



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO 642

February 11, 2026

ISSUE

Whether a video constitutes political advertising for the purposes of the Election Code's prohibition against using public funds for political advertising. (AOR-745)

SUMMARY

When considering whether a specific video constitutes political advertising for the purposes of the Election Code, we view the communication as a whole. A significant factor in determining whether a particular communication is a political advertisement is whether it provides information without promoting a public office or measure.

The mere fact that a communication includes an express disclaimer of support or opposition is not determinative. However, the video considered in this opinion is a political advertisement for the purposes of Section 255.003 of the Election Code because it includes advocacy.

FACTS

The requestor, a social media director for a city council member, requested guidance on whether public funds could be used to pay for a social media advertisement. The requestor stated that the video contained only district related updates.

The requestor specifically requested guidance on whether a paid social media promotion of the video would be considered political advertising, whether public funds could be used if it was political advertising, and finally, if it was political advertising what disclosures would be required.

ANALYSIS

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

Political advertising means, in relevant part, a communication supporting or opposing a public officer that appears on an Internet website. *Id.* § 251.001(16)(B)(ii).

The critical issue in determining whether an advertisement is 'political advertising' is whether it is a communication supporting or opposing a candidate or a public officer. Tex. Ethics Comm'n Op. No. 476 (2007) (citing Tex. Ethics Comm'n Op. No. 102 (1992)).

A significant factor "in determining whether a particular communication supports or opposes a public officer is whether the communication provides information ... without promotion of the public officer." Tex. Ethics Comm'n Op. No. 476 (2007). For example, in Ethics Advisory Opinion

No. 211, we concluded that an informational brochure was not a political advertisement—despite identifying the incumbent in the letterhead—because it “merely describe[d] the duties” of the public office and did not reference the incumbent “in a way that would lead one to believe that the purpose of the brochure was to support the incumbent.” Tex. Ethics Comm’n Op. No. 211 (1994).

“However, [...] *any amount* of advocacy is impermissible. Violations sometimes occur when a factual explanation is accompanied by a motivational slogan or a call to action. Common examples include, “it pays to invest in the future;” ... [and] “let’s build a better city[.]” Tex. Ethics Comm’n Op. No. 559 (2021).

While the provided video did include factual information about a budgeting change that had been proposed by the public officer, it also contained phrases that constituted advocacy: “Zero based budgeting is a win for taxpayers;” and “Every cent will now be tied to results and every decision focused on improving the lives of our residents.”

“A factor in determining whether a particular communication supports or opposes a public officer is whether the communication provides information and discussion of official activities without promotion of the public officer. The mere fact that the name of a public officer or the picture of a public officer appears in a newsletter would not determine whether the communication constitutes political advertising. However, the context and frequency with which the name or picture appears are relevant to making that determination.” Tex. Ethics Comm’n Op. No. 476 (2007).

The video is one minute and forty-one seconds long. The public officer’s face is visible for one minute and seven seconds of the video.

In our opinion, the video is a self-promotion of the public officer, and thus, when viewed as a whole, constitutes support of a public officer for purposes of political advertising. Therefore, the video is political advertising, it would require the political advertising disclosure statement, and public funds may not be spent on the video.