

February 1, 2010

Dear City of Tempe employees:

With City elections coming up in March and May of 2010, we would like to take this time to review the parameters of a City of Tempe employee's participation in City elections. State law, the City Charter, and the Tempe Personnel Rules and Regulations address City employee involvement in municipal elections. The rules are intended to protect you and to ensure that your job is not dependent upon your political viewpoints or beliefs.

State law prohibits the use of City personnel, equipment, materials, buildings or other resources for the purpose of influencing the outcomes of elections. City employees are prohibited from using the authority of their positions to influence the vote or political activities of any subordinate employee.

The Tempe City Charter states that "no person elected or employed by the City shall orally, by letter or otherwise, solicit or assist in soliciting any assessment, subscription or contribution for any political party for political purpose whatsoever from any person holding any compensated appointive City position. No person shall solicit or receive any contributions to the campaign funds of any candidate for municipal office or take any part in the management affairs or political campaign of any such candidate, but he may exercise any other rights of qualified elector." [sec. 9.01 (a)(4)(5)]

The City of Tempe Personnel Rules and Regulations (sec. 603) further explain political participation by City employees. They provide that employees shall not: (1) solicit or attempt to solicit support for a candidate or political party involved in a Tempe municipal election from any employee or appointed official, (2) take part in the campaign of a candidate participating in a Tempe municipal election, (3) use the employee's position to sell, solicit, or distribute any campaign material during working hours and/or in a uniform used by or identified with the City government, or (4) use the employee's position to introduce, guide, or recommend any candidate for public office on City property. However, an employee may exercise his/her rights as a citizen to vote and express opinions as an individual citizen, but not as a representative of the City of Tempe. An employee may also exercise his/her right to sign petitions during non-work hours and not in uniform.

The following questions and answers have been developed to help clarify these regulations and to further explain the scope of a City of Tempe employee's participation in City elections.

- Question:** **Can I attend political rallies, meetings, debates, forums, etc.?**
Answer: Yes, but you cannot take an active part in such affairs by distributing literature, soliciting funds, or any other activity that could be construed as taking any part in the management affairs or political campaign of any candidate. You may participate by questioning candidates.
- Question:** **Can I assist in the circulation of a candidate's petition for a City office?**
Answer: No, the City Charter and Personnel Rules and Regulations specifically prohibit this activity. A City employee will not become actively involved in the campaign of any candidate for City office.
- Question:** **Can I sign a petition of a candidate for City office?**
Answer: Yes. Signing a petition is permitted so long as it is done during non-work hours and not in uniform.
- Question:** **Can I make a financial contribution to any candidate for City office?**
Answer: No. The City Charter prohibits any employee who receives wages or salary from the City from making, soliciting or receiving any contribution to the campaign fund of a candidate for City office.
- Question:** **Can I put up or assist in putting up posters or distribute handbills of any candidate for City office?**
Answer: No. City employees will not actively participate in the campaign of any candidate.
- Question:** **Can my spouse or any member of my family actively participate in any manner in the campaign of a candidate for City office?**
Answer: Yes. However, again common sense should prevail, particularly as it pertains to a spouse's involvement. Activities such as speeches, circulation of petitions, distribution of literature, and soliciting of funds, should be avoided. If the non-city employee spouse does get involved in a campaign to this extent, the extreme caution should be exercised not to implicate the spouse who is a city employee.
- Question:** **Can candidates for City offices be invited to speak to City employee groups during work hours?**
Answer: No. This is prohibited by the Tempe Personnel Rules & Regulations.
- Question:** **During off-duty hours, may I, formally or informally, invite, arrange or coordinate meetings with or between candidates for the City Council and other City employees?**
Answer: The Tempe City Charter and Personnel Rules and Regulations cannot possibly provide guidelines to cover every conceivable situation. In many instances, common sense will have to dictate your actions. The major message conveyed by the City Charter and Personnel Rules & Regulations is passivity on the part of City employees. Please be aware that, to whatever

degree you involve yourself, it is possible that such involvement could be construed as active participation.

Question: **Can I have a candidate's campaign sign in the front yard of my home?**

Answer: Again, common sense should be your guide. One sign in a front yard is probably considered passive involvement. However, some employees may feel more comfortable avoiding all local politics, including yard signs.

Question: **Can I, as a City employee, actively participate in and work for a political party or candidate for offices outside the City elections?**

Answer: Yes, provided that you do not seek or solicit contributions from other City employees.

Question: **What is the penalty for participation in the campaign of a candidate for City office?**

Answer: Any City employee who violates the restrictions imposed by the Tempe City Charter and Personnel Rules & Regulations regarding political involvement may be suspended, demoted or terminated.

Question: **May I campaign for/against a Tempe ballot measure?**

Answer: Yes, you may campaign for/against a local ballot measure, so long as it is done while off work time, off City property, not in uniform and not as a representative of the City of Tempe.

Question: **May I use City e-mail to send a message expressing my opposition to or support of a Tempe ballot measure?**

Answer: No. City facilities, equipment, e-mail, supplies, and recourses may not be used to influence the outcome of an election.

The activities listed above are examples of what you can and cannot do regarding Tempe election; however, we cannot anticipate all of the specific scenarios that you may encounter. Due to these limitations and the fact that election laws can sometimes be confusing, please contact the City Attorney's Office (x8227) or the City Clerk's Office (x8241) if you have questions.

Thank you very much for your time and consideration.

Sincerely,

Jan Hort
Tempe City Clerk

Andrew Ching
Tempe City Attorney