



State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112
Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

TO: Members, Public Disclosure Commission
FROM: Nancy Krier, General Counsel
DATE: May 16, 2013
SUBJECT: Possible Updates to Interpretation 04-02 *Guidelines for Local Government Agencies in Election Campaigns* - Scheduling Campaign Events on Agency Calendars – May 22, 2013 Meeting

Agenda Item

The Commission has issued Interpretation 04-02 (*Guidelines for Local Government Agencies in Election Campaigns*) to provide information and guidance about the statutory restriction on the use of public agency facilities to assist campaigns. The May 22 agenda includes continued discussion and possible action to amend the Guidelines to address agency calendars.

Background

RCW 42.17A.555 restricts local agency employees from using public facilities to assist a campaign. It was formerly codified at RCW 42.17.130. The counterpart restriction for state employees is codified in the State Ethics Act at RCW 42.52.180, under the jurisdiction of the Legislative and Executive Ethics Boards.

In February, the Commission discussed draft amendments which would update the Guidelines to provide more guidance on use of agency calendars. That issue concerns public officials and other public employees who need to schedule campaign events so as to avoid calendaring conflicts with their agency events and duties. The purpose of the calendaring would be to assist the agency, not to assist a campaign. The Commission decided to seek additional stakeholder input before deciding whether to proceed.

February Draft Amendments to Guidelines

To summarize, the February draft proposed amending the Guidelines to address calendaring activities with respect to RCW 42.17A.555's restrictions. Those draft amendments are highlighted in **yellow**.

The draft amendments addressed when local public officials, appointees and public agency staff can place campaign events on an individual's agency calendar in order to avoid scheduling conflicts, and to ensure the agency knows the individual's location and contact information when he or she is away from the office.

The draft created a new category in the Guidelines titled "Agency Calendars." See pages 27-28. The draft also provided cross references in other sections of the Guidelines, directing readers to this new category when they seek information about agency calendaring. See pages 9, 10, 11, 13.

Stakeholder Input

February Commission Meeting

In February, the Commission heard from the Executive Director of the Executive Ethics Board, describing that the EEB has used PDC guidance to answer questions about agency calendars and campaigns, as that use is restricted by RCW 42.52.180. The Commission also reviewed the Legislative Ethics Board's September 2012 "Ethics Alert" that discussed legislative calendars in light of RCW 42.52.180. Copy enclosed. The Commission also received an email inquiry and comment from the Executive Director of the Seattle Ethics and Elections Commission (SEEC) concerning requests to schedule local official endorsement interviews. Copy enclosed. SEEC has historically advised that organizations seeking to schedule those interviews must contact the official's campaign, not the official's scheduler at the city.

The Commission reviewed the comments, discussed the draft, and decided to seek additional stakeholder input, particularly from the Association of Washington Cities (AWC).

More Outreach After the February Commission Meeting

After the February Commission meeting, staff sought additional stakeholder input by:

- **Website.** Including the request for feedback in the February 28 *PDC News* posted on the Commission's website shortly after the February meeting, and distributed to all stakeholders.
- **Associations.** Contacting the Washington Association of County Officials (WACO), the Washington Association of Prosecuting Attorneys (WAPA), and AWC via email to invite further comments; and, attending the Washington State Association of Municipal Attorneys (WSAMA) spring conference to provide information on RCW 42.17A.555 and to invite comments. See enclosure.
- **Agendas.** Sending February's (and when final, May's) meeting agendas to all stakeholders, which includes local government representatives.
- **Specific Individuals.** Contacting other individuals who had expressed a specific interest in the topic (such as Seattle City Attorney Pete Holmes).

Since then, WACO has explained it will not weigh in. See enclosed May 8, 2013 email. AWC provided comments. See enclosed May 13, 2013 letter. The comments note questions about the Open Public Meetings Act, calendaring outreach by a scheduler, and synchronizing electronic calendars.

It is possible more stakeholder input will be provided at the Commission meeting.

May Draft Amendments to Guidelines

Based upon the Commission's February discussion and stakeholder comments, staff has made the following changes to the February draft. The May substantive draft changes are highlighted in blue and they:

- Add underlining to some key words and phrases for emphasis (not highlighted in blue).
- Address synchronization of personal and agency electronic calendars for the purpose of adding basic information about campaign events. (AWC comment)
- Provide more examples about what is not permitted, including using agency resources to communicate an official's interest in obtaining an endorsement. (LEB examples; SEEC comment)
- Deletes the information that a scheduler for an official cannot reach out to a campaign to coordinate the calendaring of an event, in order to reflect there may be a "back and forth" of calls to confirm whether a scheduling conflict is present. (AWC comment)
- Adds a consideration of whether calendaring direction comes from the official in the first instance, not from the campaign. That is, the official should be explaining that it is permissible for a scheduler to add events to his/her calendar (for a specific event, or generally) to avoid conflicts, and that initial direction should not come from a campaign.
- Adds a consideration of whether the campaign has publicized that it is the contact for the official's campaign, and the agency is not the contact.
- Adds a consideration of whether agencies are referring campaign-related inquiries to the campaign when they are beyond scheduling inquiries.

The May draft changes do not address the Open Public Meetings Act issue raised by AWC because the Commission does not enforce or provide guidance on the OPMA.

In addition, the OPMA question appears to relate to whether agencies would be "required" to note events on agency calendars, and whether that may result in a quorum if more than one council member notes the same event. However, the draft amendments to the Guidelines do not propose requiring any such calendaring. They are intended to provide guidance in the event the agency needs to have such calendaring events designated in order to avoid scheduling conflicts, and because the agency needs to know an official's location and how to contact him/her.

Enclosures: Draft Amendments to Interpretation 04-02 – *Agency Calendars*
Stakeholder Information -
February 22, 2013 SEEC Email
September 2012 LEB Ethics Alert
April 26, 2013 Invitation to WSAMA
May 8, 2013 WACO Email
May 12, 2013 AWC Letter

STAKEHOLDER INFORMATION

Nancy Krier

From: Barnett, Wayne [Wayne.Barnett@seattle.gov]
Sent: Friday, February 22, 2013 10:13 AM
To: Andrea McNamara Doyle; Nancy Krier
Subject: Clarification on revised 04-02

Hello Andrea and Nancy,

I just read over the proposed redraft of 04-02, and while I like the thrust of it, I do have one question. Under this paragraph – “Agency officials, appointees and employees may respond to public inquiries, including from campaigns, about the employee’s, appointee’s or official’s availability to attend a campaign event” – can the Greater Seattle Chamber of Commerce’s PAC or the Firefighters Union call a Councilmember’s scheduler to inquire about scheduling an endorsement interview? We’ve tried to make clear that those calls need to go to the campaign, which will obviously need to coordinate with the City scheduler, but as I’m reading this it’s not clear to me that this isn’t opening the door to a lot more scheduler/campaign activity.

Best,
Wayne



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LEGISLATIVE ETHICS BOARD

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ETHICS ALERT

Campaign Season Edition

September, 2012

You, Your Personal Digital Assistant (PDA), and the Prohibition on Using Public Resources for Campaign Purposes:

If you have a personal smart phone, tablet, iPad or similar device (commonly referred to as a PDA), and you use your PDA to connect both to the legislative e-mail system and non-legislative e-mail, please pay attention to this message.

