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Formal Advisory Opinion 2005-7 Use of City Property by Candidates for City Office

Opinion Summary

City elected officials and city employees generally may not use city property to promote any candidate for political office. There are exceptions to this general prohibition when the property is made available for use by all candidates or the general public or the use is de minimis.

Question Presented

What restrictions does the Code of Ethics place on the use of city property by city elected officials and city employees staff during an election campaign?

Facts

During campaigns for municipal office in 2005, the Ethics Office has received several questions on the use of city property to promote the candidacies of city officials or individuals running for city office. The Ethics Officer has asked the Board of Ethics to address these issues to provide guidance on the circumstances under which city property may be used during a political campaign.

Discussion

The City's Code of Ethics does not directly address campaigns for an elective office. The only reference in the ethics code to political campaigns is in the list of exceptions to the definition of prohibited gratuities. The second exception states that campaign or political contributions made and reported in compliance with state law are not a prohibited "gratuity." See Atlanta, Ga., Code of Ordinances § 2-801 (2). The State Ethics in Government Act regulates campaign contributions for municipal office, see OCGA § 21-5-1 to § 21-5-73, and other provisions in the City's Charter and Code of Ordinances place certain restrictions on city officials and employees who become candidates for elective office. See, e.g., Atlanta, Ga., Code of Ordinances § 114-2 (employees must resign from city job if they file as candidate for mayor, council

president, or member of council); § 98-46 (candidates may not publicly address police employees at police facilities); § 6-3019 (NPU meetings shall not be used for political forums or campaigning for city, county, state, or federal elections).

The primary provision in the Code of Ethics affecting political campaigns prohibits the use of city property for personal use or private gain. Section 2-811 states:

No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity. However, no official or employee is prohibited from requesting, using or permitting the use of any city-owned or city-supported property, vehicle, equipment, material, labor or service which as a matter of city policy is made available to the public at large or which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official city business.

The Board of Ethics has interpreted this provision as permitting city officials and employees to use city facilities without charge when they are acting in an official capacity and performing official duties on behalf of the city, but not when an event is done solely for the personal benefit of an individual official or employee, such as a political campaign activity, a private business transaction, or an event sponsored by a private or non-city group. See FAO2004-1 (defining “official city business”). The board’s reference to political campaigns has invoked several follow-up questions concerning the use of city property during campaigns.

Guidelines

To assist candidates and employees, the Board establishes the following guidelines for use of city property by city officials and employees:

City website

- No city official or employee may use the City of Atlanta’s website to solicit campaign contributions, seek volunteers, advertise a campaign, or provide a link to any campaign website
- Candidates may place a link to the City’s website on their campaign website(s)

City e-mail addresses

- No official, candidate, or employee should use the city’s email directory or city email addresses to solicit political support
- Neighborhood planning unit membership lists should be used solely for NPU and official city business and may not be used for campaign-related purposes
- City elected officials may not use their city email addresses to electronically file their campaign contribution disclosure reports

City facilities

- A candidate may use a city facility during a campaign if the property is a public forum open to all members of the general public, such as the City Hall steps, sidewalks, or public parks
- Campaign events in public parks are subject to the same rules as any other event in a park and may require an application or fee depending on the size of the event and the use of a stage, tent, or amplification

- City buildings may be used for political forums when the forum is open to all candidates in a specific race and the general public is invited to attend the event
- City officials may not campaign, distribute, or post political campaign literature in a city building or on a city vehicle

City equipment, vehicles, and staff

- City officials and employees may not use city computers, telephones, copiers, or staff to promote a candidacy of any individual running for elective office
- City officials and employees may not endorse candidates, participate in political advertisements, or engage in political activity while on city time, wearing an official uniform, or using a city vehicle (See also Section 114-2 (k) of the Atlanta Code of Ordinances)
- A city employee who receives inquiries about a candidate for municipal office may refer the caller or correspondent to the candidate’s campaign committee or campaign office

City funds

- City funds may not be used for campaign purposes. For example:
 - A Council member may not hand out a city-funded newsletter during a political campaign event or while soliciting votes
 - A Council member cannot use city funds to pay for the creation of photographs, videos, newsletters or other materials for political campaign purposes
 - A Council member cannot use city funds to pay for email services and mailings for political campaign purposes

Social media accounts

- City-funded materials, such as council newsletters and city event flyers, may not contain links or references to the social media account of candidates for municipal office when the account is used for political campaign purposes (such as fundraising or soliciting votes for municipal office)
- Candidates may place a link to the City’s website on their political campaign-affiliated social media accounts

Adopted November 17, 2005

Amended September 21, 2017

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