

# Ohio Auditor of State Issues New Guidance on School Board and Employee Involvement in Levies and Bond Issues

By David Hirt

The Ohio Auditor of State (“AOS”) issued new guidance on the prohibition in Ohio Revised Code 9.03 against the use of public funds to support levies and bond issues. The [guidance](#) consists of answers to frequently asked questions, examples, and best practice commentary.

According to the guidance, school board members **may** advocate for a levy or bond issue **except** during a board meeting. However the guidance recognizes that board members “even during a board meeting,...have the right and responsibility to explain and support their vote to place a levy or issue on the ballot.” A board member must not say during a board meeting “Vote for the levy because it will provide funding to allow us to maintain high school bussing,” but may explain at a meeting his or her vote in favor of placing the levy on the ballot by stating: “I voted/am voting in favor of placing the levy on the ballot because it will provide funding for us to maintain high school bussing.”

A district administrator or other employee **may not** advocate for or against a levy or bond issue while being compensated by the board. Wearing levy t-shirts, pins, or stickers to work is prohibited, as is wearing such items at a district event when the employee is being compensated. Best practice is for a district administrator or employee who does not have specific work hours to request and receive time off (e.g., vacation, personnel days) to advocate for a levy.

Board members, administrators, or other board employees **may** participate on a levy committee as member of the committee as long as they are not being compensated for their time.. This is easier for a board member than for an administrator, because a board member is only compensated to attend board meetings.

Administrators or other employees **may** attend a public meeting, including a levy committee meeting, during work hours to present factual, neutral information about school finances, activities, and board actions. However, they must not do so in a way that is designed to influence a person’s vote. The guidance suggests that it is best for administrators and employees to avoid such activity and reserve participation for community members and board members.

Board employees, including the superintendent and treasurer, **may** provide factual information about a levy to the public, including on the board’s website, but the information must not be designed to influence the listener to vote either for or against the levy. Phrases such as “support our schools” or “keep our schools strong” should not be associated with the information provided. Best practice is for an administrator to provide the public with financial data and updates about services on a regular basis (e.g., annually), not just when a levy is pending. An administrator may provide the public with factual financial information in the context of explaining why the board placed a levy on the ballot. Financial data must be “neutral, accurate, [and] factual.” The guidance states that “[t]he district is allowed to use district resources to inform the public

of likely consequences the board of education expects to take following the passage or defeat of a tax levy...the district may inform the public of the board of education’s anticipated use of levy funds to support a particular program, or if the defeat of a tax levy will result in the inability to fund a particular program.” Best practice is for the board to adopt a statement well in advance of the levy vote detailing the likely cost savings the board would take if the levy fails. In addition, “[t]he district may provide to the public factual information received from the Ohio Facilities Construction Commission regarding the condition of district facilities.”

District administrators or other board employees **may** answer questions from the public or the press related to the levy while being compensated by the board. However, the answers must be neutral, accurate, and factual, and must not be designed to influence anyone’s vote. Best practice is to designate one person to answer such questions in a neutral, accurate, and factual manner, and to include a disclaimer such as “the information being provided is merely factual, district personnel are not allowed to advocate for or against the passage of the levy or bond issue during times they are being compensated by the district.”

District personnel **may not** send home levy committee communications with students, even if no district funds are used. They are also prohibited from using the district email or phone systems to relay such information.

The guidance also addresses use of district property and equipment, surveys related to levies and bond issues, and includes an addendum that describes permissible and impermissible survey questions.

If you have any questions about activities related to levies and bond issues, or any other school law issue, do not hesitate to contact any of Roetzel’s education law attorneys.

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