



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 639

*February 11, 2026**

ISSUE

Whether a video recorded with students at a charter school is political advertising for the purposes of Sections 255.003 and 255.001 of the Election Code. (AOR-741)

SUMMARY

Section 255.003 applies to officers and employees of a political subdivision. For purposes of Section 255.003 of the Election Code, a charter school is not a political subdivision. Therefore, the use of a charter school's resources would not implicate Section 255.003. However, a political advertisement video recorded at a charter school would raise concerns of violations of Section 253.094 of the Election Code, and possibly Sections 36.08 and 39.02 of the Penal Code.

FACTS

The requestor is a member of the State Board of Education (SBOE) and a candidate for state representative. She visited a charter school and filmed a video with the students. The requestor was given permission from the school superintendent for both her visit and the recording. The requestor further stated that the students have standing consent from the school to appear in photos and videos taken on campus for public and educational purposes. Finally, the requestor asserts that the visit and recording were not conducted in her official capacity as SBOE member, but rather as a private citizen.

ANALYSIS

The requestor asked if participating in or recording the video raised any potential issues regarding "use of office, public resources or campaign activities."

The 255.003 restriction on the use of a political subdivision's resources for political advertising does not apply because the charter school is not a political subdivision.

"An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funders for political advertising." Tex. Elec. Code § 255.003(a).

The Education Code specifically states which laws apply to a charter school as if it were a political subdivision. Tex. Educ. Code § 12.1058. The existence of this law indicates that charter schools are not normally considered political subdivisions. The level of specificity of the law (listing at least 19 ways in which a charter school may or may not be considered a political subdivision) indicates the

* The Commission voted to reconsider and amend this opinion by updating the language throughout the opinion. That change took effect on May 13th, 2026.

legislature intended the list to be exhaustive. *See Unigard Sec. Ins. Co. v. Schaefer*, 572 S.W.2d 303, 307 (Tex. 1978) (“When specific exclusions or exceptions to a statute are stated by the Legislature, the intent is usually clear that no others shall apply.”).

Section 255.003 specifically, and the Election Code in general, do not appear on that list of ways in which a charter school is to be considered a political subdivision. Therefore, for the purposes of Section 255.003 of the Election Code, charter schools are not political subdivisions.

The video requires a political advertising disclosure statement.

The requestor also asked if there would be any restrictions or disclosures required if they wanted to share the video on social media.

Political advertising authorized by a candidate requires a political advertising disclosure statement. Tex. Elec. Code § 255.001. Therefore, if the video was political advertising, it would need the political advertising disclosure statement. However, whether a communication is political advertising “can be answered only when the communication is viewed as a whole.” Tex. Ethics Comm’n Op. No. 476 (2007).

The video opens with the requestor surrounded by students in what is presumably the cafeteria of the school. The video is cut with shots of the requestor high-fiving children or holding lectures in a classroom. The video opens with the children chanting “it’s alright with me” before the requestor begins rapping. The requestor asks “what you think about a state rep that raps too? Somebody in the trenches with the students at the school?” The students’ chant of “it’s alright with me” repeats, answering the questions.

“Political advertising” is defined, in relevant part, as “a communication supporting or opposing a candidate for nomination or election to a public office that appears on an Internet website.” Tex. Elec. Code § 251.001(16). The students’ positive refrain following the requestors questions, the rhetorical nature of the requestor’s questions, and the visual imagery of the requestor interacting with the children all amount to support for the election of the requestor to public office. Therefore, the video is political advertising and would require a political advertising disclosure statement.

The use of the charter school’s classroom for a campaign ad likely constitutes an illegal corporate contribution.

The charter school at issue is operated by a tax-exempt 501(c)(3) non-profit corporation. Tex. Elec. Code § 255.001(16). A corporation or labor organization may not make a political contribution to a candidate. *Id.* § 253.094. A direct or indirect transfer of any thing of value that is offered or given with the intent that it be used in connection with a campaign is a campaign contribution. *Id.* § 251.001(2),(3),(5).

Here, the requestor entered a charter school, presumably with a film crew, and recorded a song that supported the requestor’s campaign. The use of a school’s facilities as a set for a campaign video is a thing of value. We assume the requestor intended the recording to be used in support of the

requestor's campaign. Therefore, the candidate's use of charter school's classroom and other resources to film a political advertisement appears to constitute an illegal corporate contribution.

Receiving special access to a charter school classroom to record a political advertisement is likely an illegal gift to a public servant.

The requestor is likely in violation of Section 36.08 of the Penal Code. A public servant in a regulatory agency may not accept benefits from persons subject to that agency's regulation. Tex. Penal Code § 36.08: *but see id.* § 36.10 (listing exceptions). As a member of the SBOE, the requestor is a public servant in a regulatory agency. The SBOE has the authority to place on probation or revoke a school district's charter. *See* Tex. Educ. Code § 12.027. Therefore, the charter school is subject to the SBOE's regulation.

