

ADVISORY OPINION

APPROVAL DATE: September 30, 2008

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STATUS: **Current**

REVIEWED: October 24, 2016

NEXT REVIEW: October 2021

REFERENCES: RCW 42.52.180,

SUMMARY OF CHANGES: Updated language from Attorney General's memo.

Posting Political Signs in State-Owned Housing

QUESTION

May a state employee residing in a state-owned residence located on state-owned land display political campaign signs and stickers in the residential windows facing outward where it was visible to the public?

ANSWER

No.

ANALYSIS

A Park ranger wanted to place a campaign sign in the front window of his state-owned residence.

RCW 42.52.180(1) states:

No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

RCW [42.52.180](#) prohibits the use of state resources for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition, subject to the exceptions in RCW [42.52.180\(2\)](#).

The Board has opined on issues regarding state-owned housing twice previously:

- (1) At the September 9, 2005 Board meeting, the Board reviewed and approved Parks' housing policy, with one caveat to the originally proposed draft. The Board determined that the policy should be amended to clarify that mowing the lawn by the state-employee resident could be completed on state time.
- (2) At the October 13, 2006 Board meeting, Parks asked the Board to opine on whether the prohibition against conducting a business in a state facility applied to Parks' employees and their families living in agency residences. In 2008, the Ethics Act was amended to include a new section, RCW 42.52.570, that authorized the Department of Fish and Wildlife and the Parks and Recreation Commission to approve private business activity in state-owned housing within specified parameters.

Annually, the Attorney General's Office sends a memorandum to all interested parties regarding the use of public funds/facilities on election campaigns. This memo¹ states:

As noted above, the Executive Ethics Board has adopted some interpretive rules concerning RCW 42.52.180. Given the language of the statute itself, and factoring in cases and opinions interpreting the older statute (RCW 42.17.130) to some extent, it is possible to make some general statements about political activities under RCW 42.52.180. The following activities are prohibited by RCW 42.52.180:

1. Using work hours to solicit signatures for ballot propositions, to raise funds for or against such propositions, or to organize campaigns for or against such propositions. The prohibition similarly bars the use of work time to campaign for or against a candidate for public office.
2. Using public property to campaign for or against a candidate or ballot proposition, except that "neutral forum" public property otherwise open to public use may be used for campaigning also.
3. Using public facilities—including, but not limited to, office space, computers, email, copying facilities, paper, supplies, client lists, databases, **and any other publicly owned property**—for campaigns for or against a ballot proposition, or for or against a candidate, whether during or after work hours. This includes accessing databases (such as Law Manger or Westlaw), or client or employee contact lists for campaign purposes. (emphasis added)
4. Displaying political material in or on publicly owned vehicles.

¹ The memo was updated in 2016 and the memo language in this Advisory Opinion reflects amendments made in 2016. These amendments do not change the analysis of the Board.

5. **Displaying or distributing campaign material on publicly owned or operated premises** (other than “neutral open forum” property or “personal space” property as discussed below). (emphasis added)
6. Using public supplies, equipment, or facilities to print, mail, or otherwise produce or distribute materials supporting or opposing any candidate or ballot proposition.
7. Using publicly owned facilities to instruct or urge public employees to campaign for or against a candidate or ballot proposition on their own time, or stating or implying that their job performance might be judged according to their willingness to use their own time on a campaign.
8. Using public time and/or facilities to draft or pass a resolution by an *appointed* committee, board, or commission taking an official position for or against a pending ballot proposition, or endorsing or opposing a candidate for public office.

The memo defines what can be considered “neutral open forum” property:

Where public space is available on a non-restricted basis to post signs, petitions, and advertisements, or to make speeches and hold meetings, public employees may use these “neutral public forum” spaces to express their own views, including their views on pending ballot propositions, assuming they are not otherwise violating RCW 42.52.180.

The memo also discusses what could be considered “personal space:”

Ethical and policy considerations must always be considered in light of free speech rights and the legitimate interest of a government employee in expressing her views on issues of public concern. Some agencies have policies that restrict the information that may be displayed in individual work stations. Advisory Opinion No. 02-02A, discussed above, provides some guidance indicating that employees who wear buttons or display political signs in personal work spaces do not necessarily violate RCW 42.52, but employees should also check their agency policies, especially if they have regular contact with the public.

The Ethics Act, RCW 42.52.180, prohibits the use of any state facilities or resources for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. State-owned housing is a state resource and is included in those resources that are prohibited from use for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition.