

ELECTION LAWS AND POLICIES:

Guidelines for Public Sector Employees

PERFORMANCE OBJECTIVES

- ✘ Participants will be able to identify common political and election activities that are restricted by State law and by County policy for public sector employees.
- ✘ Participants will be able to identify common political and election activities that are allowable by State law and by County policy for public sector employees.

INTRODUCTION

- ✘ The election season is nearly upon us and Pinal County wants to encourage all of its employees to exercise their rights to participate in the election process.
- ✘ As public employees, there are guidelines that must direct our activities both on and off the job to ensure we are not in violation of State election laws or County election policies.
- ✘ This presentation should help answer most of your questions concerning both restricted and allowable political activities.

SOURCE OF THE GUIDELINES?

- ✘ There are both election laws and County policies that act as guidelines for public employees.
- ✘ Arizona Revised Statute (A.R.S.) § 11-410 is the primary State law that defines what counties and public sector employees can and cannot do during elections.
- ✘ Pinal County Policy 1.30 – *Political Activity*, is the County's policy regulating election activity.

RESTRICTED ACTIVITIES

Public employees may not use County:

- ❖ Work-Time
- ❖ Resources

To Support or Oppose:

- ❖ Measures
- ❖ Candidates
- ❖ Recalls
- ❖ Political Committees or Petitions

Arizona law does not specify the amount of work-time/resources used before a violation occurs, so a public employee may be found in violation even though they used a minimal amount of work-time/resources.

RESTRICTED ACTIVITIES

An elected official or any other employer of a public employee may not:

- ❖ Require
- ❖ Direct

Public employees to:

- ❖ Prepare Advocacy Materials
- ❖ Distribute Advocacy Materials

RESTRICTED ACTIVITIES

- × Public employees may not distribute material that contains political advocacy:
 - + While acting in their official capacity; **OR**
 - + During work hours

EXCEPTION: Public employees may, as part of their job duties, process and distribute incoming mail addressed to specific employees that contains political advocacy.

WHAT IS OFFICIAL CAPACITY?

Any of the following:

- Using your organization's title

- Using your organization's emblem/stationary

- Using your organization's equipment

- Using your organization's vehicle

- Using your organization's website

- Using your organization's email

- In uniform

- While working

- Anything on behalf of the organization

OFFICIAL CAPACITY: SALARY VS. HOURLY

- ✘ Salaried employees' work time is not as easily measured as hourly workers. If the work performed falls generally within the job duties of the public employee, the work is performed in an official capacity, regardless of the time of day or location.
- ✘ If a salaried employee applies for expense reimbursement for a function, he/she is considered "on duty."
- ✘ A "regular workday" may not be definable for a position, or may not have a specific time period. It is based on the activities and whether the employee is acting, or appears to be acting, in an official capacity.

RESTRICTED ACTIVITIES

Activities that are undertaken in an official capacity (regardless of time of day or location):

- ❖ Posting material for an official website.
- ❖ Approving material for an official website.
- ❖ Drafting an official publication from the organization.
- ❖ Distributing an official publication from the organization.
- ❖ Appearing at an event as a representative of a organization.

EXAMPLES OF RESTRICTED ACTIVITY

- A. A public employee who, on his own computer on the weekend, drafts a press release about how a measure might affect their agency, and **signs the document with their title.**

- B. A Public employee using a **County printer** to make copies of political material that may influence the vote or other political activities.

- C. A Public employee **using her authority or position to influence** the vote or political activities of any subordinate employee.

PERMITTED ACTIVITIES

County employees may participate fully in campaigning and election-advocacy:

- ❖ While off duty;
- ❖ Out of uniform; and,
- ❖ Where it is otherwise clear that the County and its resources are not involved in the exercise of private political influence.

Note: Even off the clock, an employee may deem it wise to provide a disclaimer for clarity: “To be clear, right now I am speaking as John Q. Public Citizen, and not as a County employee, when I say”

PERMITTED ACTIVITIES

When: OFF DUTY
OUT OF UNIFORM, and
AT OWN EXPENSE

Permitted Activities Include:

Express Opinions	Attend Rallies
Make/Solicit Contributions	Circulate/Sign Petitions
Wear Campaign Buttons	Display Campaign Signs
Give Speeches as a Public Citizen (should give disclaimer)	

PERMITTED ACTIVITIES

Political material may be distributed in public organizations:

- ❖ IF the person doing the distribution is not on the job;
- ❖ IF other people would be granted equal access to distribute materials; **AND**
- ❖ IF it does not violate the Organization's policies.

EXAMPLE OF PERMITTED ACTIVITIES

A police officer attends a meeting about a bond measure on his own time (i.e. while not “on duty”) and advocates for the measure.

The officer *must* announce to the audience that he is there in his capacity as a **Citizen**, and is not representing the police department.

EXAMPLE OF RESTRICTED ACTIVITIES

If at that meeting the police officer:

- ❖ Says: “As a long- standing member of your police department, I can tell you we need this money.”
- ❖ Hands out official publications from the organization.

Here, despite the previous announcement, the police officer would be acting in his **official capacity**.

IS THIS RESTRICTED OR PERMITTED ?

I work for an elected official and want to attend her upcoming debate Saturday at 2:00 p.m.