Recently, some legislators have inadvertently sent campaign-related or personal messages from their PDA, only to learn later that the message was sent from their "leg.wa.gov" e-mail address. Use of the legislative network to assist a campaign, to support or oppose a ballot measure, or for most non-legislative purposes is a violation of the Ethics in Public Service Act. How do you avoid this? In this situation you must pay careful attention to which e-mail address mail is being sent from and you must use a campaign or personal e-mail address for campaign-related business. To be safe, you should probably set the campaign or personal e-mail account, not the legislative account, as the default or "go-to" account for sending of e-mail. That will help avoid inadvertent use of the legislative e-mail address and servers.

The Legislative Service Center (LSC 360.786.7000) will assist legislators with setting up legislative e-mail on a PDA and establishing appropriate default settings, but it is each individual's responsibility to not use legislative facilities for campaign or inappropriate personal purposes.

In addition, if you are using a PDA that was purchased with public resources, it is treated the same as your legislative computer, laptop, phone, etc. – it is a violation of the Ethics Act to use any public resource for political campaigns.

Use of the Internet Communications Medium

The use of the internet as a communications medium can have unintended consequences. Whether through a YouTube video, a tweet on Twitter, or a Facebook posting, such communications can reach audiences while posted and also have a potentially unlimited life. Literally anyone in the world with access to the Internet can access such communications long after the time they were intended to be available.

In a recent case, a legislator asked for his YouTube video to be removed upon learning there were ethical concerns about his use of public resources in the production of the video. However, materials on the Internet are generally cached and, are difficult if not impossible to eliminate completely. Although the video in question should never have involved the use of public resources in the first place, its placement on YouTube prolonged the life of the clear, visual representation of the use of public resources for campaign purposes and may, far into the future, reflect upon the ethics of the Legislature as a whole.

(continued on back page)

The Ethics Board encourages all members of the Legislature to be fully aware of the ethics laws governing Washington Legislators at all times, and particularly with respect to communications on the Internet. For questions and additional resources please contact House, Senate or Board Counsel.

Legislative Staff Scheduling Campaign Events – Permitted but Limited

Staff may coordinate a member's schedule and that coordination may include campaign events. It is also permissible to respond to invitations to campaign events. This is the extent of this limited exception which permits the use of public resources to coordinate campaign event scheduling.

Staff may not plan, organize, arrange, invite other participants or take similar action with the use of public resources regarding a campaign event. Permissible scheduling of campaign events does not include keeping a "to-do" campaign list on behalf of a legislator.

Example: Outlook is often used to keep track of legislative meeting agendas, materials to be discussed, etc. If Outlook is also used to keep track of campaign meetings, notes or entries should be limited to the filling in of the names of the participants, the date, time and location and the subject of the meeting. Reminders to perform campaign functions, such as "don't forget to deposit your campaign checks" or "be sure and meet with your campaign treasurer" are not allowed.

If you have any questions about scheduling or tracking campaign events with the use of public resources please contact House, Senate or Board Counsel.



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TO: Washington State Association of Municipal Attorneys
FROM : Nancy Krier, General Counsel
Andrea McNamara Doyle, Executive Director
DATE: April 26, 2013
SUBJECT: Invitation to Comment on Possible Updates to Interpretation 04-02
Guidelines for Local Government Agencies in Election Campaigns -
Scheduling Campaign Events on Agency Calendars

RCW 42.17A.555 restricts local agency employees from using public facilities to assist a campaign. It was formerly codified at RCW 42.17.130. The Public Disclosure Commission has issued Interpretation 04-02 (*Guidelines for Local Government Agencies in Election Campaigns*) to provide information and guidance about that statute.

A suggestion has been made to amend the *Guidelines* to provide more specific guidance on use of agency calendars. The suggestion was discussed at the Commission's February 28, 2013 meeting. A copy of the meeting background materials, including draft amendments to the *Guidelines*, is available on the PDC's website at:

<http://www.pdc.wa.gov/archive/commissionmeetings/meetingshearings/pdfs/2013/2.28.2013.Regular.Agenda.pdf>

The draft amendments are also enclosed. They propose amending the *Guidelines* to address when local public officials, appointees and public agency staff can place campaign events on an individual's agency calendar in order to avoid scheduling conflicts, and to ensure the agency knows the individual's location and contact information when he or she is away from the office.

The draft amendments create a new category in the *Guidelines* titled "Agency Calendars." In February, the Commission determined it would seek more stakeholder input, including from local government agencies, before moving forward.

Invitation to Comment: The Commission is currently seeking stakeholder input on the possible amendments, including comments by local government agencies. The Commission is anticipated to next discuss this topic at its May 22 meeting in Olympia at the Commission office (address above). On behalf of the Commission, we are inviting your comments.

Interested persons may provide comment at the May 22 meeting, or send comments to the PDC by May 13, to Lori Anderson at the PDC (lori.anderson@pdc.wa.gov) or to Nancy Krier (nancy.krier@pdc.wa.gov).

Thank you.

Enclosure: Possible Draft Amendments to Interpretation 04-02 – *Agency Calendars*

C: Commissioners

**Public Disclosure Commission
Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
<p>Agency Calendars</p>	<ul style="list-style-type: none"> Agency officials, appointees and employees may place on their individual agency calendar the basic information that he/she is scheduled to be out of the office to attend campaign events. Agency officials, appointees and employees may respond to public inquiries, including from campaigns, about the employee's, appointee's or official's availability to attend a campaign event. A supervising employee, appointee or official may request his or her scheduling assistant (agency staff) to block out time on the supervising employee's, appointee's or official's individual calendar for campaign events. A scheduling assistant may receive information and block out time on the supervising employee's, appointee's or official's individual calendar for campaign events, as directed by the supervising employee, appointee or official. A scheduling assistant may respond to public inquiries, including from campaigns, about 	<ul style="list-style-type: none"> Agency officials, appointees and employees shall not use, nor direct their staff to use, public facilities or resources to arrange or plan campaign activities, or to assist with a campaign activity. Arranging details of the official's, appointee's or employee's appearance or participation in the campaign activity such as travel logistics, tickets, or agenda while at the event, are not permitted. Agency officials, appointees and employees shall not place their individual campaign-related events on agency-wide distributed calendars such as monthly calendars of agency events, or regularly scheduled newsletters with agency events provided or distributed to staff or the public. A scheduling assistant shall not reach out to campaigns and campaign vendors to initiate contact to coordinate the schedule of an official, appointee or employee. 	<ul style="list-style-type: none"> Is the scheduling activity limited to calendaring for the official, appointee or employee? Is the calendaring limited to the ministerial act of placing only basic information about the campaign event (name, date, time, location, duration and contact number) on the official's appointee's or employee's schedule; conducted solely for business and security purposes related to the agency's need to know the official's, appointee's or employee's availability and location; and, to avoid scheduling conflicts? Is the calendaring request to a scheduling assistant to block out time (generally or only for specific appointments), on the individual's calendar directed by the official appointee or supervising employee to agency staff, and not by a campaign? Is the scheduling assistant passively receiving the information to be calendared?

