



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 641

February 11, 2026

ISSUE

Whether a tax rate election (“TRE”) flier prepared by a school district (the “district”) is political advertising for the purposes of Section 255.003 of the Election Code. (AOR-744)

SUMMARY

The TRE flier prepared by the district constitutes political advertising because it advocates for passage of the TRE and, therefore, would violate Section 255.003(a) of the Election Code if distributed to voters by the district.

FACTS

The requestor is the superintendent of a district that is proposing a TRE. The district has created a flier discussing the TRE that it wants to distribute to voters.

ANALYSIS

The requestor has asked whether the distribution of the flier would “break any laws.”¹

The Election Code prohibits an officer or employee of a political subdivision from knowingly spending or authorizing the spending of public funds for political advertising. Tex. Elec. Code § 255.003(a). However, this prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure. *Id.* § 255.003(b).²

Given that the flier is on district letterhead and purports to come from the district’s superintendent and board members, this opinion assumes that district resources were used to create the flier. Therefore, the question is whether the flier advocates for the passage or defeat of the TRE and, thus, constitutes political advertising.

Political advertising is defined, in pertinent part, as a communication supporting or opposing a measure that appears in a pamphlet, circular, or flier. Tex. Elec. Code § 251.001(16)(B)(i). A factor in determining whether a particular communication supports or opposes a measure is whether the

¹ This opinion only analyzes the flier at issue as it pertains to laws within the Texas Ethics Commission’s (TEC) jurisdiction. *See* Tex. Gov’t Code § 571.091 (listing the laws about which the TEC may issue an opinion).

² A “measure” is a question or proposal submitted in an election for an expression of the voters’ will. Tex. Elec. Code § 251.001(19).

communication provides information and discussion of the measure without promoting the outcome of the measure. Tex. Ethics Comm’n Op. No. 538 (2016).

The flier at issue begins by stating, “Thank you for your continued support of our school. Our mission remains to provide every student with the highest quality education and to ensure they are well prepared for the future.” The flier then goes on to discuss why the district has previously adopted deficit budgets, how the district plans to address the deficit through a “tax rate swap and drop,” the ballot language regarding tax increases, and the revenue that the district believes the tax rate swap would generate. The flier then concludes by saying, “Thank you for your partnership and for standing with” the school district.

The majority of the flier’s content provides factual information about the TRE or issues related to the TRE and, therefore, would not be prohibited under Section 255.003(a) of the Election Code.³ However, the sentence regarding the district’s mission to “provide every student with the highest quality education and to ensure they are well prepared for the future,” transforms the nature of flier from factual to political advertising. Specifically, the inclusion of this sentence implies that passage of the TRE would allow the district to continue its mission to prepare its students for the future. Whether or not the TRE would accomplish this goal, though, is a question for voters to decide. Additionally, since this sentence does not provide any factual information about the particulars of the TRE, it only serves to persuade readers to pass the TRE.

Similarly, the flier’s concluding remark thanking the reader for “standing with” the district implies that if the reader supports the district, he or she should vote in favor of the TRE because of the benefits it will bring to the district.

Since we have previously concluded that “[n]o matter how much factual information about the purposes of a measure election is included in a communication, *any amount* of advocacy is impermissible,” (Tex. Ethics Comm’n Op. No. 559 (2021)), the district’s flier constitutes prohibited political advertising under Section 255.003(a) of the Election Code.

³ For the purposes of assessing whether a communication constitutes political advertising, the TEC assumes that the information conveyed in the communication is true and accurate. However, it should be noted that an officer or employee of a political subdivision is prohibited from spending or authorizing the spending of public funds for a communication describing a measure if the communication contains information that: (1) the officer or employee knows is false; and (2) is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure. Tex. Elec. Code § 255.003(b-1).