

# OSBA's candidate guide — Don't run for school board without it

by Richard J. Dickinson  
general counsel

It's fall and the only thing more exciting than anticipating the upcoming football season is observing the battles being waged in board of education elections across the state. In July, OSBA published a guide for those interested in running for the board of education. It's titled, *Candidate: A practical guide to running for school board*. The book was written by OSBA's Legal Division: **Patrick Schmitz**, deputy director of legal services; **Hollie Reedy**, staff attorney and myself. It provides answers to many of the most common questions about running for the board of education.

This month's *According to Law* article consists largely of excerpts from the book. Since our publication date is after the filing deadline for school board member candidates, we have excluded the portions of the book that discuss the petition process, how many signatures are required, whether a petition can have too many signatures, etc. Information of this nature is contained in Chapter 1 of the book. Chapter 2 is titled "The Campaign." Here are some excerpts from that chapter.

## May a school board candidate post campaign signs?

Generally yes. A candidate may post campaign signs, provided that his or her campaign follows any local ordinances that reasonably limit or restrict the time, place or manner of such postings. See *Painesville Bldg. Dept. v. Dworken & Bernstein Co., LPA* (2000), 89 Ohio St. 3d 564, 733 N.E. 2d 1152 (municipal ordinance limiting the posting of campaign signs to a few weeks before an election found unconstitutional). A

candidate may post signs on private property with the property owner's permission.

## Must a disclaimer be printed on campaign signs and literature?

Yes. The name and address of either the candidate or the chairperson, treasurer or secretary of the campaign committee must appear in a conspicuous place on all campaign signs (Ohio Revised Code (RC) 3517.20) A disclaimer that simply says, "paid political advertising" is not sufficient to meet the requirements of the law. The following disclaimer probably would be acceptable: "Paid for by the People for Jones Committee, 1122 Main Street, Anytown, Ohio 44114, Fred Smith, Treasurer."

If more than one piece of printed material is mailed as a single packet, the requirement is met as long as one of the pieces contains all of the required information. These disclaimer requirements do not apply to personal correspondence that is not reproduced by machine for general distribution.

## Can a school board candidate purchase an advertisement in a booster program?

Probably yes. Booster groups are private organizations that are separate entities from the school district. Neither RC Chapter 3517 nor other laws appear to prohibit a school board candidate from purchasing ad space in an athletic program, newsletter or other materials published by such groups. Any such advertisement must contain the necessary disclaimer, and the cost of the



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ad must be noted as a campaign expenditure and listed in the candidate's finance report.

## Does Ohio law prohibit certain campaign activities?

Yes. RC Section 3517.21 defines a litany of unlawful activities that could trigger a criminal penalty of up to six months in jail and/or a fine of \$5,000. (See also

RC sections 3317.992 and 3517.22.)

The following activities are specifically prohibited:

- planting a "spy" with another campaign;
- paying someone to serve as an information source or spy with another campaign;
- using the title of an office not currently held by the candidate in a campaign sign or literature if the use implies that he or she currently holds the office (e.g., listing "elect" in small letters and "school board" in large letters);
- using the term "re-elect" in a campaign sign or literature if the candidate never has been elected to the office at a primary, general or special election;
- making false statements about a candidate's formal schooling or training completed or attempted, degrees, diplomas, scholarships, awards, prizes, or other honors earned or received, or the period of time in which the candidate attended any school, college or other academic institution;
- making false statements about the candidate's professional, occupational or vocational licenses, such as law or medical degrees or other professional

training;

- making false statements that a candidate or public official has been indicted or convicted of a theft offense, extortion or other crime involving financial corruption or moral turpitude;
- making false statements that a candidate has been indicted for any crime or has been the subject of a finding by the Ohio Elections Commission without disclosing the outcome of any legal proceedings resulting from the indictment or finding;
- making false statements that a candidate or elected official has a record of confinement for a mental disorder;
- making false statements that a candidate or official has been subjected to military discipline for criminal misconduct or a dishonorable discharge from the armed services;
- falsely identifying the source of a statement, issuing statements under the name of another person, or falsely stating the endorsement of, or opposition to, a candidate by a person or publication;
- making false statements about the

voting record of a candidate or public official;

- generally posting, publishing, circulating, distributing or otherwise disseminating a false statement about a candidate when either knowing the statement to be false or with reckless disregard as to whether it was false.