DRAFT AMENDMENTS TO PDC INTERPRETATION 04-02 - GUIDELINES FOR LOCAL GOVERNMENT AGENCIES IN ELECTION CAMPAIGNS - UNDER DISCUSSION AT PUBLIC DISCLOSURE COMMISSION AS OF APRIL 2013 - TOPIC: AGENCY CALENDARS

DRAFT

**Public Disclosure Commission
Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
	<p>the supervising employee's, appointee's or official's availability to attend a campaign event.</p> <ul style="list-style-type: none"> Agencies may inform staff and/or others of community meetings related to ballot measures if other such information is normally published in a community calendar, and if both those supporting or opposing a ballot measure have the opportunity to appear on the calendar. (See more regarding "Agency Publications – Regular" at p. 22). 		

Note on Timing of Activities: A particular activity may be subject to the scrutiny of the Public Disclosure Commission depending in part on whether it is a part of the "normal and ordinary" conduct of a local government agency. Generally, activities that occur after the elected legislative body has passed a resolution authorizing a measure to be placed on the ballot will be subject to greater scrutiny by the Public Disclosure Commission than those occurring before such a resolution has been passed.

Note on Agency Policies: The application of these guidelines is also subject to each jurisdiction's own adopted policies.

DRAFT

DRAFT AMENDMENTS TO PDC INTERPRETATION 04-02 - GUIDELINES FOR LOCAL GOVERNMENT AGENCIES IN ELECTION CAMPAIGNS - UNDER DISCUSSION AT PUBLIC DISCLOSURE COMMISSION AS OF APRIL 2013 - TOPIC: AGENCY POLICIES

Lori Anderson

From: James McMahan [JMcmahan@wacounties.org]
Sent: Wednesday, May 08, 2013 3:53 PM
To: Lori Anderson
Subject: RE: PDC interpretation - public facilities & campaigns

Thanks Lori. I discussed this with my folks last week and they didn't really feel like there was a need for us to weigh in. If something changes, you'll I'll be sure to let you know.

James McMahan

Executive Director

Washington Association of County Officials

P. 360.753.7319 F. 360.350.1443

Please note my new email address: james@countyofficials.org

From: Lori Anderson [<mailto:lori.anderson@pdc.wa.gov>]
Sent: Tuesday, May 07, 2013 2:32 PM
To: James McMahan; sheilag@awcnet.org; TMCBRIDE@WAPROSECUTORS.ORG; Holmes, Peter
Cc: Nancy Krier
Subject: FW: PDC interpretation - public facilities & campaigns

Reminding you that the Public Disclosure Commission, at its May 22 meeting, will consider updating its Guidelines for Local Government Agencies in Election Campaigns to address agency calendars. Any comments that you wish to make should be e-mailed to me no later than Monday, May 13, 2013, so that they can be included with the meeting materials that will be sent to the commissioners prior to the meeting. You are also welcome to attend the May 22 meeting and offer comments then. I'll make sure that you receive the meeting agenda, once it is finalized.



Lori Anderson
(360) 664-2737 - phone
1-877-601-2828 toll free in WA State
(360) 753-1112 - fax
Follow the PDC on [Facebook!](#)

From: Lori Anderson
Sent: Monday, March 11, 2013 11:12 AM
To: 'victorial@awcnet.org'; 'jmcman@wacounties.org'; 'TMCBRIDE@WAPROSECUTORS.ORG'
Subject: PDC interpretation - public facilities & campaigns

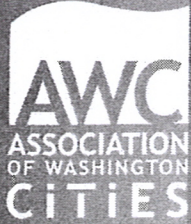
The Public Disclosure Commission is considering adding a section on Agency Calendars to its guidelines regarding public facilities and campaigns. The PDC staff is asked questions related to calendaring campaign events on office calendars often enough that the Commission has decided to offer formal guidance. After discussing the topic briefly at their last meeting, the Commission decided to solicit feedback before they move forward.

Staff's suggested changes are attached. The first few pages are background and the proposed substantive changes to the guidelines begin on page 51 of the PDF. The Commission will consider adopting these changes when they next meet on March 28. Any comments that you or your members want to be considered should be sent to me no later than Monday, March 18. Comments received after March 18 but before March 28 will be given to the Commission at the start of their meeting. You are also welcome to attend the March 28 meeting and offer comments. Check with me

closer to the meeting date for the agenda time for this topic or watch for the agenda to be posted on the PDC website on Friday, March 22.



Lori Anderson
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May 13, 2013

Ms. Lori Anderson
Public Disclosure Commission
PO Box 40908
Olympia, WA 98504-0908

Dear Ms. Anderson:

Thank you for the opportunity to provide comments to the proposed amendments to the Guidelines for Local Government Agencies as they relate to calendars of elected officials. We appreciate the Commission's clarification of this issue to prevent inadvertent violations by local officials.

We agree that there are legitimate reasons for an agency to be able to locate officials and to prevent scheduling conflicts. We also agree that use of their regular scheduling procedure including directing an assistant to place the appointments on calendars is appropriate.

There are two areas in which we think the commission should consider further clarifications in its proposed language. First, the guidance regarding placement of events on agency-wide calendars is centered on individual campaign activities, but elected officials in their private capacities can also be participants in those events. In addition, there is little guidance on how the Open Public Meetings Act intersects with campaign laws. If, for example, more than a quorum of a council were to attend a campaign event on their own time, would the agency be required to note the event on the council's meeting calendar? If so, that "meeting" may need to be noted on an agency calendar but violate the guidance in this memo.

Second, the clarification includes a blanket prohibition against the scheduler contacting the campaign to initiate a conversation, even if the purpose is to prevent scheduling conflicts. That seems unduly burdensome if there is a legitimate need to schedule an agency meeting during the campaign season.

Finally, we would note that technology is constantly evolving. We noted with interest the synching issues addressed in the PDC 09-083 enforcement action and would encourage the Commission to incorporate automatic passive receipt of electronic information as a legitimate function of calendars that does not use agency resources.

Sincerely,

A handwritten signature in cursive script that reads "Sheila M. Gall".

Sheila Gall
General Counsel

cc: Mike McCarty, CEO

**DRAFT AMENDMENTS
TO INTERPRETATION 04-02**

PDC Interpretation

APPROVAL DATE: September 28, 2004; **NUMBER:** 04-02
Amended September 28, 2006;
Amended August 23, 2012

STATUS: Approved **SUPERSEDES:** Interpretation 00-05

REFERENCES: [RCW 42.17A.555](#) **APPROVED BY:** The Commission

SEE ALSO: [WAC 390-05-271](#) and [WAC 390-05-273](#)

FORMER: RCW 42.17.130

Guidelines for Local Government Agencies in Election Campaigns*

Public Disclosure Law Re: Use of Public Facilities in Campaigns

USE OF THE GUIDELINES

These Guidelines are meant to aid and assist in compliance with the law.

This document is an educational tool that is an expression of the Commission's view of the meaning of [RCW 42.17A.555](#) and relevant administrative rules and case law involving local government and election campaign activity. It is intended to provide guidance regarding the Commission's approach and interpretation of how the statutory prohibition on the use of public facilities for campaigns impacts activities that may be contemplated by government employees and other persons who may seek to utilize those public facilities. Readers are strongly encouraged to review the statute and rules referenced in these Guidelines.

For ease of reference, the majority of this interpretation is in chart form. In part, the chart identifies categories of persons, some possible activities, and some general considerations. These illustrative examples in the columns of the chart are not intended to be exhaustive.

