

DO'S AND DON'TS
FOR KERN COMMUNITY COLLEGE DISTRICT
OFFICIALS AND EMPLOYEES (INCLUDING OFFICIALS AND
EMPLOYEES OF BAKERSFIELD, CERRO COSO,
AND PORTERVILLE COLLEGES)
IN CONNECTION WITH THE
MEASURE J (FACILITIES BOND MEASURE) CAMPAIGN

Kern Community College District (“District”) officials and employees* may not:

- use public resources for raising campaign funds for the campaign committee, or engaging in fundraising activities during compensated work hours (versus personal time or breaks)
- use public resources to provide organizational support for the campaign committee, or provide such support during compensated work hours
- distribute campaign literature through the District’s internal mail system or e-mail system, or those of the individual colleges
- place campaign literature on employee bulletin boards, on the District’s or Colleges’ web pages (www.kccd.edu, www.bakersfieldcollege.edu, www.cerrocoso.edu, www.portervillecollege.edu, or any others), or elsewhere on any of the District’s or Colleges’ premises
- place campaign bumper stickers on District or College vehicles
- make public appearances regarding the ballot measure during compensated work hours—unless their comments are limited to communicating the fact that the District supports the measure and providing “balanced” information regarding the measure (rather than advocating that people vote for the measure)
- make telephone calls regarding the campaign during compensated work hours (they should use personal cell phones before or after work hours)
- walk precincts, draft campaign ads, or perform other campaign-related tasks during compensated work hours, or assign subordinates to do the same
- add a link from the District’s or Colleges’ websites to a campaign website

* This includes officials and employees of the District’s individual colleges as well.

- send or receive campaign-related e-mails on District or College computers (they should set up separate “Hotmail,” “Yahoo”, or “Gmail” accounts)
- use District or College offices or conference rooms for campaign meetings
- hold a campaign rally on District or College premises
- use District or College copy machines, telephones, fax machines, computers, etc., for campaign purposes
- campaign while in uniform (where applicable).

District and College officials and employees may:

- work on the campaign during their personal time, including lunch hours, coffee breaks, vacations, etc., and encourage other District and/or College employees to do the same
- wear a campaign button on District or College premises (if otherwise permitted by District or College policies)
- make a campaign contribution to the campaign supporting Measure J using personal funds, and/or attend a campaign fundraiser during their personal time
- make “advocacy” public appearances during their personal time
- respond to telephone calls or letters regarding the campaign, as long as they limit their response to confirming that the District has endorsed the measure and presenting balanced information
- have the District’s Board of Trustees officially endorse the bond measure at a public meeting
- The Attorney General has opined that “[a]fter a community college district has placed a bond measure on the ballot, consistent with its charter, articles, and bylaws, the district’s nonprofit foundations, student body associations, and other auxiliary organizations may independently determine to contribute their own privately raised funds to a political action committee established specifically to advocate voter approval of the bond measure, subject to applicable campaign disclosure requirements.” See 88 Ops. Cal. Atty. Gen. 46 (2005).

NOTES

1. State law strictly prohibits public employees from participating in ballot measure or candidate campaigns during compensated work hours, or from expending public resources for campaign purposes. *See Cal. Educ. Code § 7054; Cal. Govt. Code § 54964; Cal. Pen. Code § 424; Cal. Govt. Code § 8314; Stanson v. Mott, 17 Cal. 3d 206 (1976); Vargas v. City of Salinas, 46 Cal. 4th 1 (2009).* *District or College officials or employees who violate this law commit a misdemeanor, and may be personally liable to reimburse these costs.* See, e.g., Cal. Educ. Code § 7054(c).
2. District or College officials and employees may nevertheless provide informational material on the ballot measure to the public. The information disseminated must be truly “informational” and not “promotional.” A court will look at the “style, tenor and timing” of a communication related to the measure in determining whether it is informational or promotional. A communication need not “expressly advocate” for or against the measure to violate the prohibitions on the use of public funds. More specifically, the District may: (1) provide facts about the bond measure; (2) communicate its position supporting the measure upon inquiry from a voter; and (3) provide a spokesperson to discuss the issue in a balanced and informational manner and give its position (but not advocate passage) if requested by a voter or community group. *See Cal. Educ. Code §§ 7054 (community college district may “provide information to the public about the possible effects of any bond issue or other ballot measure if ... [t]he information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.”), 7054.1 (administrative officer or board member of a community college district may appear before a citizens’ group that requests the appearance to discuss the reasons why the governing board called an election to submit to the voters of the district a proposition for the issuance of bonds and to answer questions).*
3. State law permits state and local employees to make “incidental use” (such as local telephone calls, computers, pens and paper, etc.) of their government offices for campaigning. (Govt. Code § 8314). However, we recommend that District and College employees refrain from using any resources for campaign purposes (*i.e.*, they should use a private cellular or pay telephone if they wish to make campaign-related telephone calls from the District or College on their own time).
4. If employees have a system for recording their work hours (such as a punch clock or “log in/log out” sheets), they should punch out or log out before commencing campaign work. Additionally, an established process that is rigorously applied to all employees should be established for non-salaried employees. Though they are not required to log in and out, there should be an accounting of their personal time. If ever questioned, employees may be required to provide copies of their schedules to substantiate this determination; we therefore recommend—especially for high-level employees who will spend a significant amount of time on the campaign—that an established process be in place to maintain a record to prove that they participated in the campaign only on personal time.
5. We recommend that any District or College official or employee who makes a public appearance advocating passage of the bond measure during their personal time state during their remarks that they are appearing as a private citizen concerned about the ballot measure, not as an official or employee of District or a College.