



CITY ATTORNEY'S OFFICE

MEMORANDUM

DATE: June 2, 2015
TO: Richard Bowers, Acting City Manager
Pamela Hanna, City Clerk
FROM: Michael Bailey, City Attorney
SUBJECT: Employee Political Activities in City Election

A city election will be held in the Fall of 2015. In anticipation of the election activity, it is appropriate to provide an overview of the state law regarding the proper use of city resources and employee election activity.

Attached are copies of the state statute and Glendale City Code provision related to employee political activities with respect to city elections. State law specifically prohibits the use of city personnel, equipment, materials, buildings, or other resources for the purpose of influencing the outcome of an election.¹ Additionally, employees cannot use their positions to influence the vote or political activities of subordinate employees.²

State law is also supplemented by Glendale City Code, which prohibits employees from engaging in any political activity in a city election.³ Exceptions in the ordinance allow employees to sign candidate petitions and petitions for ballot measures, vote in the election, and express their private opinions on candidates and issues.⁴ The ordinance also reiterates the state statutory restriction on any city employee influencing other employees or seeking contributions of time or money for a political campaign.⁵

The United States Supreme Court has held that limitations on political activity serve at least four interests:

- (1) They enable government employees to enforce the law and execute government programs without bias or favoritism for or against any political party or group;
- (2) They instill public confidence in government by avoidance of even the appearance of "political justice";
- (3) They prevent the government work force from being employed to build a political machine; and
- (4) They prevent political performance from being a factor in the employment and advancement of government employees and free public employees from pressure to vote in a certain way or perform political chores to curry favor.⁶

¹ A.R.S. § 9-500.14(A).

² A.R.S. § 9-500.14(B).

³ Glendale City Code, § 2-75(b).

⁴ Glendale City Code, § 2-75(b).

⁵ Glendale City Code, § 2-75(d).

⁶ *US Civil Serv. Comm'n v. National Ass'n of Letter Carriers, AFL-CIO*, 413 U.S. 548, 564-66 (1973); *Fernandez v. State Personnel Bd.*, 175 Ariz. 39, 40-41 (Ariz.App. Div. 2, 1992); *Patterson v. Maricopa County Sheriff's Office*, 177 Ariz. 153, 158 (Ariz.App. Div. 1, 1993).

In keeping with these laws and the social policy underlying these laws, the following is a representative list of activities that are permissible and those that are prohibited. While this list will address most common situations, it is not intended to be comprehensive, which would be unrealistic. Therefore, should a situation arise that is not clearly covered by the list, the City Attorney's Office is available for consultation.

Permissible Activities:

- Register to vote
- Cast a vote in an election
- Sign candidate nomination or recall petitions, ballot initiatives, or referenda
- Express a clearly personal opinion regarding a candidate or issue that is the subject of a city election
- Attend meetings held during non-work hours for the purpose of becoming informed about candidates for public office or about political issues
- If it is a part of normal job duties, assist an incumbent with usual and customary constituent communications provided that the communications contain no campaign material

Prohibited Activities:

- Become a candidate for city council
- Actively support or oppose a candidate or issue on a city election
- Work as chairman, an officer, or a volunteer of a committee or group to support or oppose a candidate or issue in a city election
- Unless expressed clearly as a personal opinion, participate in any political activity, including expressing an opinion on an issue or person involved in a city election; including, for example:
 - expressing a personal opinion while on duty,
 - expressing a personal opinion while in a city uniform,
 - using city resources or funds to express a personal opinion, or
 - expressing oneself while otherwise identified in any manner as a city employee.
- Make a contribution to support or oppose a candidate or issue in a city election
- Circulate a petition for any candidate, recall, initiative, or referendum
- Distribute campaign material or literature for a candidate or an issue involved in a city election
- Post or place campaign signs for a candidate or issue in a city election; including, for example, placing a campaign bumper sticker on a vehicle
- Wear any campaign button or post any campaign material at work
- Place a campaign sign in the yard at home for a candidate or issue on a city election unless the property is co-owned by another and that non-employee co-owner places the sign

Relevant State Law

A.R.S. § 9-500.14. Use of city or town resources or employees to influence elections; prohibition.

A. A city or town shall not use its personnel, equipment, materials, buildings or other resources for the purpose of influencing the outcomes of elections. Notwithstanding this section, a city or town may distribute informational reports on a proposed bond election as provided in section 35-454. Nothing in this section precludes a city or town from reporting on official actions of the governing body.

B. Employees of a city or town shall not use the authority of their positions to influence the vote or political activities of any subordinate employee.

C. Nothing contained in this section shall be construed as denying the civil and political liberties of any employee as guaranteed by the United States and Arizona Constitutions.

Relevant City Code

Sec. 2-75. Political activities and contributions of employees.

(a) No current employee in the classified service shall hold an elected office in the unclassified service.

(b) No employee, other than an elected official, shall engage in any political activity in a Glendale municipal election, except to sign a petition for nomination, to cast a vote, or express a private personal opinion.

(c) Nothing herein contained shall affect the right of an employee to hold membership in and support a political party, to vote, to express publicly or privately opinions on all nonmunicipal political subjects and candidates, to maintain political neutrality, and to actively participate or decline to participate in a political meeting.

(d) No employee, officer or official of the city shall use any influence or pressure upon any employee to obtain any property or contribution of money or time, either direct or indirect, for any political campaign or personal gain.