For example, the categories of persons identified are, in many cases, illustrative only and simply identify groups of persons more likely to undertake or consider undertaking the activity mentioned in the adjacent columns. If an activity is described as being viewed as "Permitted," it is viewed as permitted for all agency personnel otherwise having the authority under law or agency policy to undertake that action, not just the persons identified in the chart or in a particular column. The same approach is applied to the "Not Permitted" column. Further, the remarks in the chart's "General Considerations" column have relevance for the entire section and are not limited to the specific bullet point immediately to the left of the general consideration.

As noted in the Basic Principles section below, hard and fast rules are difficult to establish for every fact pattern involving agency facilities that may occur.

*School Districts are directed to [Guidelines for School Districts in Election Campaigns, Interpretation 01-03](#).

Situations may arise that are not squarely addressed by the guidelines or that merit additional discussion. The PDC urges government agencies to review the guidelines in their entirety, and to consult with their own legal counsel and with the PDC. The PDC can be reached at <mailto:pdcc@pdcc.wa.gov>, 360/753-1111 or toll free at 1-877-601-2828.

RCW 42.17A.555

Use of public office or agency facilities in campaigns — Prohibition — Exceptions.

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in [RCW 42.52.010](#).

Notes:

Finding -- Intent -- 2006 c 215: "(1) The legislature finds that the public benefits from an open and inclusive discussion of proposed ballot measures by local elected leaders, and that for twenty-five years these discussions have included the opportunity for elected boards, councils, and commissions of special purpose districts to vote in open public meetings in

order to express their support of, or opposition to, ballot propositions affecting their jurisdictions.

(2) The legislature intends to affirm and clarify the state's long-standing policy of promoting informed public discussion and understanding of ballot propositions by allowing elected boards, councils, and commissions of special purpose districts to adopt resolutions supporting or opposing ballot propositions." [\[2006 c 215 § 1.\]](#)

WAC 390-05-271

General applications of [RCW 42.17A.555](#).

- (1) [RCW 42.17A.555](#) does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.
- (2) [RCW 42.17A.555](#) does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

WAC 390-05-273

Definition of normal and regular conduct.

Normal and regular conduct of a public office or agency, as that term is used in the proviso to [RCW 42.17A.555](#), means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

Similar prohibitions on the use of public facilities by state employees and state officers are described in a memorandum from the Attorney General's Office regarding [RCW 42.52](#) and available at

<http://www.ethics.wa.gov/RESOURCES/Resources.htm><http://www.ethics.wa.gov/RESOURCES.htm>.

BASIC PRINCIPLES

1. Public facilities may not be used to support or oppose a candidate or ballot proposition. [RCW 42.17A.555](#). Facilities include local government agency equipment, buildings, supplies, employee work time, and agency publications. The statute includes an exception to the prohibition for "activities which are part of the normal and regular conduct of the office or agency."
2. The Public Disclosure Commission holds that it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. This includes informing the community of

the needs of the agency that the community may not realize exist. Local governments may expend funds for this purpose provided that the preparation and distribution of information is not for the purpose of influencing the outcome of an election.

3. Public employees do not forfeit their rights to engage in political activity because of their employment. Neither may agency employees be subjected to coercion, pressure, or undue influence to participate in political activity or to take a particular position. Public officials and employees should make it clear that any participation is personal rather than officially sponsored.
4. Supervisory personnel have a duty to know, apply, and communicate to their staffs the difference between acceptable information activities and inappropriate promotional activities in support of local government ballot measures.
5. Local elected officials are free to support agency ballot issues and engage in other political activities as long as such activities do not make use of government facilities, time or resources and do not either pressure or condone employees' use of agency facilities, time or resources to support ballot issues.
6. The PDC is charged with enforcing [RCW 42.17A.555](#). This requires consideration and analysis of activities, which may or may not be determined to be in violation of the statute. The PDC has, over the years, developed methods of considering and analyzing activities engaged in by public offices. Among the factors considered are the normal and regular conduct and the timing, tone, and tenor of activities in relation to ballot measure elections. As in any matter where intent is to be considered, hard and fast rules, which will be applicable to all situations, are difficult to establish.

The combination of a number of activities into a coordinated campaign involving close coordination between agency activities and citizens' committee activities which closely resembles traditional election campaign activities and which is targeted at and/or occurs close in time to a ballot measure election is likely to draw close scrutiny and careful consideration by the PDC as to whether a violation has occurred.

- 7.a. Historically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate.

In addition, if an agency* has also customarily distributed this information through means other than a jurisdiction-wide mailing (e.g. regularly scheduled newsletter, website, bilingual documents, or other format), that conduct has also been permitted under [RCW 42.17A.555](#) so long as the activity has been normal and regular for the government agency.

- b. The PDC will presume that every agency may distribute throughout its jurisdiction an objective and fair presentation of the facts for each ballot measure. If the agency distributes more than this jurisdiction-wide single publication, the agency must be able to demonstrate to the PDC that this conduct is normal and regular for that agency. In other words, the agency must be able to demonstrate that for other major policy issues facing the government jurisdiction, the agency has customarily communicated with its residents in a manner similar to that undertaken for the ballot measure.

- c. Agencies are urged to read the definitions of "normal and regular" at [WAC 390-05-271](#) and [WAC 390-05-273](#). **Agencies need to be aware, however, that in no case will the PDC view a marketing or sales effort related to a campaign or election as normal and regular conduct.**
8. The PDC attributes publications or other informational activity of a department or subdivision as the product of the local agency as a whole.
9. Providing an objective and fair presentation of facts to the public of ballot measures that directly impact a jurisdiction's maintenance and operation, even though the measure is not offered by the jurisdiction, may be considered part of the normal and regular conduct of the local agency. The agency must be able to demonstrate that for other major policy issues facing the jurisdiction, the agency has customarily communicated with its residents in a manner similar to that undertaken for the ballot measure.
10. State law provides certain exemptions from the prohibition on the use of public office or agency facilities in campaigns for an elected legislative body, an elected board, council or commission of a special purpose district, and elected officials that are not afforded appointed officials. [RCW 42.17A.555 \(1\) and \(2\)](#) apply only to these elected bodies and elected officials.**

*Agency means any county, city, town, port district, special district, or other state political subdivision.

**See [Chapter 215, Laws of 2006](#) and [AGO 2005 No. 4](#).

Public Disclosure Commission
Guidelines for Local Government Agencies in Election Campaigns

Persons	Permitted	Not Permitted	General Considerations
<p>Agency* Administrators (County Administrator, City Manager, Executive Director, Fire Chief, PUD Manager, Etc.)</p>	<ul style="list-style-type: none"> • May inform staff during non-work hours¹ of opportunities to participate in campaign activities.² • Are encouraged to communicate to staff the difference between acceptable and unacceptable activities related to a ballot measure. • In the course of normal publications for the agency, may distribute an objective and fair presentation of the facts³ based on and expanded upon the information⁴ prepared by the agency in accordance with the normal and regular conduct of the agency.⁵ 	<ul style="list-style-type: none"> • Shall not pressure or coerce employees to participate in campaign activities. • Shall not use internal memoranda solely for the purpose of informing employees of meetings supporting or opposing ballot measures. • Shall not coordinate informational activities with campaign efforts, in a manner that makes the agency appear to be supporting or opposing a ballot measure. 	<ul style="list-style-type: none"> • Has there been communications with staff and with union representatives regarding the prohibition on the use of the agency's internal mail or email system to support or oppose a ballot measure? • Is the distribution of this information consistent with the normal practices of the agency (such as newsletters, websites, or some other format)?

