

## ADVISORY OPINION 00-08

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NEXT REVIEW: February 2021

REFERENCES: RCW 42.52.180

SUMMARY OF CHANGES: Amended to update change in rules of Board.

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### Use of State Resources/Political Campaigns/Officer or Employee Title

#### QUESTION

Is there a violation of RCW 42.52.180(1) if a state officer or employee uses his or her title when supporting or opposing a candidate for office or a ballot proposition without including a disclaimer that they are not speaking for their agency?

#### ANSWER

Yes, for non-elected state employees. A state title for a non-elected employee or officer is a facility of the state and therefore cannot be used to promote or support the election of a person or a ballot initiative without the use of a disclaimer that the officer or employee is not speaking for their agency.

#### ANALYSIS

This opinion deals with whether a state officer or employee may use his or her title when supporting or opposing the election of a person to office or a ballot proposition. This support or opposition might take a number of forms. For example, a state officer or employee might write a letter to the editor. The author might use his or her title in the body of the letter or the editor might supply the title as a means of identifying the author. Another way of expressing support or opposition is by speaking at a community forum. Once again, speakers might identify themselves by their state titles or a third party might use the titles in an introduction. Finally, a state officer or employee might add his or her name to an endorsement related to a candidate or ballot proposition. The endorsement might also include the officer's or employee's title. The question is whether the use of the title violates RCW 42.52.180(1).

RCW 42.52.180(1) provides that:

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.

RCW 42.52.180(1) does not prohibit state officers and employees from "assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition". Rather, it prohibits them from using or authorizing the use of the facilities of an agency for that purpose.

The term "facilities of an agency" includes, but is not limited to:

[U]se 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(1). The issue is whether an officer's or employee's title is one of the "facilities of an agency".

The purpose of RCW 42.52.180 is to prevent the resources of the state from being marshaled on behalf of or against a political candidate or ballot proposition. The resources of the state can take intangible forms. Use of a job title can give the impression that a presumably expert agency or agency officer or employee favors one side or the other in a political race or a ballot proposition and, therefore, so should the persons being addressed by the officer or employee. The Board revises their previous opinion to adopt a more liberal construction of RCW 42.52.180 to preclude the use of the intangible facilities of the state from being used in this fashion.

Thus, RCW 42.52.180 prohibits non-elected state officers and employees from using his or her job title in connection with the campaign for the election of a candidate or a ballot initiative, unless the statement is accompanied by the disclaimer that the officer or employee is speaking only for themselves and not for their agency.<sup>1</sup>

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<sup>1</sup> As for elected officials, the Board has held that no disclaimer is necessary.