

Political Activity of Sandy City Corporation Employees, Officers, and Elected Officials

With election season under way, it is important to be familiar with the rules and restrictions regarding political activities of City employees, officers, and elected officials. Please remember that while the Mayor and City Council members are elected officials, they are also City employees. This information guide sets out applicable state and city laws and regulations regarding political activities and elections. The explanations and examples given are for illustration only, and are not intended to interpret the law or cover every possible situation. Following each question and answer about political activities of City personnel is a box containing the governing laws applicable to the issue raised in the question.

FREQUENTLY ASKED QUESTIONS

A. Voluntary Political Activities; Campaign Contributions

- 1. Can I contribute money to a political candidate, political party or political cause in Sandy or in other Utah jurisdictions?**

Yes.

Utah Code § 10-3-1108:

6) Nothing in this section may be construed to:

(a) prohibit a municipal officer or employee's voluntary contribution to a party or candidate of the officer or employee's choice;

- 2. Can I be a member of a political party, volunteer to work for a candidate, or a political cause?**

Yes.

- 3. Can I vote for any candidate I choose?**

Yes.

- 4. Can I tell or discuss with other employees whom I plan to vote for?**

Yes. However, during hours of employment you may not express your political views or opinions so often or in such a way that: (1) you are engaging in political campaigning, or (2) you are adversely affecting the work environment.

- 5. Can I wear a political button or political T-shirt while on the job?**

No, because City employees cannot engage in political campaigning during their hours of employment.

Utah Code § 10-3-1108(2)(c):

"[A] municipal officer or employee may not engage in political campaigning or solicit political contributions during hours of employment."

Utah Code § 10-3-1108(1):

"['Hours of employment' means occurring at a time when an officer or employee is acting within the course and scope of employment, but excludes a lunch break afforded to the officer or employee."

6. Can an elected City official ask a City employee to contribute to his or her re-election campaign?

Yes. However, an elected City official cannot coerce or direct a City employee to do so, nor can the elected City official promise the City employee a promotion or other favorable personnel treatment in return for contributions. See questions 20-21 below.

7. Can I place a campaign sign or poster in the parking strip between the sidewalk and street in front of my house?

No. The City owns the parking strip, and no one, not a City employee or an elected official, can place such signs on that property. The parking strip is the property located between the street pavement and the sidewalk.

Sandy City Code Sec. 21-26-8. - Temporary Signs.

(a)(2) Signs may only be located on private property and must have the property owner's permission. Signs may not be placed on public property, or in a public right-of-way unless otherwise allowed herein, such as banners on public light poles and public necessity signs.

8. Can I participate in non-partisan "get out the vote" efforts or other non-partisan activities alone or as part of a group (such as the League of Women Voters)?

Yes, because such activities are not for partisan political purposes.

9. Are there dollar limits on campaign contributions, fundraising or spending?

No, not under the current Sandy City Code, or Utah law.

10. Can an elected City official or a City employee speak out on political issues, urge people to vote for a particular candidate, or contribute his or her own money toward a candidate?

Yes. Provided, however, that an elected official or a City employee may not use his or her personal statements in a manner to suggest or imply City endorsement of any candidate or position. City employees must also comply with *Utah Code § 10-3-1108* (relating to political activity of City employees).

Utah Code § 20A-11-1206 (1) See separate document on additional sections.

“Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes.”

Utah Code § 20A-11-1202(14)(a) See separate document on added sections.

“Public official’ means an elected or appointed member of government with authority to make or determine public policy.”

Utah Code § 20A-11-1202(11) See separate document on additional sections.

“Political purposes’ means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:
(a) candidate for public office at any caucus, political convention, primary, or election;” or
....

B. Use of City Time and Equipment for Political Activities

11. Can I campaign for a political candidate during my City work hours?

No, except during your lunch break. While at work, a City employee may not use his or her time (except for their lunch break) to engage in political activities such as calling people to encourage them to support a particular candidate, or to produce or distribute a candidate’s literature, or to ask for or collect campaign contributions for a candidate. Furthermore, the exception for the lunch break is subject to the restrictions regarding use of City-owned equipment for political activity. See questions 15 and 17. This generally applies to your regular work hours, but also includes any time you are doing work on behalf of the City that is within your job description.

12. Can I put a political sign on the desk in my City office space?

No. That would constitute political campaigning during work hours and use of City equipment for political activity.

13. Can I put a political bumper sticker on a City-owned vehicle, even one assigned to me?

No. That would constitute use of City equipment for political activity.

14. Can I put a political bumper sticker on my personal vehicle that I park in a City-owned parking lot?

Yes.

Utah Code § 10-3-1108(2)(c):

“A municipal officer or employee may not engage in political campaigning or solicit political contributions during hours of employment.”

Utah Code § 10-3-1108(1):

"For purposes of this section, "hours of employment" means occurring at a time when an officer or employee is acting within the course and scope of employment, but excludes a lunch break afforded to the officer or employee."

Utah Code § 10-3-1108(2)(d):

"a municipal officer or employee may not use municipal equipment while engaged in political activity."

15. Can I use my City telephone or City computer to contact people to urge them to vote for a particular candidate?

No. A City employee may not, at any time, use his or her City-owned computer, telephone, or cell phone to engage in political activities such as: (1) contacting people to encourage them to support a particular candidate; (2) producing or creating campaign literature; (3) scheduling a candidate's activities; or (4) performing work for a candidate.

16. Can I use my personal cell phone or personal computer (which may also be used for City business) for political purposes?

Yes. There is no prohibition on the use of personal equipment for political activity.

17. Can I use my City office space, during my lunch break or outside of my work hours, to contact people to urge them to vote for a particular candidate?

While the use of one's City office space may not literally constitute use of City "equipment," it violates the spirit of the prohibition. Non-use of City office space for political purposes would also further the goal of avoiding the appearance of impropriety.

Utah Code § 10-3-1108(2)(d):

"a municipal officer or employee may not use municipal equipment while engaged in political activity."

Sandy City Employee Handbook 2020-2021/Computer and Network Use:

The City email system, City-owned devices used in its operation, and the data on City devices are, except as otherwise provided by law, the property of the City, to be used for the purposes of conducting City Business.

C. Interaction Between Supervisors and Subordinates and Between Coworkers

18. Can the City deny employment to a job applicant because the person making the hiring decision doesn't like the applicant's political beliefs?

No. The City may not deny employment to a person because of that person's political beliefs, activities, or affiliations.

Utah Code § 10-3-1108(2)(a):

"The partisan political activity, political opinion, or political affiliation of an applicant for a position with a municipality may not provide a basis for denying employment to the applicant."

19. Can the City fire or discipline an employee because the employee supports a particular candidate or holds particular political views?

No. The City may not hire, promote, fire, discipline, or demote a person based on that person's political beliefs, activities, or affiliations.

Utah Code § 10-3-1108(2)(b):

"An officer or employee's partisan political activity, political opinion, or political affiliation may not provide the basis for the officer or employee's employment, promotion, disciplinary action, demotion, or dismissal."

20. Can a City elected official, supervisor, officer, or employee:

-- **Pressure a subordinate or a co-worker to attend a fundraising dinner for a candidate?**

-- **Pressure a subordinate or a co-worker to stay late after work to stuff political flyers into envelopes?**

-- **Assign a subordinate or a co-worker to attend a political rally in order to create the appearance that the candidate has many supporters?**

-- **Intimidate or coerce me to contribute money to a political candidate or campaign?**

No. Any of those actions would violate the law.

Utah Code § 10-3-1108(2)(e):

"A municipal officer or employee may not directly or indirectly coerce, command, or advise another municipal officer or employee to pay, lend, or contribute part of the officer or employee's salary or compensation, or anything else of value to a political party, committee, organization, agency, or person for political purposes."

21. Can a City elected official, supervisor, officer, or employee:

-- **Promise a subordinate a promotion or bonus if the subordinate supports a particular candidate or political party?**

-- **Threaten to make a subordinate an at-will employee unless the subordinate supports a particular candidate or political party?**

No. Any of those actions would violate the law.