¹ Agencies may set the definition of work hours for their employees. For example, to the extent that an agency defines the lunch hour as a non-work hour, activities to support or oppose a candidate or a ballot measure that do not use public resources and that are held away from government facilities are permitted during the lunch hour.

² [RCW 42.17A.495\(2\)](#) provides that “[n]o employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.”

³ Throughout these guidelines, the clause “objective and fair presentation of the facts” means that in addition to presenting the facts, the materials should present accurately the costs and other anticipated impacts of a ballot measure.

⁴ For the purposes of these guidelines, “information” refers to the documents prepared, printed, and mailed to persons within the governmental jurisdiction by that agency solely for the purposes of informing residents regarding an upcoming ballot measure. The agency may continue to distribute information consistent with the customary practices of the agency, including but not limited to newsletters, websites, and multi-lingual documents. These publications may continue, but if they discuss the ballot measure, the information needs to be an objective and fair presentation of the facts.

⁵ For the purpose of these guidelines, the term “normal and regular” is defined in [WAC 390-05-273](#) and clarified further by [WAC 390-05-271](#).

*Agency means any county, city, town, port district, special district, or other state political subdivision.

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Guidelines for Local Government Agencies in Election Campaigns

Persons	Permitted	Not Permitted	General Considerations
Agency Administrators (continued)	<ul style="list-style-type: none"> • May speak at community forums and clubs to present factual and objective information on a ballot measure during regular work hours. • May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections. • May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties. • May wear campaign buttons or similar items while on the job if the agency's policy generally permits employees to wear political buttons. • May engage in campaign activities on their own time, during non-work hours and without using public resources. 	<ul style="list-style-type: none"> • Shall not use public resources to operate a speakers' bureau in a manner that may be viewed as promoting a ballot measure. 	<ul style="list-style-type: none"> • Is the information provided an objective and fair presentation of the facts? • Is the activity consistent with the agency's normal and regular course of business? • Do the materials accurately present the costs and other anticipated impacts of a ballot measure? • For considerations regarding uniforms and related equipment, see pages 14-18.
Community Groups	<ul style="list-style-type: none"> • May use agency facilities for meetings supporting or opposing a ballot measure to the extent that the facilities are made available on an equal access, nondiscriminatory basis, and it is part of the normal and regular activity of the jurisdiction. 	<ul style="list-style-type: none"> • Shall not use agency facilities to produce materials that support or oppose a ballot measure. 	

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Guidelines for Local Government Agencies in Election Campaigns

Persons	Permitted	Not Permitted	General Considerations
Local Elected Legislative Body*	<ul style="list-style-type: none"> May collectively vote to support or oppose a ballot measure at a properly noticed public meeting, where opponents of the measure are given an equal opportunity to express views.⁶ 	<ul style="list-style-type: none"> Shall not pressure or coerce agency management to participate in campaign activities. Shall not explicitly include passage of a ballot measure in the agency's annual goals. 	

⁶ [RCW 42.17A.555\(1\)](#) provides that action may be “taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;”.

* The term “elected” modifies the term “body,” connoting that the body itself must be elected. “We therefore conclude that bodies composed in any of the three ways you suggest in your question are not elected bodies for purposes of RCW 42.17.130 [the former codification of [RCW 42.17A.555](#)]. Bodies containing a combination of elected or appointed members, bodies whose members serve ex officio by virtue of being elected to another office, or informal groups of elected officials from different jurisdictions are not “elected” for purposes of this analysis.” ([AGO 2005 No. 4, Page 4](#))

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Persons	Permitted	Not Permitted	General Considerations
<p>Local Government Elected Officials</p>	<ul style="list-style-type: none"> • May engage in political activities on his or her own time, if no public equipment, vehicle or facility is used. (An elected official may use his or her title, but should clarify that he/she is speaking on his/her own behalf, and not on behalf of the agency. If the elected legislative body has adopted a resolution, the official can then speak on behalf of the agency.) • May attend any function or event at any time during the day and voice his or her opinion about a candidate or ballot proposition as long as they are not being compensated and are not using any public equipment, vehicle or other facility. 	<ul style="list-style-type: none"> • Shall not direct agency staff to perform tasks to support or oppose campaign activities or ballot measures. • Shall not use public facilities or resources to engage in political activities. 	<ul style="list-style-type: none"> • Is the elected official using staff time, a public vehicle, or other public resources? • Has the agency adopted a resolution? If yes, the elected official can speak on behalf of the agency. If not, has the elected official made it clear that he or she is not speaking on behalf of the agency? • For considerations regarding uniforms and related equipment, see pages 14-18. • For considerations regarding officials' calendars, see pages X - X.

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Guidelines for Local Government Agencies in Election Campaigns

Persons	Permitted	Not Permitted	General Considerations
<p>Appointed Officials <small>(Boards, Commissions, and similar appointed positions)</small></p>	<ul style="list-style-type: none"> • May engage in political activities on his or her own time, if no public equipment, vehicle or facility is used. An appointed official may use his or her title, but should clarify that he/she is speaking on his/her own behalf, and not on behalf of the agency. • May attend any function or event at any time during the day and voice his or her opinion about a candidate or ballot proposition as long as they are not being compensated and are not using any public equipment, vehicle or other facility. 	<ul style="list-style-type: none"> • Shall not direct agency staff to perform tasks to support or oppose campaign activities or ballot measures. • Shall not use public facilities or resources to engage in political activities. • Shall not use public facilities to express a collective decision or actually vote upon a motion or resolution to support or oppose a ballot proposition. • Shall not use public facilities to make a statement at a press conference or responding to an inquiry in support or opposition to any ballot proposition. 	<ul style="list-style-type: none"> • Is the appointed official using staff time, a public vehicle, or other public resources? • Has the appointed official made it clear that he or she is not speaking on behalf of the agency? • For considerations regarding uniforms and related equipment, see pages 14-18. • For considerations regarding officials' calendars, see pages X - X.
<p>Management Staff or Their Designees</p>	<ul style="list-style-type: none"> • May speak at community forums and clubs to present an objective and fair presentation of the facts on a ballot measure during regular work hours.⁷ • May fully participate in campaign activities, including meeting with citizens' campaign committees to plan strategies, during non-work hours and without the use of public resources. 	<ul style="list-style-type: none"> • Shall not use public resources to operate a speakers' bureau in a manner that may be viewed as promoting a ballot measure. • Shall not use public resources to promote or defeat a candidate or ballot measure. 	<ul style="list-style-type: none"> • Is the management staff using public resources in a manner that promotes or opposes a candidate or a ballot measure? • Does the presentation accurately present the costs and other anticipated impacts of a ballot measure?

⁷ Agencies may set the definition of work hours for their employees. For example, to the extent that a agency defines the lunch hour as a non-work hour, activities to support or oppose a candidate or a ballot measure that do not use public resources and that are held away from agency facilities are permitted during the lunch hour.

**Public Disclosure Commission
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<p>Management Staff or Their Designees (continued)</p>	<ul style="list-style-type: none"> • May inform staff during non-work hours of opportunities to participate in campaign activities. • May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties. • May wear campaign buttons or similar items while on the job if the agency's policy generally permits employees to wear political buttons. • May place window signs or bumper stickers on their privately-owned cars, even if those cars are parked on government property during working hours. • Are encouraged to communicate to staff the difference between acceptable and unacceptable activities related to a ballot measure. • May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections. 	<ul style="list-style-type: none"> • Shall not pressure or coerce employees to participate in campaign activities. • Shall not use agency resources to organize the distribution of campaign materials. 	<ul style="list-style-type: none"> • Does the agency have a policy permitting employees to wear political buttons? • For considerations regarding agency employees' calendars, see pages X - X.

