

Elections Activities Procedure 4400P

Guidelines for Local Government Agencies in Election Campaigns*

Public Disclosure Law Re: Use of Public Facilities in Campaigns

Revised September 28, 2006

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 42.17.130 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, PDC Interpretation No. 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 pdc@pdc.wa.gov, 360/753-1111 or toll free at 1-877-601-2828.

RCW 42.17.130

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.

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 42.17.130.

1. RCW 42.17.130 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 42.17.130 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 42.17.130, 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.atg.wa.gov/ago-opinions/letter-opinion-1970-no-088>.

BASIC PRINCIPLES

1. Public facilities may not be used to support or oppose a candidate or ballot proposition. RCW 42.17.130. 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 42.17.130. 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 42.17.130 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.**The PDC attributes publications or other informational activity of a department or subdivision as the product of the local agency as a whole.
8. 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.
9. 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 42.17.130 (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.

Persons	Permitted	Not Permitted	General Considerations
Agency* Administrators (County Administrator, City Manager, Director, Fire Chief, PUD Manager, Etc.)	<ul style="list-style-type: none"> • May inform staff during non-work hours^[1] of opportunities to participate in campaign activities.^[2] • Are encouraged to communicate to staff the difference between acceptable and unacceptable 	<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. 	<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?

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	<p>activities related to a ballot measure.</p> <ul style="list-style-type: none"> ● In the course of normal publications for the agency, may distribute an objective and fair presentation of the facts^[3] based on and expanded upon the information^[4] prepared by the agency in accordance with the normal and regular conduct of the agency.^[5] ● 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 coordinate informational activities with campaign efforts, in a manner that makes the agency appear to be supporting or opposing a ballot measure. ● 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 distribution of this information consistent with the normal practices of the agency (such as newsletters, websites, or some other format)? ● 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?
<p>Community Groups</p>	<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. 	
<p>Local Elected Legislative Body*</p>	<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. 	
<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 	<ul style="list-style-type: none"> ● Shall not direct agency staff to perform tasks to support or oppose campaign activities or ballot measures. 	<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

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	<p>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.)</p> <ul style="list-style-type: none"> • 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 use public facilities or resources to engage in political activities. 	<p>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?</p>
<p>Appointed Officials (Boards, Commissions, and similar appointed positions)</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?
<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. • 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 	<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. • 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"> • 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? • Does the agency have a policy permitting employees to wear political buttons?

	<p>generally permits employees to wear political buttons.</p> <ul style="list-style-type: none"> ● 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. 		
<p>Agency Employees</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. ● 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. ● 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"> ● 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? ● Is the employee using public resources in a matter that promotes or defeats a candidate or a ballot measure? ● Does the agency have a policy permitting employees to wear political buttons?

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<p>Union Representatives</p>	<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?
<p>Equipment and Supplies</p>	<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?
<p>Meeting Facilities</p>	<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?
<p>Lists</p>	<ul style="list-style-type: none"> • Lists of names (such as agency vendors or customers) that an agency has obtained or created in the course of transacting its regular public business are subject to public disclosure requirements; 	<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 	<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

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	<p>thus, unless otherwise exempt, the lists must be released subject to public records requests.</p> <ul style="list-style-type: none"> • Agencies may charge a pre-established fee to cover the costs of providing copies of such lists on an equal access, nondiscriminatory basis. 	<p>be denied to a person or group on the grounds that it might be used in a campaign.</p>	<p>cover the costs of providing copies?</p> <ul style="list-style-type: none"> • 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?
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 information [1] 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? • 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 parents of community meetings related to ballot measures if other such information is normally published in a newsletter or community calendar, and if 	<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? • 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?

	<p>both those supporting or opposing a ballot measure have the opportunity to appear on the calendar or in the newsletter.</p> <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. 		
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. • 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"> • 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. 	
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 	<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. • 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"> • 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? • Is the survey or community research consistent with normal and regular activities of the agency?

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	<p>projected dollars per thousand assessment.</p> <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. 		
<p>Technology (websites, emails, computerized calling systems)</p>	<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. 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"> 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. 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"> Are the materials developed an objective and fair presentation of the facts? 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?

[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 42.17.680(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.

[6] RCW 42.17.130(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. 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)

[7] 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 agency facilities are permitted during the lunch hour.

[8] 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.

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.

Revised by the Commission 9/28/06

Adopted: 10.16.23

Revised: