



What you need to know for campaign season

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With summer's end, students are returning to class and communities welcoming the start of high school football season. These fall rituals also include the November campaign season.

Let's look at some important reminders for board of education candidates and individuals involved in school district levy or bond issue campaigns.

School board candidates

Individuals running for a seat on a local board of education must form a campaign committee with a designated campaign treasurer if they plan to receive campaign contributions or make campaign expenditures. Candidates may have a joint campaign committee and jointly designate a treasurer if all of the following apply:

- the candidates are seeking seats on the same board in the same election;
- the number of candidates does not exceed the number of open seats;
- the candidates jointly file all required reports.

Candidates spending only their own personal funds need not form a campaign committee. However, they must designate a treasurer prior to making out-of-pocket expenditures related in any way to their campaign.

Candidates running for a board seat in a school district with more than 12,000 students or the governing board of an ESC with more than 12,000 students must file a financial disclosure statement with the Ohio Ethics Commission 30 days before the first election in which their name will be on the ballot. For the Nov. 3, 2015, election, financial

disclosure statements are due Oct. 5, assuming the candidates were not involved in a primary election. The list of school districts for which this requirement applies is posted at <http://links.ohioschoolboards.org/61729>.

Ohio Revised Code (RC) 3517.21 specifically prohibits certain campaign activities, and violations of this statute can result in a criminal penalty of up to six months in jail and/or a fine of \$5,000 for each offense. Among prohibited activities are:

- spying on other campaigns;
- using the title of an office not currently held by the candidate;
- misrepresenting the candidate's schooling and professional licenses;
- making false statements about a candidate's criminal history;
- falsely stating the endorsement of a candidate by a person or publication.

Levy campaign restrictions

RC 3315.07 prohibits boards of education from spending public money to support the passage of a levy or bond

issue. Under RC 9.03, however, school boards may spend public funds "to communicate information about the plans, policies and operations" of the school district to members of the public within, and those who may be affected by, the school district. Ohio Attorney General Opinion 99-030 indicates that communication designed to inform the public of the consequences that are expected to follow from the passage or defeat of a particular levy are permissible. School districts need to be certain that their communications during a levy campaign do not cross the line from providing information about the financial implications of a levy or bond issue to advocating for passage of a levy or bond issue.

Similarly, school districts are prohibited from compensating employees for time spent on any activity intended to influence the outcome of a school levy or bond issue. Under RC 3315.07, school district employees may attend public meetings to present information about school finances and activities or other



board actions even if the meeting occurs during the employees' working hours and the purpose of the meeting is to discuss or debate the passage of a school levy or bond issue. School employees must present factual information and avoid advocating a specific position on the ballot issue. Outside of work, school employees may engage in levy activities as they wish.

School levy committees are permitted to use school facilities for meetings if the meetings are nonexclusive and open to the public. Under RC 3313.77, the board of education must, "upon request and the payment of a reasonable fee, subject to such regulation as is adopted by such board, permit the use of school premises, when not in actual use for school purposes, for ... holding educational, religious, civic, social or recreational meetings and entertainments, and for such other purposes as promote the welfare of the community"

If school board members attend levy committee meetings, Ohio's Open Meetings Act may apply. Levy committees operate independently of the board of education and are not typically subject to the Open Meetings Act. However, if a majority of the board members attend the meeting and they discuss school district business, the meeting likely is subject to public meeting requirements.

Levy campaigns can use school resources such as telephones and postage meters if the property is not required for school use and the campaign reimburses the full cost of use to the district. School boards should not permit the levy campaign to use the school district's nonprofit bulk mail rate permit. By doing so, the school district creates a subsidy to support the passage of the levy. This is not permitted under RC 3315.07.

It is important to note that to the extent school district policies permit

the pro-levy campaign committee to use school space or resources, it must allow the same opportunity, on the same terms, to anti-levy groups. Under the Equal Protection Clause and the First Amendment, a school district may not grant use of its facilities or resources to people whose views it finds acceptable, but deny use to those wishing to express less favored or controversial views.

Campaign signs and literature

RC 3517.20 (F) requires all campaign signs and literature to include the disclaimer "Paid for by" followed by the name of the entity that paid for the campaign materials. Emails and campaign websites also must include this disclaimer. The statement "paid political advertisement" is not sufficient to meet these statutory requirements.

Campaign giveaway items like T-shirts, buttons, balloons, caps, candy, key tags and pencils are not required to include the disclaimer. If the size or nature

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of an item makes it unreasonable to include a disclaimer, the Ohio secretary of state may grant an exemption from the disclaimer requirement. The full list of items exempted from disclaimer are listed in Chapter 12 of the Ohio secretary of state's Campaign Finance Handbook, which can be accessed at <http://links.ohioschoolboards.org/21075>.