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Guidelines for Local Government Agencies in Election Campaigns

Persons	Permitted	Not Permitted	General Considerations
Agency Employees	<ul style="list-style-type: none"> • May speak at community forums and clubs to present an objective and fair presentation of the facts on a ballot measure during regular work hours. • May inform staff during non-work hours of opportunities to participate in campaign activities. • May engage in campaign activities on their own time, during non-work hours and without using public resources. • May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties. • May wear campaign buttons or similar items while on the job if the agency's policy generally allows employees to wear political buttons. • May, during non-work hours, make available campaign materials to employees in lunchrooms and break rooms that are used only by staff or other authorized individuals. 	<ul style="list-style-type: none"> • Shall not use work hours or public resources to promote or oppose a candidate or ballot measure (such as gathering signatures, distributing campaign materials, arranging speaking engagements, coordinating phone banks, or fundraising). • Shall not pressure or coerce other employees to participate in campaign activities. • Shall not use agency resources to organize the distribution of campaign materials. 	<ul style="list-style-type: none"> • Do the presentations accurately present the costs and other anticipated impacts of a ballot measure? • Is the employee acting on his or her own time, during non-work hours?

**Public Disclosure Commission
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
Agency Employees (continued)	<ul style="list-style-type: none"> • May place window signs or bumper stickers on their cars, even if those cars are parked on government agency property during working hours. • May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections. 		<ul style="list-style-type: none"> • For considerations regarding agency employees' calendars, see pages X - X.
Union Representatives	<ul style="list-style-type: none"> • May, during non-work hours, make available campaign materials to union members in lunchrooms and break rooms that are used only by staff or other authorized individuals. • May distribute campaign materials at union-sponsored meetings. • May post campaign materials on a bulletin board, if such a board is in an area that is not accessible to the general public and if such activity is consistent with the agency's policy and the collective bargaining agreements. 	<ul style="list-style-type: none"> • Shall not use the agency's internal mail or email system to communicate campaign-related information, including endorsements. • Shall not distribute promotional materials in public areas. 	<ul style="list-style-type: none"> • Are campaign materials made available only in those areas used solely by staff or other authorized individuals? • Does such distribution occur during non-work hours?

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Activities and Resources	Permitted	Not Permitted	General Considerations
Equipment and Supplies	<ul style="list-style-type: none"> • Agency employees, in the course of their employment, may use equipment (including but not limited to projectors and computers) to make an objective and fair presentation of the facts at community forums and clubs. • Agency employees, in the course of their employment, may produce information that is an objective and fair presentation of the facts using public resources. 	<ul style="list-style-type: none"> • Public resources (including but not limited to internal mail systems, email systems, copiers, telephone) shall not be used to support or oppose a candidate or ballot measure, whether during or outside of work hours. • Citizens' campaign committees and other community groups shall not use agency equipment (including but not limited to internal mail systems, projectors, computers, and copiers) to prepare materials for meetings regarding ballot measures. 	<ul style="list-style-type: none"> • Do the presentations fairly and objectively present the costs and other anticipated impacts of a ballot measure?
Uniforms and Related Equipment⁸	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> • Agency employees may use or wear their own uniforms to assist a campaign including to support or oppose a ballot proposition. This use includes any part of the employee's own uniform (shirt, pants, shoes, hat, etc.). This use includes clothing that may not appear to be a uniform (example, detective's suit). "Own uniform" 	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> • Agency employees shall not use or wear their agency-issued, agency-purchased, agency-owned or agency-replaced uniforms to assist a campaign or to support or oppose a ballot proposition. • This prohibition applies to use of any part of such a uniform (shirt, pants, shoes, hat, etc.). 	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> • Are any public funds used to purchase, reimburse, or replace the uniforms or related equipment? See footnote 9.

⁸ For members of the judiciary subject to the Code of Judicial Conduct, see [PDC Interpretation 00-03](#).

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Guidelines for Local Government Agencies in Election Campaigns

Activities and Resources	Permitted	Not Permitted	General Considerations
Uniforms and Related Equipment (Continued)	<p>means: The employee has purchased the uniform. The agency has not issued, purchased or replaced the uniform, or has not reimbursed the employee for the employee's purchase of the uniform, in whole or in part (such as reimbursement to the employee through a clothing allowance used to pay for the item).⁹</p> <ul style="list-style-type: none"> • These same provisions apply to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; hats; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios. 	<ul style="list-style-type: none"> • This same prohibition applies to clothing that may not appear to be a uniform (example, a detective's suit). • This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; shoes; agency patches, logos, insignias, emblems; and radios. • Prohibited uses include but are not limited to using or wearing those uniforms at campaign functions or in political advertisements such as TV commercials. • Exceptions for attending campaign functions in uniform may be made on a case-by-case basis under exigent circumstances.¹⁰ 	

⁹ An agency's reimbursement for or other means of providing for cleaning/maintenance of uniforms or related equipment does not convert the privately-purchased item to a public facility.

¹⁰ For example, in examining all the surrounding circumstances, the Commission may determine that an enforcement action will not proceed when public safety and the demands of the public employee's office with respect to an ongoing law enforcement matter unexpectedly required the official to remain in uniform at a campaign function, and if that uniform use is part of the agency's "normal and regular" activities under those circumstances. However, the Commission anticipates these situations will be rare and isolated. This exception does not apply when campaigns or employees may seek to use agency uniforms and related equipment under other circumstances, or for other campaign activities such as in political advertising.

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Activities and Resources	Permitted	Not Permitted	General Considerations
<p>Uniforms and Related Equipment (Continued)</p>	<p><i>Former Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> • When a uniform or piece of related equipment was previously purchased, issued, replaced or reimbursed by the agency and is no longer used by the agency, the item may be used by a campaign to assist a campaign, or support or oppose a ballot measure. • “No longer used by the agency” means the employee or agency has documented that: <ul style="list-style-type: none"> ○ The uniform or equipment has exceeded its life expectancy as defined by the agency and/or has been officially retired by the agency; ○ The uniform or equipment has been given or sold to an employee or another person following agency procedures; and, ○ The agency has no expectation the uniform or equipment will be returned to or used by the agency in the future. 		<p><i>Former Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> • Has the employee or campaign documented that the uniform or piece of related equipment is no longer used by the agency?

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Activities and Resources	Permitted	Not Permitted	General Considerations
<p>Uniforms and Related Equipment (Continued)</p>	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> Agency photos and agency videos depicting agency employees wearing agency uniforms may be used by a campaign to assist a campaign including to support or oppose ballot proposition, if the photos or videos: (1) were made in the ordinary course of the agency’s business, (2) were not “staged” for campaign purposes and, (3) are made available to a campaign on the same terms and conditions as any other member of the public would receive the photos or videos. For example, agency photos or agency videos could be provided in response to a public records request, or by other authorized agency policy. This same provision applies to agency photos and agency videos depicting agency personnel wearing or using related equipment, including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios. 	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> Agency employees shall not make special arrangements for or “stage” the taking of an agency photo or agency video of an employee in uniform so the photo or video can be used for campaign purposes. This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios. 	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> Was the agency photo or agency video taken in the ordinary course of agency business, and not “staged” for a campaign? Was a campaign provided an agency photo or agency video of an employee wearing a uniform in the same manner, and under the same conditions, as any other member of the public requesting the photo or video? For example, was the agency providing it in response to a public records request, or pursuant to authorized agency policies? Does the campaign’s ad make it clear to voters that the public agency is not endorsing or supporting the candidate or ballot measure, even though an employee in the photo/video is wearing a uniform? It is suggested that a disclaimer be added to the advertising to clarify that the photo/video has been obtained in the manner prescribed by the agency.

