

SCHOOL DISTRICT EMPLOYEES' PARTICIPATION  
IN SCHOOL BOARD CAMPAIGNS

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The time has come again to remind District employees of the law dealing with employee participation in the campaigns of school board candidates.

The specific law relating to employee participation is KRS 161.164, and it states in full:

- (1) No employee of the local school district shall take part in the management of any political campaign for school board.
- (2) No candidate for school board shall solicit or accept any political assessment, subscription, contribution, or service of any employee of the school district.
- (3) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position as teacher or employee of any district board of education, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.
- (4) No teacher or employee of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin or race or color or sex or age or disabling condition.
- (5) The local superintendent shall inform all school employees of the provisions of this section.

Paragraph (1) originally included a prohibition against school district employees taking part in the "activities" of any political campaign for school board. However, in 1992 the Kentucky Supreme Court, in *State Board for Elementary and Secondary Education v. Howard*, 834 S.W.2d 657, declared the prohibition against participation in activities of political campaigns for school board to be unconstitutional.

In 1992, the Attorney General's Office issued Opinion 92-145 listing specific examples of "permitted conduct and prohibited services." The following is the quoted text from that opinion:

**PERMITTED CONDUCT:** The following are permitted pursuant to KRS 161.164(2):

1. Registration and voting.
2. Nominating petitions. School district employees may voluntarily sign a school board nominating petition.

3. Expression of opinion. School district employees may privately and publicly express their personal opinions regarding a school board candidate, either in person, by telephone, or in writing.
4. Political pictures and signs. School district employees may voluntarily display school board campaign signs and other signs on their property.
5. Badges, buttons, and bumper stickers. School district employees may voluntarily wear school board campaign badges or buttons. However, no school board candidate badges or buttons may be worn by a school district employee while such employee is on official duty.
6. Campaign literature for personal use. School board candidates may provide on request campaign literature for the personal use of a school district employee.

**PROHIBITED SERVICES:** A school board candidate may **not** solicit or accept the following services if performed by a school district employee:

1. Campaign literature distribution. A school board candidate may not solicit or accept the distribution of campaign literature or material by a school employee.
2. Solicitation of political support. A school board candidate may not solicit or accept the services of a school district employee in canvassing a district or soliciting political support for a school board candidate, either in person, by telephone, or in writing. However, school district employees may state, in writing or in person, their personal opinions to others.
3. Providing assistance or working for the school board candidate's campaign.

The Attorney General's Office has consistently recognized that school board candidates may not solicit or accept contributions and services from school district employees. This prohibition applies equally to agents of the candidate. Therefore, the school board candidate's campaign manager and staff are prohibited from soliciting or accepting the services of school employees on behalf of the campaign.

**Caveat:** The law places the burden on the candidate not to solicit or "accept" the prohibited conduct. This means that even if you are never **asked** to do anything that is prohibited, if you **voluntarily** do so (i.e., contribute money, pass out campaign literature, etc.), you could be jeopardizing the candidacy of the person you support.

Should you have any questions, please contact my office at 381-4278.