

Ballot Measure Activities & Public Resources

As important as ballot measures are to policymaking, public agencies and officials face important restrictions and requirements related to ballot measure activities.

The basic rule is that public resources may not be used for ballot measure *campaign* activities. Public resources may be used, however, for *informational* activities. The key difference between campaign activities and informational activities is that campaign activities support or oppose a ballot measure, while informational activities provide accurate context and facts about a ballot measure to voters.

This document summarizes some of the key applications of these principles. The law, however, is not always clear and the stakes are high. Missteps in this area are punishable as both criminal and civil offenses. Always check with agency counsel for guidance on how these rules apply in any specific situation.

Public Agency Resources May Be Used To

- ☑ Draft and place a measure on the ballot.
- ☑ Pay for polling to determine whether to place a measure on the ballot.
- ☑ Prepare and distribute an objective and fact-based analysis on the effect a ballot measure may have on the agency and those the agency serves.
- ☑ Express the agency's views about the effect of the measure on the agency and its programs, provided the agency is exceedingly careful not to advocate for or against the measure's passage.
- ☑ Adopt a position on the measure, as long as that position is taken by the governing body at an open meeting where all voices have the opportunity to be heard.
- ☑ Respond to inquiries about the ballot measure in an objective and fact-based manner.



Considerations

- ☑ Agency communications about ballot measures should not contain inflammatory language or argumentative rhetoric, or urge any particular vote.
- ☑ Public employees and elected officials may, on their own time and with their own resources, engage in the following activities:
 - » Work on ballot measure campaigns or attend campaign-related events on personal time (for example, evenings, weekends and lunch hours).
 - » Make campaign contributions to ballot measures, using one's own money or campaign funds (while observing campaign reporting rules).
 - » Send and receive campaign related emails or text messages using one's personal (non-agency) account or device.
 - » Personally endorse or oppose a measure.

Public Officials Should Not

- ☒ Engage in campaign activities while on agency time, in uniform, or with agency resources.
- ☒ Use agency resources (including office equipment, supplies, staff time, vehicles or public funds) to engage in advocacy-related activities, including producing campaign-type materials or performing campaign tasks.
- ☒ Use public funds to pay for campaign-related expenses (for example, television, radio, digital advertising, bumper stickers or signs) or make campaign contributions.
- ☒ Use agency devices or email addresses for campaign communication activities.

Best Practices

- ☑ Inform agency employees and public officials about these legal restrictions, particularly once a ballot measure affecting the agency has qualified for the ballot.
- ☑ Include language on informational materials that clarifies that they are for informational purposes only. For example, “these statements shall not be construed in support of or against XX ballot measure.”

WHEN DO THESE RESTRICTIONS KICK IN?

The rules against the use of public resources for campaign activities certainly are triggered once a measure has qualified for the ballot. However, the rules also may apply while a clearly identified measure is in the qualification process. Agencies should always consult with agency counsel regarding the permissibility of specific activities.

DISCLOSURE REQUIREMENTS

Ballot measure expenditures that cross the line into advocacy are also subject to disclosure (transparency) requirements under California’s Political Reform Act (Government Code sections 81000 et seq.).

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