



## PROHIBITION AGAINST USING CITY RESOURCES IN CAMPAIGNS FOR ELECTIVE OFFICE

The City's ethics ordinance prohibits city officials from using City resources in connection with a candidate election. This fact sheet is designed to offer general guidance concerning such activities but should not be considered a substitute for the actual language contained within the ethics ordinance. Note that this fact sheet pertains only to candidate elections; please consult the city attorney's office for guidance relating to the use of City resources for activities associated with ballot measure elections.

### GENERAL RULES

- ❖ The ethics ordinance prohibits city officials, including all unclassified employees who file a statement of economic interests, from engaging in campaign-related activities, such as fundraising, developing campaign materials, conducting polls, and performing campaign research when such activities involve the use of City facilities, City equipment, City supplies, or other City resources.
- ❖ City officials may not use City telephones, computers, Outlook email accounts, fax machines, copiers, or similar equipment for campaign-related activities. City officials who engage in campaign-related communications must use telephones, computers, and email accounts that they own personally or are provided by the campaign.
- ❖ The City's internet connection may not be used to access campaign e-mail accounts, conduct campaign research, or perform work on a campaign website (except when such access is intended for public use, such as in a library).
- ❖ If a city official receives a campaign-related email on a City e-mail account, the official should direct the individual to the campaign committee's email address. Similarly, if a city official receives a campaign-related telephone call on a City line, the official should refer the caller to a campaign telephone number.
- ❖ Email lists that have been generated with City resources may not be used for campaign purposes. For example, if a Council district website invites constituents to join an e-mail list, that list may not be exported or otherwise appropriated for campaign-related purposes.
- ❖ City officials may not use City office space for campaign-related activities. This prohibition does not apply, however, to the use of a City facility that is equally available to all candidates (such as a park or recreation center) provided that the city official does not use the power or authority of his or her position to obtain special access to the facility.
- ❖ These prohibitions apply to campaigns for persons running for elective City office, as well as to campaigns for persons running for elective office in the County of San Diego, another city or county, the state, or for federal office. City resources may not be used for any campaign for elective office.

## **CITY TIME**

- ❖ City officials must provide the City with the full amount of work for which they are being paid (typically 40 hours per week). In this regard, while on City time, City officials may not prepare campaign materials, make fundraising calls, conduct research to be used against an opponent, or otherwise work on a candidate's campaign.
- ❖ The prohibition against using City resources for campaign-related purposes does not apply to the time spent by the candidate personally. In other words, a Councilmember running for re-election may participate in campaign-related activities at any time, including during normal working hours. Although the City's elected officials are expected to spend a substantial amount of their time working on City matters, they are ultimately answerable to their constituents with respect to the time they spend on campaign-related activities. Such officials should also keep in mind that the City Charter prohibits them from engaging in activities that interfere or conflict with their ability to perform their City duties.
- ❖ The ethics ordinance also prohibits city officials from inducing or coercing someone else to engage in campaign-related activities while on City time. An official seeking re-election, for example, may not ask a member of his or her City staff to engage in campaign activities while on City time.
- ❖ Keep in mind that the prohibition against using City time for campaign-related activities applies even if a city official is using personal equipment. For example, a city official may not engage in telephone conversations, tweet messages, or exchange emails regarding a campaign-related issue while on City time, even if the city official is using his or her own computer or telephone for such communications.

## **CITY RESOURCES AND SOCIAL MEDIA**

- ❖ Elected officials typically link to social media websites from their official City websites as a means of communicating with constituents. City Council websites also routinely include links to official newsletters and press releases, which may in turn include links to social media accounts.
- ❖ City equipment and City staff time may be used to communicate with constituents via social media websites regarding official City business; they may not, however, be used to communicate with anyone regarding campaign-related matters.
- ❖ When social media accounts are maintained by City staff or linked directly from an official City website, they may not contain campaign-related material, including campaign-related material posted by other users.
- ❖ A social media website containing campaign material is treated no differently than a website created by a candidate to promote his or her candidacy. City resources may not be used to maintain or drive Internet traffic to either type of website.
- ❖ In order to ensure that a social media account using City resources or a direct City link contains no campaign content, city officials must routinely monitor their accounts and promptly remove campaign-related messages, photographs, etc., posted by others. When an elected official is running for office, he or she will be expected to check the account for

campaign content at least every other day. Both City staff and campaign staff may assist the official in this regard.

- ❖ City officials may choose to re-designate their social media accounts, changing the focus from official City business to campaign advocacy. If an account is used (in whole or in part) for campaign-related purposes, however, no City resources, including City staff time, may be used to maintain the account, and any links to the account from a City website must be removed.
- ❖ City resources may be used to maintain and/or link to a social media account that, in turn, links to a campaign website or to a separate social media account containing campaign content. This is permissible if the link to campaign content exists only within the contact information for the account holder on the social media account and if the social media account contains no other campaign material. Note that this allowance for second-tier links would not permit a city official to use City resources to disseminate a message via Facebook or Twitter that encourages others to access a link to campaign materials.
- ❖ When distributing newsletters and issuing press releases, city officials may not include links to social media websites that have evolved into campaign websites. On the other hand, they need not take any action with regard to links to social media websites that were properly included in prior City newsletters or press releases.

## **SOLICITING CITY EMPLOYEES**

- ❖ In addition to the above prohibitions, city officials may not knowingly solicit campaign contributions from City employees, even outside of regular working hours. Note that this prohibition does not prevent a City employee from making a contribution; it only prohibits city officials from soliciting that contribution.
- ❖ The term City employees includes all paid City officers and employees, as well as the paid officers and employees of the City's agencies (San Diego Housing Commission and San Diego Convention Center Corporation).
- ❖ This prohibition applies to solicitations made to City employees regardless of whether or not they are at work. For example, you may not send a campaign solicitation to the personal e-mail address of someone you know is a City employee.
- ❖ The prohibition applies to contributions solicited for any candidate, not just candidates for City office.
- ❖ The prohibition on soliciting contributions from City employees applies to both direct and indirect solicitations. In other words, city officials may not communicate with a City employee in any manner that suggests the City employee should make contributions to a candidate. Some examples of indirect solicitations include:
  - ✓ inviting or encouraging a City employee to attend an upcoming fundraising event;
  - ✓ informing a City employee that a candidate needs money to send out more campaign mailers before an election, or to keep pace with his or her opponent; and
  - ✓ asking someone else to solicit City employees for campaign contributions.

## ADDITIONAL NOTES

- ❖ It is important to keep in mind that the ethics ordinance does not in any way impair the ability of a city official to spend personal time supporting someone's candidacy for elective office. City officials may volunteer their personal time to support a candidate's campaign and may publicly advocate for a candidate, as long as all such activities take place without the use of City resources. City officials may also make contributions to City candidates as discussed above.
- ❖ Additional campaign-related restrictions (e.g., posting political signs, collecting contributions in City buildings) are set forth in the City Charter, the City's Council policies, and in other sections of the Municipal Code. For a summary of these restrictions, consult the city clerk's pamphlet "Political Activity, Public Funds, and City Officials and Employees."

For additional information regarding the prohibitions against using City resources in candidate elections, please contact the ethics commission at (619) 533-3476.

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