- A. Can I go in my County uniform?
- B. Can I drive my County-issued vehicle?
- C. Can I videotape it?
- D. Can I show the videotape at work?
- E. Can I show the videotape to co-workers at my residence?

IS THIS RESTRICTED OR PERMITTED ?

Same scenario, but the event is Friday at 6:00 p.m. and I get out of work at 5:30 p.m.

- A. Can I go in my County uniform?
- B. Can I drive my County-issued vehicle?
- C. Can I hand out campaign pamphlets?
- D. Can I tell folks when I give them the pamphlets that she is the best person for the job?

IS THIS RESTRICTED OR PERMITTED ?

Same scenario, but I do not work for the elected official, I work for Animal Control.

- A. Can I go in my County uniform?
- B. Can I drive my County-issued vehicle?
- C. Can I hand out campaign pamphlets?
- D. Can I tell folks when I give them the pamphlets that she is the best person for the job?

IS THIS RESTRICTED OR PERMITTED ?

I work for an elected official who is going to have a fundraiser this Saturday.

- A. The elected official asks me to help set up for the event on Friday. Can I?
- B. Can I drive a County-issued vehicle to set up for the event?
- C. The elected official asks me to drop off County-owned tables and chairs for the event.
- D. Can I wear the elected official's campaign button to Saturday's event?

IS THIS RESTRICTED OR PERMITTED ?

I want to collect signatures on a petition.

A. I bring it to the office to have my coworkers sign the petition. Can I?

B. Can I collect signatures outside the post office on Saturday?

C. The elected official asks me to collect signatures for him/her.

D. Can I stand outside the office after work and collect signatures?

IS THIS RESTRICTED OR PERMITTED ?

I work in Fleet Services and I want to collect signatures on a petition to run for Mayor of Casa Grande.

- A. Can I bring it to the office to have my coworkers sign the petition?
- B. Can I collect signatures outside the post office on Saturday?
- C. Can I collect signatures outside the post office on Saturday in my work uniform?
- D. Can I stand outside the office after work and collect signatures?
- E. Can I go into other County offices and collect signatures?

IS THIS RESTRICTED OR PERMITTED ?

I work in the County Attorney's Office and I want to collect signatures on a petition to pass a bill prohibiting recreational marijuana.

- A. Can I bring it to the office to have my coworkers sign the petition?
- B. Can I collect signatures outside the post office on Saturday?
- C. Can I collect signatures outside the post office on Saturday and tell people I work for the County Attorney's Office?
- D. The County Attorney asks me to collect signatures for his/her re-election. When/Where can I do this?
- E. My favorite judge asks me to collect signatures for his re-election. When/Where can I do this?

IS THIS RESTRICTED OR PERMITTED ?

I work for an elected official who is making a campaign video.

- A. Can I appear in the video in regular clothes?
- B. If so, can I make a request for a donation in the video?
- C. Can the video be made in or on County property?
- D. Can I show the video at work?

IS THIS RESTRICTED OR PERMITTED ?

I work for a County department and my Director asks me to drive a County vehicle in the parade.

- A. Can I go in my County uniform?
- B. An elected asks me to place a banner on the car I'm driving in the parade. Can I?
- C. An elected asks if I will take his picture.
- D. An elected asks if I will be in the picture with him.

PINAL COUNTY POLICY 7.60

Pinal County Policy, *Miscellaneous Leaves with Pay*

Voting - Pinal County employees may be allowed up to three* hours with pay to vote in primary and general elections in which they are qualified to vote within the State of Arizona.

*The policy states two hours; however, A.R.S. § 16-402 provides for three hours.

VOTING

- ✘ The employee's pay may not be reduced for this voting absence.
- ✘ The employee must apply for the voting absence prior to the election day and the employer may specify the hours during which the employee may take this absence.
- ✘ Be mindful of alternative shifts, i.e.; swing shift, 9-80 shift, 4-10 shift, and graveyard shifts.
- ✘ Supervisors should be aware of polling hours in the local area.

WHEN IS EMPLOYEE PAID FOR VOTING TIME

If there are less than three consecutive hours between:

- ❖ The opening of the polls and the beginning of the employee's regular work shift; OR
- ❖ The end of the employee's regular work shift and the closing of the polls.
- ❖ The employee may be absent for such a length of time at the beginning or end of his work shift that, when added to the time difference between work shift hours and opening or closing of the polls, will provide a total of three consecutive hours.

EXAMPLES

Polls open at 6:00 a.m. and close at 7:00 p.m.

Employee works 7:30 a.m. to 5:00 p.m. Yes/No

Employee works 9:00 a.m. to 6:00 p.m. Yes/No

Employee works 6:00 a.m. to 6:00 p.m. Yes/No

Employee works 6:00 p.m. to 6:00 a.m. Yes/No

Yes/No, the time should be paid as leave with pay?

(The employee may be absent for such a length of time at the beginning or end of his work shift that, when added to the time difference between work shift hours and opening or closing of the polls, will provide a total of three consecutive hours.)

HANDOUT

The Hand-out for Allowable and Restricted Political Activities

The handout is for your retention as a quick reminder of the basic guidelines that help direct our activities as public sector employees during the election season.

Q & A

Questions?

THANK YOU!