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Activities and Resources	Permitted	Not Permitted	General Considerations
Uniforms and Related Equipment (Continued)	<p><i>Uniforms and Related Equipment Purchased with Non-Public Funds</i></p> <ul style="list-style-type: none"> • Agency employees and campaigns may use uniforms that are not the property of the agency and are rented or purchased with non-public funds (such as campaign funds), to assist campaigns including to support or oppose ballot propositions. • These same provisions apply to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios. 	<p><i>Uniforms and Related Equipment Purchased with Public Funds</i></p> <ul style="list-style-type: none"> • Public funds shall not be used to rent or purchase uniforms to assist campaigns, or to support or oppose ballot propositions. • This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios. 	

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Activities and Resources	Permitted	Not Permitted	General Considerations
Meeting Facilities	<ul style="list-style-type: none"> • Agency meeting facilities, including audio visual equipment, may be used by campaign committees for activities on the same terms and conditions available to other community groups, subject to the provisions of the agency’s policy. • Use of agency meeting facilities is permitted when the facility is merely a “neutral forum” where the activity is taking place, and the public agency in charge of the facility is not actively endorsing or supporting the activity that is occurring. 		<ul style="list-style-type: none"> • Can community groups typically use agency facilities? • Are facilities made available to all groups on the same terms? • Has the agency adopted a policy regarding the distribution of campaign materials on agency property? • Is the meeting facility customarily made available on an equal access, nondiscriminatory basis for a variety of uses?

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Activities and Resources	Permitted	Not Permitted	General Considerations
Lists	<ul style="list-style-type: none"> • Lists of names (such as agency vendors or customers) that a agency has obtained or created in the course of transacting its regular public business are subject to public disclosure requirements; thus, unless otherwise exempt, the lists must be released subject to public records requests. • Agencies may charge a pre-established fee to cover the costs of providing copies of such lists on an equal access, nondiscriminatory basis. 	<ul style="list-style-type: none"> • Agencies shall not sell copies of such lists (though they may charge a pre-established fee to recover the costs of providing copies of the lists). • If a list is generally available as a public record, it cannot be denied to a person or group on the grounds that it might be used in a campaign. 	<ul style="list-style-type: none"> • Is the list obtained or created in the course of the agency transacting its public business? • Are the fees charged no greater than necessary to cover the costs of providing copies? • Has the agency complied with established policy in responding to any public record requests?
Voting Information	<ul style="list-style-type: none"> • Agency personnel may encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections. • Public facilities may be used to register people to vote and to do periodic poll checking. 	<ul style="list-style-type: none"> • Agencies shall not pressure or coerce employees to vote. • Agencies shall not organize an effort to encourage staff to wear campaign buttons or display campaign materials. 	<ul style="list-style-type: none"> • Is the activity related to providing voting information for elections, as opposed to advocating for or against a particular candidate or ballot measure?

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Activities and Resources	Permitted	Not Permitted	General Considerations
Agency Publications (Specific to Elections)	<ul style="list-style-type: none"> • Agencies may develop an objective and fair presentation of the facts regarding agency needs and the anticipated impact of a ballot measure, and may distribute it in the agency’s customary manner. This information¹¹ may be printed in various languages and communicated in other formats as required by the ADA. • In the course of regular publications for the agency, the agency may distribute an objective and fair presentation of the facts for each ballot measure in accordance with the normal and regular conduct of the agency. 	<ul style="list-style-type: none"> • Agencies shall not distribute election-related information in a manner that targets specific subgroups. Targeting does not refer to mailing information to agency constituencies such as community leaders, or some other group, or to the agency’s regular distribution list to provide information in a manner that is consistent with the normal and regular conduct of the agency. • Agencies shall not publicize information supporting or opposing a candidate or ballot measure. 	<ul style="list-style-type: none"> • Does the information provide an objective and fair presentation of the facts? • Is the timing, format, and style, including tone and tenor, of the information presented in a manner that is normal and regular for the agency? • Is the information distributed in a manner that is normal and regular for the agency?

¹¹ For the purposes of these guidelines, “information” refers to the documents prepared, printed, and mailed jurisdiction-wide by the agency solely for the purposes of informing residents regarding an upcoming ballot measure. The agency may continue to distribute information consistent with the customary practices of the agency, including but not limited to newsletters, websites, and multi-lingual documents. These publications may continue, but if they discuss the ballot measure, the information should be an objective and fair presentation of the facts.

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Activities and Resources	Permitted	Not Permitted	General Considerations
Agency Publications (Specific to Elections) (continued)			<ul style="list-style-type: none"> • Do the materials accurately present the costs and other anticipated impacts of a ballot measure? • Does the agency typically distribute information by newsletters, websites, or some other format?
Agency Publications (Regular)	<ul style="list-style-type: none"> • Agencies may include all or part of the information regarding agency needs and the anticipated impacts of a ballot measure in the agency's regular publications, such as agency and department newsletters. (For example, a department newsletter may specifically describe the projects and/or programs planned for that department.) • Agencies may inform staff and/or others of community meetings related to ballot measures if other such information is normally published in a newsletter or community calendar, and if both those supporting or opposing a ballot measure have the opportunity to appear on the calendar or in the newsletter. 	<ul style="list-style-type: none"> • Agencies shall not use internal memoranda or other agency publications to encourage employees to participate in campaign activities. • Agencies shall not publish materials supporting or opposing a candidate or ballot measure. 	<ul style="list-style-type: none"> • Does the agency routinely distribute such information? • Does the agency normally inform staff and/or parents of community activities and meetings?

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Activities and Resources	Permitted	Not Permitted	General Considerations
Agency Publications (Regular) (continued)	<ul style="list-style-type: none"> • Agencies may factually report jurisdictional support for a ballot measure, so long as it is the normal and regular conduct for the agency. (For example, a community newsletter that ordinarily reports on governmental actions may report that the jurisdiction adopted a resolution supporting a ballot measure.) • Agencies may thank citizens for their support after an election in agency publications. 		<ul style="list-style-type: none"> • Is the information presented in an objective and fair manner? • Is the agency engaging in significantly different activities during the time period immediately prior to the ballot measure compared to all other times of the year?
Reader Boards/Posters	<ul style="list-style-type: none"> • Information encouraging staff and members of the public to vote, or providing the dates of upcoming elections such as “vote on February ___”, may be posted, as long as such encouragement is customarily posted for elections other than just an agency’s ballot measure. • Agencies may thank citizens on their reader boards for their support after an election. 	<ul style="list-style-type: none"> • Agencies shall not display a “Vote for” sign or other promotional messages on reader boards or posters. • Signs advocating for or against candidates or ballot measures shall not be posted on agency property in any area accessible to the general public. 	

