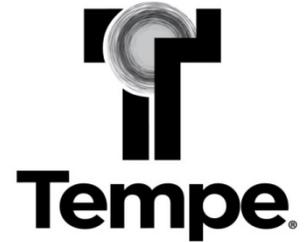


May 8, 2019



Dear City of Tempe employees:

With the 2020 City elections just around the corner, the City Attorney's Office and City Clerk's Office would like to review regulations concerning employees' participation in City elections. Arizona State law, the Tempe City Charter, and the Tempe Personnel Rules and Regulations address City employee involvement in municipal elections. These rules are intended to protect employees and to ensure that no job is dependent upon an employee's political viewpoint or belief.

No city resources shall be used to influence an election. State law prohibits the City from using or spending "its resources, including the use or expenditure of monies, accounts, credit, facilities, vehicles, postage, telecommunications, computer hardware and software, webpages, personnel, equipment, materials, buildings or any other thing of value of the city or town, for the purpose of influencing the outcomes of elections." Basically, any use or expenditure of City resources including your time and effort as a City employee, that is in any way "not impartial or neutral" is unlawful. The maximum penalty for violating this law is a fine of \$5,000 in addition to the payment of misused funds. (A.R.S. Section 9-500.14). City employees may not use the authority of their positions to influence the vote or political activities of any subordinate employee.

If called upon by your job duties, employees may provide factual information in a neutral and impartial manner for the purposes of educating and informing Tempe voters on a potential ballot issue. A disclaimer disavowing any efforts to influence the outcome of an election shall be included for all election-related materials and documents, and shall be read aloud before forums, meetings and other gatherings for election-related issues.

The City Charter Section 9.01 prohibits all employees from engaging in certain political activities in Tempe municipal elections. For example, employees are prohibited from soliciting or attempting to solicit support for a candidate involved in a Tempe municipal election from any employee or appointed official. Additionally, employees are prohibited from taking part in the campaign of a candidate in a Tempe municipal election, but may exercise any other rights of a qualified elector.

The City of Tempe Personnel Rules and Regulations further explain political participation by City employees. The rules provide that employees shall not: (1) solicit or attempt to solicit support for a candidate 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 his or her 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 his or her position to introduce, guide, or recommend any candidate for public office on City property. However, an employee may exercise his or her rights as a citizen to sign petitions, vote, and express opinions as an individual citizen, but not as a representative of the City of Tempe. Reference, Section 401, *Tempe Personnel Rules and Regulations*.

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. for City elections?

**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. Attendance must be during non-work hours and not in uniform.

**Question:** Can I assist in the circulation of a candidate's petition for a City office?

**Answer:** No. The Tempe City Charter and Personnel Rules and Regulations specifically prohibit this activity. A City employee shall 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 for any candidate for City office?

**Answer:** No. City employees cannot actively participate in the campaign of any City 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, 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, 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 and 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 provide guidelines to cover every conceivable situation. In many instances, common sense must dictate your actions. The major message conveyed by the Tempe City Charter and Personnel Rules and 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 not related to City elections?

**Answer:** Yes, provided that you do not seek or solicit contributions from other City employees, and not during work hours.

**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 and 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 not done on work time, not using City resources, not on City property, not while 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 equipment, materials, building or resources, including e-mail, may not be used to influence the outcome of an election.

**Question:** Do these rules apply to social media activity, such as Facebook, Twitter, Instagram, or NextDoor?

**Answer:** Yes, these same rules apply to social media interactions, across all social media platforms.

The activities listed above are **examples** of employee behavior with regards to City elections. However, please be advised that not all specific scenarios can be anticipated and addressed in this flyer. Due to these limitations and the fact that election laws change and can sometimes be confusing, please contact the City Attorney's Office (480) 350-8227 or the City Clerk's Office (480) 350-4311 for questions or clarification.

Thank you for your time and consideration.

Judith R. Baumann, Tempe City Attorney

Carla R. Reece, Tempe City Clerk