Make no alteration, temporary or permanent, to school property without prior written consent from the Superintendent.

All groups using District facilities shall be responsible for the cost of repairing any damages incurred during use and shall be required to indemnify the District for the cost of any such repairs.

Violations of the law often occur because someone finds it irresistible to wrap up a factual explanation with a motivational slogan such as:

**GOOD SCHOOLS ARE THE FOUNDATION
OF A GOOD COMMUNITY**

OR

EVERY CHILD DESERVES A GOOD EDUCATION

Another common misstep is to include "calls to action" such as:

PUT CHILDREN FIRST

OR

SHOW THAT YOU CARE ABOUT EDUCATION

Remember: No matter how much factual information about the purposes of a measure election is in a communication, *any amount* of advocacy is impermissible.

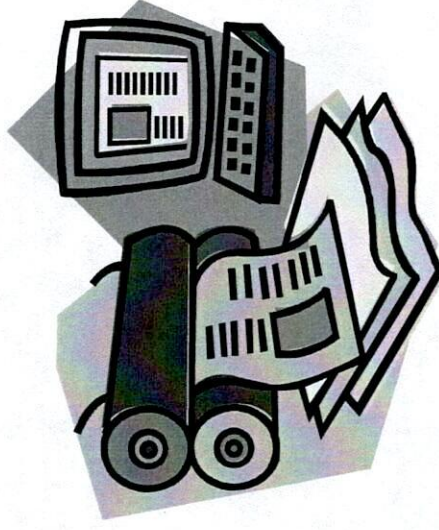
★ A violation of the prohibition is a **Class A misdemeanor**. This means that a violation could lead to criminal prosecution. Also, the Ethics Commission has authority to impose fines for violations of section 255.003.

Another provision of the Texas Election Code prohibits a school district board member or employee from using or authorizing the use of an internal mail system to distribute political advertising. An internal mail system is a system operated by a school district to deliver written documents to its board members or employees. A violation of this prohibition could also lead to the imposition of fines by the Ethics Commission or to criminal prosecution.

Although you may not use school district resources for political advertising, you are free to campaign for or against a proposition on your own time and with your own resources. If you do plan to become involved in a campaign, you should educate yourself about filing requirements and about the rules regarding disclosures on political advertising.

Information is available from the Texas Ethics Commission by phone at (512) 463-5800 or on the Ethics Commission's web site at <https://www.ethics.state.tx.us>.

A SHORT GUIDE TO THE PROHIBITION AGAINST USING SCHOOL DISTRICT RESOURCES FOR POLITICAL ADVERTISING



Texas Ethics Commission
P. O. Box 12070
Austin, Texas 78711-2070

(512) 463-5800
Fax (512) 463-5777

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Revised October 13, 2017

A SHORT GUIDE TO THE PROHIBITION AGAINST USING SCHOOL DISTRICT RESOURCES FOR POLITICAL ADVERTISING

No matter how enthusiastic you are about an election, it is important to remember that the Texas Election Code prohibits the use of political subdivision resources to produce or distribute political advertising in connection with an election. Section 255.003 of the Election Code provides as follows:

- An officer or employee of a political subdivision may not spend or authorize the spending of public funds for political advertising.
- This section does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.
- A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

New legislation effective September 1, 2009, further clarifies that an officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

- (1) the officer or employee knows is false; and
- (2) is sufficiently substantial and important as to be reasonably likely to influence a voter for or against the measure.

To understand the practical significance of this prohibition, it is useful to look at some of the specific words and phrases used in the law.

“Political advertising” means:

- (1) a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, or a public officer, that: (A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or (B) appears: (i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or (ii) on an Internet website; and
- (2) a communication that advocates passage or defeat of a measure, and that: (A) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or (B) appears: (i) in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or (ii) on an Internet website.

Newsletter of Public Officer of a Political Subdivision. The Ethics Commission adopted a rule providing guidelines for when a newsletter of a public officer of a political subdivision is not political advertising. Texas Ethics Commission Rule 26.2 provides as follows:

For purposes of section 255.003 of the Election Code, a newsletter of a public officer of a political subdivision is not political advertising if:

- (1) It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
- (2) It includes no more than eight personally phrased references (such as the public officer’s name, “I”, “me”, “the city council member”) on a page that is 8 ½” x 11” or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 ½” x 11”; and
- (3) When viewed as a whole and in the proper context:

(A) is informational rather than self-promotional;

(B) does not advocate passage or defeat of a measure; and

(C) does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

★ The prohibition applies to any “officer or employee of a political subdivision.” In other words, if a school district employee makes a decision to use district resources in violation of the prohibition, the employee could be fined by the Ethics Commission or held criminally liable. School board members, as “officers” of a school district, are also subject to the prohibition.

★ A school district board member or employee would violate the prohibition by “spending or authorizing the spending of public funds” for political advertising. Not only does this mean that the school district may not purchase or authorize the purchase of new materials for use in creating political advertising, it also means that a school district board member or employee would violate the prohibition by using existing paper and machinery to generate, display, or distribute political advertising.

Also, it is not permissible to authorize the use of the paid time of school district employees to create or distribute political advertising. For example, school district staff may not copy, staple, or distribute political advertising on work time. Nor is it permissible to have school children work on political advertising during school time.

★ The prohibition does not apply to “a communication that factually describes the purposes” of a measure election. In other words, it is permissible to use district resources to produce explanatory material about what is at stake in a measure election. However, the communication may not contain information that an officer or employee of a political subdivision knows is false. The information must not be sufficiently substantial and important, such that it would be reasonably likely to influence a voter to vote a certain way.