



# BALLOT MEASURE TIP SHEET

## DO's AND DON'Ts FOR LAUSD ELECTED OFFICIALS & EMPLOYEES

### Summary of Legal Requirements

#### KEY TAKEAWAYS:

- Public funds (e.g. time, resources, equipment, vehicles and/or facilities) may not be used to advocate or to fundraise for passage or rejection of any ballot measure
- However, public funds may be used to provide information about a ballot measure, if taken as a whole, it is *fair, balanced and impartial* and avoids express or implied advocacy



**W**hile school districts have statutory authority to participate in the legislative process at the state and federal levels, our ability to take part in the ballot measure and electoral process has specific legal limitations. Below is a brief synopsis of key laws and cases:

#### Ed Code Section 7054

"No school district funds, services, supplies, or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate."

#### Stanson v. Mott

"A fundamental precept of this nation's democratic electoral process is that the government may not 'take sides' in election contests or bestow an unfair advantage."

#### Penal Code Section 424

"Each officer of this state, or of any county, city, town, or district of this state, and every other person charged with the receipt, safekeeping, transfer, or disbursement of public moneys, who... uses the same for any purpose not authorized by law is punishable by imprisonment in the state prison for 2-4 years, and is disqualified from holding any office in this state."

#### People v. Battin

In Battin, a county supervisor was convicted of Penal Code Section 424 for using his staff for improper political activities (e.g. making copies of campaign materials, stuffing envelopes, placing fundraising calls and writing donor thank-you's).

#### Vargas v. City of Salinas

"[T]he threat to the fairness of the electoral process...arises when a public entity or public official is able to devote funds from the public treasure, or the publicly financed services of public employees, to campaign activities favoring or opposing...a measure."

### Frequently Asked Questions

#### Can any LAUSD funds or resources be contributed in support of a ballot measure campaign?

No, the courts have said that government cannot use funds to "take sides" in a campaign.

#### What counts as LAUSD resources?

District resources include: funding, computers, email

accounts, distribution lists, servers, websites; telephones, cell phones and other communication devices; copiers, printers, fax machines; facilities, bulletin boards, mail boxes; vehicles and of course staff time.

#### Are any of the rules different for LAUSD's elected officials?

The prohibition against

use of public funds or resources applies to everyone, but there are two important exceptions where Board Members are concerned: 1) elected officials at a board meeting *can* go on the record to adopt a resolution in support of/in opposition to a ballot measure, and 2) elected officials may speak on behalf of a ballot

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#### DO's. We are allowed to:

- ☺ Work on a ballot campaign when it's kept on off-duty time
- ☺ Make contributions to a ballot campaign with *personal* funds
- ☺ Clarify for the public when we are advocating that we are doing so in our *personal* capacity
- ☺ Track our use of time and use of private equipment on ballot activities, so we can document that no public funds were used



#### DON'Ts. We may not:

- ☹ Utilize district resources at any time (including off-duty) for campaign work
- ☹ Place campaign materials on bulletin boards, web/social media pages, or other LAUSD premises
- ☹ Add any links from LAUSD's website(s) to a campaign website
- ☹ Exchange campaign-related emails or calls on LAUSD equipment
- ☹ Advocate on behalf of a ballot measure during compensated work hours
- ☹ Ask subordinates or other staff to be advocates for a ballot measure
- ☹ Conduct fundraising activities during duty hours
- ☹ Drive a district vehicle to a campaign event



## Frequently Asked Questions ...CONTINUED

“Remember that materials that are informational present two sides evenly with the relevant facts.”

measure in their official capacity (i.e. using their title), so long as they are not campaigning during compensated work hours.

### What is the difference between “informational” and “advocacy”?

Remember that materials that are *informational* present two sides evenly with the relevant facts. For example, with respect to a bond measure, an informational piece could communicate the need for improved facilities, but would also need to include the fact that property taxes would go up. Meanwhile, advocacy materials make use of persuasion tactics and terms such as: *support, vote for, vote yes, cast your ballot, vote no* and *defeat*.

### How should I respond to telephone inquiries, letters and/or emails about the ballot measure that arise, unsolicited, via LAUSD channels?

You should ask the Communications Office to provide a *limited* response that presents only information that would be viewed as fair and impartial about the measure. A good response would share that LAUSD is actively avoiding “taking sides” because public funds can-

not be used to campaign for or against a measure.

### What if I receive a request from a local group such as the Chamber of Commerce asking me to make a presentation about a ballot measure?

As with the limited response to calls, letters and emails, it is permissible to make a presentation if the information presented about the ballot measure is fair and balanced. It is considered good practice to use a prepared script in these circumstances to ensure both impartiality and consistency.

### Can staff support or oppose ballot measures?

Yes, staff can support or oppose a ballot measure in their *private capacity* as long as they are not on-duty and do not make use of any LAUSD resources (or position titles) when they are engaged in advocacy. Senior staff who may not have fixed work hours should take care to clearly communicate that any campaigning is done on their own time and not on behalf of LAUSD.

### Can a campaign banner be hung or a link added from our website to the ballot campaign website?

No, neither is appropriate.

### What should I say if questions arise about contributions?

LAUSD does not accept ballot measure contributions. If questions arise regarding contributions from vendors, consultants or others who conduct LAUSD business, it is always best to clearly communicate — clarifying in writing whenever possible — that the campaign committee is a completely separate entity and that contributions have no bearing whatsoever on LAUSD matters.

### What are the penalties for misusing public resources?

Improper use of public resources can be a criminal offense with serious consequences. In addition, there can be civil consequences (fines and repayments) as well. Of course, worst of all is the hit in the public eye.

### What is the bottom-line?

The bottom-line is that while we can be passionate advocates for a ballot measure, this passion must be saved for when we are acting in a private, off-duty capacity. Since public funds cannot be used, a ballot measure campaign should have negligible impact on our LAUSD work.



***You should always consult LAUSD’s General Counsel or Ethics Office, if there are any questions at all about a given course of conduct.***

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