Chapter 3 discusses financial matters involved in school board campaigns. Here are some excerpts from that chapter.

#### May individuals contribute?

Yes. Individuals may contribute to your campaign. There is no limit on the amount an individual can contribute to the campaign, but cash contributions from an individual may not exceed \$100. Both the sum of a cash contribution and identity of the contributor must be recorded by the treasurer.

#### May corporations contribute?

Yes and no. Corporations may not directly contribute to support or oppose political activity, but they may sponsor political action committees (PACs).

There is no limit on the amount a political action committee may contribute to a school board member's campaign.

#### May labor unions contribute?

Yes and no. Labor unions may not directly contribute to a campaign, but they may sponsor a political action committee, which may contribute.

#### Are contributions deductible?

Yes. Monetary contributions to political campaigns are deductible to the extent that a state income tax credit is available.

#### Can I establish a PAC?

Yes. A PAC is defined as a combination of two or more people, the purpose of which is to support or oppose any candidate, political party, issue, or to influence the result of any election, and is not a campaign committee, political party, political contributing entity or legislative campaign fund. (RC Section 3517.01(B)(8)) A political action committee is separate from a campaign committee and is subject to filing requirements. A candidate for public office is not required to have a political action committee. As noted above, a corporation, nonprofit corporation or labor organization also may establish a political action committee. (RC 3517.082(A))

#### What financial records must be kept?

Election laws require your campaign treasurer to keep detailed records of every contribution over \$25, including the name, address, amount, date and type of entity from which you receive a contribution. (RC Section 3517.20) Campaign expenditures over \$25 also must be recorded and kept (a canceled check or receipt will serve this purpose). Receiving goods or services, including meals (over \$100) and travel expenses must also be recorded.

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**Where a penalty for failure to keep financial records?**

Yes. It is advisable to keep a record of all contributions and expenditures, as the county board of elections may request documentation of such expenditures. The importance of maintaining accurate and complete financial records cannot be overstated. In Ohio, the penalty for concealing or misrepresenting a campaign contribution or expenditure can be up to a \$10,000 fine, and if the act is done

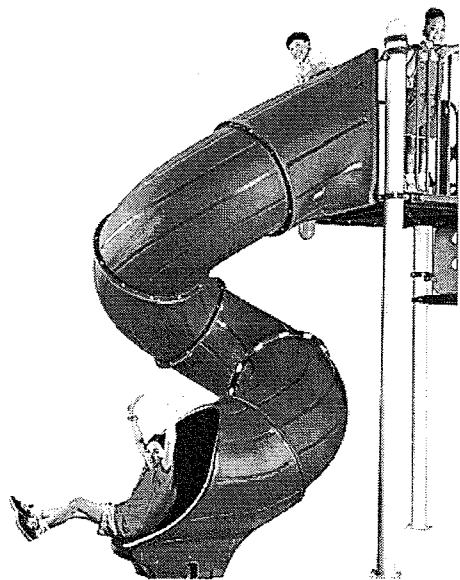
by the candidate, he or she could forfeit the office. (RC Section 3517.992(C)) Knowingly signing a false campaign finance report is classified as a fifth-degree felony. (RC Section 3599.36)

Chapter 4 of the book deals with ethics issues. Included are discussions of compatible and incompatible offices or positions. That chapter also discusses conflicts of interest that may arise for a school board member or a candidate for the school board, including the penalties for violating the ethics laws.

We hope *Candidate: A practical guide to running for school board* will be a great

resource for those seeking election or reelection to a board of education. If you are interested in ordering a copy, please contact Diana Hartings at OSBA at (614) 540-4000 or email her at [d\\_hartings@osba-ohio.org](mailto:d_hartings@osba-ohio.org). □

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