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Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
Reader Boards/Posters (Continued)	<ul style="list-style-type: none"> May post objective and fair information at an agency or at a future site regarding anticipated improvements to be funded by a ballot measure that is specific to that agency or site. 	<ul style="list-style-type: none"> Publicly owned vehicles shall not be used to carry or display political material. 	
Surveys and Research	<ul style="list-style-type: none"> Agencies may conduct surveys and/or other community research, including demographic questions, to determine the community's priorities, public perception of performance, and/or to inform the community about agency programs and policies. Agencies may conduct community research (including but not limited to the use of questionnaires, surveys, workshops, focus groups, and forums) to determine the community's priorities for both programs and/or facilities and their associated total costs and projected dollars per thousand assessment. 	<ul style="list-style-type: none"> Agencies shall not conduct surveys to determine what taxation level the public would support. Agencies shall not conduct surveys designed to shore up support or opposition for a ballot measure. 	<ul style="list-style-type: none"> Has the elected legislative body passed a resolution authorizing a measure to be placed on the ballot? (If so, actions may be more closely scrutinized.) Does the election-related survey target specific subgroups?

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Activities and Resources	Permitted	Not Permitted	General Considerations
Surveys and Research (continued)	<ul style="list-style-type: none"> • The surveys and/or other community research can be conducted before or after the governing body has approved a resolution to place a ballot measure on the ballot. However, research conducted after the adoption of the resolution may be subject to greater scrutiny. • Agencies may publish survey results if it is consistent with the normal and regular conduct of the agency. 	<ul style="list-style-type: none"> • Agencies shall not target registered voters or other specific subgroups of the jurisdiction in conducting their election-related surveys. • Agencies shall not use survey results in a manner designed to support or oppose a candidate or ballot measure. 	<ul style="list-style-type: none"> • Is the survey or community research consistent with normal and regular activities of the agency?
Technology (websites, emails, computerized calling systems)	<ul style="list-style-type: none"> • An agency may develop an objective and fair presentation of the facts and post that information on its website, including information regarding agency needs and the anticipated impacts of a ballot measure. This information may be reformatted so that it is consistent with the manner in which the agency customarily presents information on its website. 	<ul style="list-style-type: none"> • Agency computers, email systems, telephones, and other information technology systems shall not be used to aid a campaign for or against a candidate or ballot measure. 	<ul style="list-style-type: none"> • Are the materials developed an objective and fair presentation of the facts?

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Activities and Resources	Permitted	Not Permitted	General Considerations
<p>Technology (websites, emails, computerized calling systems) (continued)</p>	<ul style="list-style-type: none"> • Agency websites may permit viewers to make selections to learn about the anticipated impacts of a ballot measure for a specific division, or otherwise allow readers to explore issues in greater or lesser detail. • Agencies may update the information on their websites in a manner that is customary for the agency. • Staff may respond to inquiries regarding a ballot measure in an objective and fair manner, via email or by telephone, if it is part of their normal and regular duties. 	<ul style="list-style-type: none"> • Electronic communication systems shall not be used to generate or forward information that supports or opposes a candidate or ballot measure. • Agency websites shall not be used for the purposes of supporting or opposing a candidate or ballot measure. 	<ul style="list-style-type: none"> • Is the agency engaging in significantly different activities during the time period immediately prior to the ballot measure compared to all other times of the year? • Do the materials accurately present the costs and other anticipated impacts of a ballot measure? • Has there been communications with staff and with union representatives regarding the prohibition on the use of the agency's technology to support or oppose a ballot measure?

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Activities and Resources	Permitted	Not Permitted	General Considerations
<p>Agency Calendars</p>	<ul style="list-style-type: none"> Agency officials, appointees and employees may place on their individual agency calendar the <u>basic information</u> that he/she is scheduled to be out of the office to attend campaign events. They may synchronize their personal electronic calendars with agency electronic calendars so long as only basic information gets placed on the agency calendar about campaign events. Agency officials, appointees and employees may respond to public inquiries, including from campaigns, about the employee's, appointee's or official's <u>availability on his/her schedule to attend a campaign event.</u> A supervising employee, appointee or official may request his or her scheduling assistant (agency staff) to block out time on the supervising employee's, appointee's or official's individual calendar for campaign events. A scheduling assistant may receive information and block out time on the supervising employee's, appointee's or 	<ul style="list-style-type: none"> Agency officials, appointees and employees shall not use, nor direct their staff to use, public facilities or resources to arrange or plan campaign activities, or to assist with a campaign activity. Arranging details of the official's, appointee's or employee's appearance or participation in the campaign activity such as travel logistics, tickets, invitations to other participants, or agenda while at the event, are not permitted. Communicating about the individual's interest and/or potential for participating in planned or possible future campaign events or activities, including endorsement interviews, are not permitted. Those activities must use campaign resources and staff, not public agency resources and staff. A scheduling assistant shall not reach out to campaigns and campaign vendors to initiate contact to coordinate the schedule of an official, 	<ul style="list-style-type: none"> Is the scheduling activity limited to <u>calendar</u>ing for the official, appointee or employee? Is the calendaring limited to the <u>ministerial act</u> of placing only <u>basic information</u> about the campaign event (name, date, time, location, duration and contact number) on the official's appointee's or employee's schedule; conducted solely for business and security purposes related to <u>the agency's need</u> to know the official's, appointee's or employee's availability and location; and, to avoid scheduling conflicts? Is the calendaring request to a scheduling assistant to block out time (generally or only for specific appointments), on the individual's calendar <u>directed in the first instance by the official appointee or supervising employee to agency staff, and not by a campaign?</u> Is the <u>campaign contact information</u> the publicized means by the campaign of reaching the individual who is a candidate or assisting a

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	<p>official's individual calendar for campaign events, as directed by the supervising employee, appointee or official.</p> <ul style="list-style-type: none"> • A scheduling assistant may respond to public inquiries, including from campaigns, about the supervising employee's, appointee's or official's <u>availability on his/her schedule to attend a campaign event.</u> • Agencies may inform staff and/or others of community meetings related to ballot measures if other such information is normally published in a community calendar, and if both those supporting or opposing a ballot measure have the opportunity to appear on the calendar. (See more regarding "Agency Publications – Regular" at p. 22). 	<p><u>appointee or employee.</u></p> <ul style="list-style-type: none"> • Agency officials, appointees and employees shall not place their individual campaign-related events on agency-wide distributed calendars such as monthly calendars of agency events, or regularly scheduled newsletters with agency events provided or distributed to staff or the public. 	<p>campaign, for the purpose of scheduling his/her attendance at campaign events, or for participating in other campaign events?</p> <ul style="list-style-type: none"> • Do agency staff <u>refer campaign-related inquiries to the campaign</u> when the person contacting the agency seeks information beyond an individual's availability on his/her agency schedule? • <u>Is the scheduling assistant passively receiving the information to be calendared?</u>

Note on Timing of Activities: A particular activity may be subject to the scrutiny of the Public Disclosure Commission depending in part on whether it is a part of the "normal and ordinary" conduct of a local government agency. Generally, activities that occur after the elected legislative body has passed a resolution authorizing a measure to be placed on the ballot will be subject to greater scrutiny by the Public Disclosure Commission than those occurring before such a resolution has been passed.

Note on Agency Policies: The application of these guidelines is also subject to each jurisdiction's own adopted policies.