



TEXAS ETHICS COMMISSION



ETHICS ADVISORY OPINION NO. 646

May 13, 2026

ISSUE

Whether public resources were unlawfully used for a candidate's campaign video. (AOR-750.)

SUMMARY

Because all of the images used in the requestor's campaign video that relate to the school district at issue were obtained through publicly accessible means, the video does not violate Section 255.003(a) of the Election Code or Section 39.02(a)(2) of the Penal Code.

FACTS¹

The requestor is a candidate for school board trustee. The school district in which the requestor is running will be referred to as "ISD" for purposes of this opinion. The requestor is a former employee of ISD but is currently employed by a different school district.

In connection with his campaign, the requestor created and posted a campaign video on various social media platforms supporting his candidacy. The requestor asks if the portions of the video identified below constitute the unlawful use of ISD resources.

During the video an image depicting the exterior of a building bearing ISD's name and logo, which was obtained online, is displayed. From there, the video shows a clip of a news broadcast portraying the requestor instructing a classroom of students. This news segment was filmed approximately 15 years ago while the requestor was teaching for ISD, and he recorded a copy of the segment when it was broadcast online. After the news clip, the video proceeds to show an image of students sitting at a table, and then an empty classroom. These images are generic stock images obtained online that do not depict ISD students or property. The video then eventually shows another clip of the news broadcast and an image of the ISD administration building that the requestor obtained online. Lastly, the video plays another generic clip of students sitting at desks that the requestor also obtained online.

ANALYSIS

The requestor has asked whether his campaign video constitutes the unlawful use of ISD resources.²

¹ The facts presented in this opinion were provided by the requestor. We assume that these facts are true and accurate for the purposes of analyzing this request.

² This opinion only analyzes the video 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). Therefore,

Election Code § 255.003(a):

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).³ The “spending” of public funds includes the use of a political subdivision employee’s work time or a political subdivision’s equipment or facilities. Tex. Ethics Comm’n Op. No. 443 (2002). For example, we have concluded that the use of a facility maintained by a political subdivision, in an area that was restricted to its employees and required government resources to operate while in that restricted area, violates Section 255.003(a) if used for political advertising. *Id.* However, this statute does not prohibit a public officer from using government resources that are equally accessible to the public for political advertising. Tex. Ethics Comm’n Op. No. 550 (2019); *but see* Tex. Ethics Comm’n Op. No. 625 (2025) (stating that a city’s “logo and slogan were ‘the city’s intellectual property and, as such, would constitute a city resource’”).

“Political advertising” is defined, in pertinent part, as a communication supporting or opposing a candidate for nomination or election to a public office or a public officer that appears on an Internet website. Tex. Elec. Code § 251.001(16).

Since the requestor is an employee of a school district, he is subject to Section 255.003(a). Additionally, because the video at issue supports the respondent’s campaign for school board trustee, it constitutes political advertising.

However, based on the facts presented, we conclude that the requestor’s video does not violate Section 255.003(a) for the following reasons. To start, the requestor was no longer an ISD employee at the time the video was created. Therefore, it is presumed that he did not have access to any ISD resources restricted to ISD employees and/or officers. However, even if this is not true, Section 255.003(a) does not prohibit the requestor from using government resources that are equally accessible to the public for political advertising. Therefore, use of the ISD building images and the new broadcast clips were not unlawful since they were publicly accessible online.

Use of the stock images of students and classrooms were also not unlawful because the images were not created by ISD, nor do they depict ISD property or students. Therefore, they do not constitute ISD resources.

Penal Code § 39.02(a)(2):

Under section 39.02(a)(2) of the Penal Code, a public servant, which includes an employee or agent of government and a candidate for nomination or election public office, may not, with intent to obtain a benefit or harm or defraud another, intentionally or knowingly “misuse” government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment.” Tex. Pen. Code §§ 39.02(a)(2), 1.07(a)(41).

the conclusions of this analysis only apply to the statutes specifically identified in the opinion. They do not address issues related to intellectual property or copyright infringement.

³ “Political subdivision” includes a county, city, or school district or any other government entity that possesses authority for subordinate self-government through officers selected by it. Tex. Elec. Code § 1.005(13)(C).

The use of government resources for an individual public servant's benefit is a misuse contrary to the state constitutional requirements that public money be used for a public purpose. Tex. Const. art. III, §§ 51, 52(a); Tex. Ethics Comm'n Op. No. 550 (2019). Therefore, the use of government resources for an individual public servant's private campaign purposes would be a misuse. Tex. Ethics Comm'n Op. No. 550 (2019).

However, we have previously concluded that the public area of a government facility would not be in the "custody or possession" of a public officer. *Id.* Such an area would be equally accessible to those not having custody or possession of the government resources. *Id.* Therefore, Section 39.02(a)(2) would not prohibit a public officer from using the public areas of a government building to create a communication for political advertising. *Id.* Additionally, the Penal Code does not prohibit public servants from repurposing an image that is created for a separate, lawful purpose. Tex. Ethics Comm'n Op. No. 561 (2021). For example, if a journalist attends an open court proceeding, sits in the gallery as a member of the general public, and takes a photograph that is published in a newspaper or periodical, a judge may repurpose that photograph for his campaign. *Id.*

As discussed above, it is presumed based on the requestor's employment status at the time of filming his campaign video, that he was not in the custody or possession of any ISD property or resources. However, even if he was, all of the images related to ISD in the requestor's video were equally accessible to the public either in person or online. Additionally, even though the requestor used clips of a news broadcast filmed on ISD property, the broadcast was created for a purpose other than political advertising.⁴ For these reasons, we conclude that the requestor's campaign video does not violate Section 39.02(a)(2) of the Election Code.

⁴ Because the news broadcast was filmed approximately 15 years ago, it is presumed that it was not created for the requestor's political advertising. We further assume for purposes of this opinion that the underlying purpose of the news broadcast was lawful.