Any posting of campaign materials on school district property — for either board candidates or levy and bond issue campaigns — must comply with school district policies. As with the use of school space and resources, to the extent a school district permits the pro-levy or pro-bond issue campaign to post signs on school property, it must allow campaigns opposing the issue to do the same.

School board policies also will govern whether a school district can send students home with communications drafted by a levy committee. To the extent policy permits such literature to be sent home, the district must allow both pro-levy and anti-levy campaigns to do so.

Off school premises, campaign signs and literature must be displayed and distributed in accordance with local ordinances. Candidates and levy campaigns should make certain they and their volunteers know local restrictions on posting signs and distributing literature before engaging in these activities.

Campaign finance regulations

Campaign finance rules apply to candidates and levy campaigns. The campaign treasurer must record contributions of more than \$25, and the campaign must list the name, address, amount, date and type of entity (individual or business) making the donation in its records. Campaigns need to take care when recording money donations and in-kind donations, as both must be reported by the campaign if they meet reporting requirements.

Candidates also must take special care in recording their own contributions to their campaign as different rules apply for the donation of cash, in-kind items, expenditures to be reimbursed and loans to the campaign.

Some nuances in Ohio election law require special attention when planning fundraising activities. Campaigns are not permitted to accept anonymous donations, so they must in some way record the information of all contributors who give more than \$25 for special events. Under RC 3517.13 (F), cash contributions are limited to \$100 per person for the duration of the campaign.

Ohio law also prohibits children under the age of 7 from making campaign contributions. To the extent a levy committee is contemplating a campaign fundraiser on school premises or at an event where students might be present, it should ensure that the campaign does not accept contributions from students younger than 7.

Under RC 3517.092, school board candidates are not permitted to solicit contributions from school district staff. However, a candidate is permitted to accept unsolicited staff donations.

For a full understanding of campaign finance filing requirements and restrictions, review the secretary of state's Campaign Finance Handbook (<http://links.ohioschoolboards.org/>

21075). Chapter 2 of the handbook covers candidate requirements; Chapter 8 lists requirements for levy and bond issue campaigns.

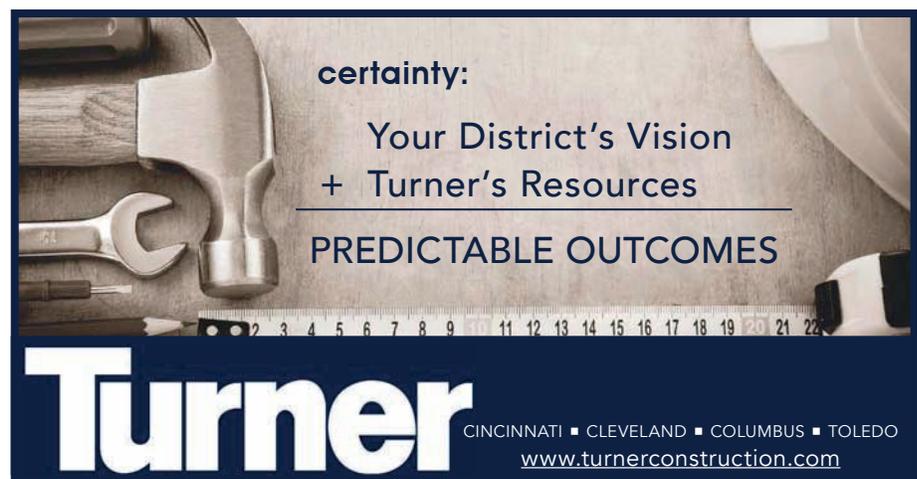
Resources

OSBA offers board candidate resources at <http://links.ohioschoolboards.org/12011>. Another resource is the OSBA book *Candidate: A practical guide to running for school board*, which can be purchased at <http://links.ohioschoolboards.org/10504> or by calling (614) 540-4000.

OSBA will be hosting Board Candidate Workshops throughout the state in September to explain campaign finance, ethics and other topics. Dates, locations and other workshop details are included on the board candidate resources Web page listed above. A webinar will be held of Sept. 30 for those who cannot attend a workshop.

Registrants will receive a Board Candidate Kit, which includes the previously mentioned OSBA candidate book; a subscription to the OSBA *Journal*, the premier bimonthly magazine for school board members; and a subscription to the association's *Briefcase*, a semimonthly newsletter. ■

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