



Answering your questions

Q&A for school board candidates

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It's that time again! Seats on boards of education and on educational service center (ESC) governing boards are up for election in November. For OSBA's Division of Legal Services, that means lots of questions about the legal requirements for candidates running for these seats. Here are answers to some of candidates' most frequently asked questions.

Can a district employee run for a position on the board?

The answer to this one is "yes, however." The law does not prohibit a district employee from running for a position on the board of education for that district. However, the law prohibits a district employee from *serving* as a member of the board of education for that district.

Ohio Revised Code (RC) 3313.33(B) provides: "no member of the board shall ... be employed in any manner for compensation by the board of which the person is a member." This means that if a school district employee were to run for a position on the district's board, they would have to step down from their employment position if they were elected.

This restriction applies to all kinds of employment positions, including part-time or seasonal employment. It also applies to employment in a coaching or other pupil services position.

Can an owner or employee of a company that does business with the board serve on the board?

The restriction in RC 3313.33(B) answers this question, too: "[N]o member of the board shall have, directly or indirectly, any pecuniary interest in any contract of the board." The

Ohio Attorney General's Office has consistently interpreted this section as prohibiting an owner or employee of a private company that sells goods or services to the district from also serving as a member of the board of the district.

There is one exception. If a person's interest in a corporation is limited to being a shareholder who owns less than 5% of the corporation's stock, the restriction does not apply. In that situation, the law requires that the board member file an affidavit with the district treasurer stating the person's exact status and connection with the corporation (RC 3313.33(D)).

Can an employee of a public agency that contracts with the board serve on the board?

A board member is not considered to have a prohibited pecuniary interest in a board contract if they are an employee of a public agency — such as a city, township or public university — that does business with the district (RC 3313.33(C)). The board member is, however, prohibited from participating in any discussion or debate regarding the contract with their employer and from voting on the contract. The board member also must file an affidavit with the district's treasurer stating their exact employment status with the public agency.

In House Bill 33, which passed earlier this year, the Ohio General Assembly extended this exception to include employees of any private institution of higher education. That means employees of any private college or university that contracts with a school district will be able to serve as members of the district's

board of education without having a prohibited interest in the district's contract with their employer. They must comply with the same affidavit and withdrawal requirements discussed in the previous paragraph. This provision became effective on Oct. 3, 2023.

What are the basics for accepting campaign contributions?

Candidates can accept contributions as allowed by law. Contributions are defined as any loan, gift, deposit, forgiveness of indebtedness, donation, advance, payment or transfer of funds, or anything of value for purposes of influencing the results of an election (RC 3517.01(C)(5)).

Before accepting any contribution, candidates must file a designation of treasurer form (Form 30-D) with the county board of elections where they filed their declaration of candidacy. The campaign also must have its own bank account where it will deposit all contributions and from which it will make campaign-related expenditures. The campaign treasurer should keep track of each contributor's name and street address as well as the date, form and amount of the contribution made.

Can a candidate receive a cash contribution?

Candidates cannot accept cash contributions over \$100 from any contributor. Cash includes paper money and coins. If a candidate receives a cash contribution over \$100 from a contributor, the campaign committee must deposit the full contribution and then issue a refund of the amount over the \$100 limit. The campaign committee must disclose the amount of the

contribution received and disclose the refund as an expenditure.

Is there a dollar limit on non-cash contributions?

For non-cash contributions to candidates for board of education or ESC governing board seats, there is no state law imposing a dollar limit. Candidates should check to see whether there is any municipal or county charter provision that limits the value of contributions they can receive.

Are there any sources from whom contributions are prohibited?

Yes. Campaigns cannot accept contributions from children under 7 years old, corporations or nonprofit organizations. However, campaigns can accept contributions from political action committees sponsored by corporations, nonprofit organizations and labor organizations. They can also accept contributions from a labor union political contributing entity.

Can a candidate accept a contribution from a limited liability company (LLC)?

An LLC is not considered a corporation for campaign finance purposes. A candidate can accept a contribution written on an LLC's check. However, according to the Ohio secretary of state's campaign finance handbook, the LLC cannot "contribute in the name of the business alone." The check must provide your campaign with details about how the contribution should be attributed among one or more of the owners of the LLC. The campaign is required to itemize the contribution according to the information provided — as separate individual contributions, listing the name of the LLC in the employer/occupation field.

When a board candidate uses signs or other items, what disclaimers are required?

Board candidates can create signs and

other items to influence the outcome of their election. This includes yard signs, bumper stickers and other items used to get a candidate's name in front of the voting public. Most of those signs and other items should have, in a conspicuous place, a disclaimer: "Paid for by [name of the candidate's campaign committee]." For example, if a candidate's committee is called "Jane Doe for School Board," their campaign materials should have a disclaimer that reads, "Paid for by Jane Doe for School Board."

Are there times when disclaimers are not required?

Yes, there are some campaign materials that don't have to have disclaimers. Some examples are buttons, combs, pens and pencils, insulated beverage sleeves and plastic bags. More information is available in the Campaign Finance Handbook at www.ohiosos.gov/campaign-finance/campaign-finance-handbook on page 12-2.



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What records of expenditures is the campaign treasurer required to keep?

The campaign treasurer should keep itemized records of all expenditures from the candidate's campaign fund, including the name and address of the payee and the date, amount and purpose of the expenditure. For any expenditure over \$25, the treasurer also should have a cancelled check or a receipt marked paid by the vendor. If a cancelled check isn't provided by the bank, the campaign can use a printout of the committee's bank statement as long as the vendor, date of the transaction and amount of the expenditure appear on it.

Does the campaign have to file any campaign finance reports?

Whether a candidate's committee must file campaign finance reports depends on how much the candidate has raised and spent on their campaign. There are two reports for the 2023 November general election. The pre-general election report

is due no later than Oct. 26, 2023, at 4 p.m. The post-general election report is due no later than Dec. 15, 2023, at 4 p.m. More information about when statements must be filed and what must be reported is available from the Ohio secretary of state's office at www.ohiosos.gov/campaign-finance.

What happens if a candidate doesn't file or files late?

Campaign finance reports must be filed on time. Candidates can file physical reports with the board of elections or use the board's electronic filing system. More information about electronic filing is available from the Ohio secretary of state's office at www.ohiosos.gov/campaign-finance/file-online-cfofs.

Committees that submit late filings or fail to file are automatically referred to the Ohio Elections Commission for investigation. Penalties can include a fine, referral for prosecution and removal from the ballot.

Conclusion

OSBA's legal division is happy to help school board candidates with questions about their campaigns. The division can be reached at (855) 672-2529 or (855) OSBA-LAW. The division's attorneys cannot provide legal advice but can connect board members with legal information and resources to find answers to their questions.

Candidates can also find answers to many campaign-related questions on OSBA's website for candidates, <http://getonboardohio.org>, and from the Ohio secretary of state's office, www.ohiosos.gov. Best wishes on your campaign! ■

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