

# Attachment 1

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## **RULES FOR PUBLIC AGENCY OFFICIALS AND EMPLOYEES IN CONNECTION WITH BALLOT MEASURE CAMPAIGNS**

### **GENERAL RULES**

- ◆ State law strictly prohibits public officials and employees from participating in ballot measure campaigns during work hours, or from expending public resources for campaign purposes. (Cal. Penal Code section 424; Cal. Govt. Code section 8314; Stanson v. Mott (1976) 17 Cal.3d 206.) Public officials or employees who violate this law commit a misdemeanor, and may be personally liable to reimburse these costs.
- ◆ Public officials and employees may nevertheless provide informational material on the ballot measure to the public. The information disseminated must be **truly "informational" and not "promotional."** A court will look at the "style, tenor and timing" of the communication to determine whether it is informational or promotional. More specifically, a public agency may: (1) communicate its position supporting the measure upon inquiry from a voter; and (2) provide a spokesperson to discuss the issue in a balanced and informational manner and give its position (but not advocate passage) if requested by a voter or community group.

### **SPECIFIC EXAMPLES**

Officials and employees of a public agency may not:

- ◆ Distribute campaign literature through the public agency's internal mail system.
- ◆ Place campaign literature on employee bulletin boards, on the public agency's web page, or elsewhere on the public agency's premises.
- ◆ Place campaign bumper stickers on public agency vehicles.
- ◆ Make public appearances regarding the ballot measure during work hours -- unless their comments are limited to communicating the fact that the public agency supports the measure and providing "balanced" information regarding the measure (rather than advocating that people vote for the measure).
- ◆ Make telephone calls regarding the campaign during work hours (they should use personal cell phones before or after work hours).
- ◆ Walk precincts, draft campaign ads, or perform other campaign-related tasks during work hours, or assign subordinates to do the same.

- ◆ Add a link from the public agency's website to a campaign website.
- ◆ Send or receive campaign-related e-mails on public agency computers (they should set up separate "hot mail" accounts).
- ◆ Urge students to vote for the measure during class (if applicable).
- ◆ Use public agency offices or classrooms for campaign meetings.
- ◆ Hold a campaign rally on the public agency premises.
- ◆ Use public agency copy machines, telephones, fax machines, computers, etc. for campaign purposes.
- ◆ Campaign while in uniform (if applicable).

Officials and employees of a public agency may:

- ◆ Work on the campaign during their personal time, including lunch hours, coffee breaks, vacations, etc., and encourage other employees to do the same.
- ◆ Wear a campaign button on public agency premises (if otherwise permitted by public agency policies).
- ◆ Make a campaign contribution to Taxpayers for Traffic Relief using personal funds, and/or attend a campaign fundraiser during their personal time.
- ◆ Make "advocacy" public appearances during their personal time.
- ◆ Respond to telephone calls or letters regarding the campaign, as long as they limit their response to confirming that the public agency has endorsed the measure and presenting balanced information.
- ◆ Have the public agency officially endorse the measure at a public meeting.

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Notes:

Although state law permits state employees to make "incidental use" (such as local telephone calls, computers, pens and paper, etc.) of their government offices for campaigning (Govt. Code section 8314), the exception does not cover local employees. Although we have always believed that the omission of local employees was most likely a legislative oversight, we recommend that local public agency employees refrain from using any resources for campaign purposes (i.e., they should use a private cellular or pay telephone if they wish to make campaign-related telephone calls from the public agency offices on their own time).

2. If employees have a system for recording their work hours (such as a punch clock or "log in/log out" sheets), they should punch out or log out before commencing campaign work. Non-salaried employees who are not required to log in and out should make their own determination of what constitutes their personal time. If ever questioned, employees may be required to provide copies of their schedules to substantiate this determination. We therefore recommend -- especially for high-level employees who will spend a significant amount of time on the campaign -- that employees maintain some type of record to prove that they participated in the campaign only on personal time.
3. We recommend that any public official or employee who makes a public appearance advocating passage of the bond measure during their personal time state during their remarks that they are appearing as a private citizen concerned about the issue, not as a public official or employee.