



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 609

September 24, 2024

ISSUE

What activities may be conducted in a “generic get-out-the-vote” campaign as authorized by Section 253.171 of the Election Code?

Must all campaign material list the name and office sought or held or a photograph of each judicial candidate? (AOR-710)

SUMMARY

Permissible activities during a “generic get-out-the-vote” campaign include certain voter registering activities, providing transportation to polling locations, and providing information about candidates that the party supported, as long as the services were provided equally to people who supported and opposed the requestor’s supported candidates.

FACTS

The requestor represents a county executive committee. He asks what activities may be conducted in a “generic get-out-the-vote” campaign, and whether all campaign material must list the name and office sought, office held, or photograph of each judicial candidate.

The requestor also provided sample material the committee intended to use. The material listed the name and office sought or held for several example judicial candidates.

ANALYSIS

Under Section 253.171 of the Election Code, the expenditures for a “generic get-out-the-vote” campaign are not considered contributions to judicial candidates who benefit from the campaign, provided that the get-out-the-vote campaign complies with specified conditions. Relevant to this opinion, the Election Code allows for the creation and distribution of candidate lists, with certain restrictions, without it counting as an-kind contribution to a judicial candidate benefited by the list. Tex. Elec. Code § 253.171(1).

The Election Code does not define the phrase “generic get-out-the-vote.” However, that term has a particular definition in federal law. The Code of Federal Regulations defines “generic” in the context of get-out-the-vote drives to mean “activities that urge the general public to register, vote or support candidates of a particular party or associated with a particular issue, without mentioning a specific candidate.” 11 C.F.R. § 106.6(b)(3).

The word “generic” appears only in Section 253.171 of Title 15 of the Election Code. Elsewhere in Title 15, get-out-the-vote activities are divided into “partisan” and “non-partisan.” *See* Tex. Elec. Code §§ 253.099, 253.100(d)(4). Again, there is a federal definition of nonpartisan get-out-the-vote activities. The Code of Federal Regulations states that a get-out-the-vote drive is nonpartisan if “it is conducted so that information and other assistance regarding registering or voting, including transportation and other services offered, is not withheld or refused on the basis of support for or opposition to particular candidates or a particular political party.” 11 C.F.R. § 114.3(c)(4)(ii).

At the federal level, “generic” refers to the get-out-the-vote campaign, and the advice and information provided must be general, rather than related to a specific candidate. Also at a federal level, partisan and non-partisan activities apply to the people who are the subject of the get-out-the-vote campaign. The party may put out information containing express advocacy, but it must continue to register or provide transportation or information to people, no matter if the person is opposed to the politics of the party. *See* 11 C.F.R. § 114.3(c)(4).¹

Section 253.171 provides a way for political parties to distribute written lists of candidates as part of a get-out-the-vote campaign. If the list complies with the restrictions identified in Section 253.171, the political expenditures made to produce the list are not considered contributions to judicial candidates.

So, during a “generic get-out-the-vote” campaign, a party may register people to vote, provide transportation to polling locations, and provide information about candidates that the party supported, as long as the services are provided equally to people who support and oppose the party’s candidates. Additionally, the party may distribute a written list of two or more candidates, but the list is not a required part of a “generic get-out-the-vote” campaign.

Finally, in order to comply with 253.171, candidates must be identified by name and office sought, office held, or by photograph.² Because the material provided by the requestor lists the name and office sought or held, it complies with Section 253.171 of the Election Code.

¹ This opinion only construes Section 253.171 of the Election Code. A person must also comply with all other laws applicable to registering people to vote.

² The requestor should be aware that other restrictions regarding political advertising may come into play, such as the requirement prescribed by Section 255.006 of the Election Code to include the word “for” if the candidate is not the incumbent, and the requirement prescribed by Section 255.001 of the Election Code for political advertising to display a disclosure statement, but they will not be specifically addressed in this opinion.