Utah Code § 10-3-1108(2)(f):

"A municipal officer or employee may not attempt to make another officer or employee's personnel status dependent on the officer or employee's support, or lack of support of a

political party, affiliation, opinion, committee, organization, agency, or person engaged in political activity.”

22. Can I ask another City employee to give money or services to a particular candidate?

Yes, but: (1) you cannot do so during office hours or using City property; (2) if you are the employee's supervisor you may not coerce him or her to do so. See questions 15, 17 and 20.

23. Can an elected City official or a member of their staffs lawfully intimidate or coerce me to attend a political rally, or a political fundraising event, or to put a political sign in my office or in my yard?

No.

24. Can a City employee or elected official use or refer to his or her City title in publicly endorsing a candidate?

Yes. Provided, however, that a City employee or elected official may not use his or her personal endorsement and City position in a manner to suggest or imply City endorsement of any candidate or position. City employees must also comply with *Utah Code* § 10-3-1108 (relating to political activity of City employees). See Question 10.

D. Running for Political Office; Leave of Absence

25. Can I serve in an elective or appointive office for another governmental entity, such as the State, County, or another city?

You may hold any elective or appointive public office if it is an assigned part of your City employment.

In addition, you may hold the following offices or positions:

- (a) voting district officer or delegate;
- (b) member of the Utah State Legislature;
- (c) any other part-time elective or appointive public office (other than Sandy City Council or office in a political party).

26. Can a City officer or employee run for and serve as Mayor or as a member of the Sandy City Council?

Yes, although a member of the City Council cannot have any other paid employment with the City.

Utah Code § 10-3b-(2):

“A member of a council in a municipality operating under a council-mayor form of government may not have any other compensated employment with the municipality.”

27. If I decide to run for political office, what are the rules about leaves of absence and use of vacation or other leave time to campaign?

The City, in its discretion, may give you an unpaid leave of absence from your City employment between the primary and general elections. Also, you may use your PTO at any time to campaign during what otherwise would be your work hours.

Utah Code § 10-3-1108(3):

"A municipal employee who has filed a declaration of candidacy may:

- (a) be given a leave of absence for the period between the primary election and the general election; and
- (b) use any vacation or other leave available to engage in campaign activities."

28. If I win election to a public office, what are the rules about leaves of absence and use of vacation or other leave time to serve in office?

The City may, in its discretion, grant you a leave of absence from your City employment without pay for the term of your service in elective office. Also, you may use your vacation time to serve in office.

Utah Code § 10-3-1108(4):

"If a municipal officer or employee is elected to a public office, the employee may:

- (a) be given a leave of absence without pay for the time during which the employee receives compensation for service in the public office; and
- (b) use any vacation or other leave available to serve in the public office."

29. Can the City fire or discipline me because I run for a political office or take a leave of absence to run or serve in elective office?

No.

Utah Code § 10-3-1108(5):

"Neither the filing of a declaration of candidacy nor a leave of absence under this section may be used as the basis for an adverse employment action, including discipline and termination, against the employee."

E. Political Activities of the City

30. Can the City lawfully spend tax revenue for television commercials urging people to vote for a particular candidate?

No.

Utah Code § 20A-11-1203(1):

“Unless specifically required by law, and except as provided in Section 20A-11-1206, a public entity may not make an expenditure from public funds for political purposes or to influence a ballot proposition.”

Utah Code § 20A-11-1202(2)

“‘Ballot proposition’ means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.”

Utah Code § 20A-11-1202(5) See separate document on sections added.

“‘Expenditure’ means:

(a) a purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

Example: The City donates cash or property, lends money, buys a political tee shirt, or requires a City employee to use his or her time (which has value) in campaign efforts.

(b) an express, legally enforceable contract, promise, or agreement to make any purchase, payment, donation, distribution, loan, advance, deposit, gift of money, or anything of value;

Example: The City promises a candidate that it will do any of the things in the previous example.

(c) a transfer of funds between a public entity and a candidate’s personal campaign committee;

Example: The City deposits money into the bank account of a candidate’s personal campaign committee.

(d) a transfer of funds between a public entity and a political issues committee;

Example: The City deposits money into the bank account of a political issues committee (for example, a group that tries to influence people about a ballot proposition, such as a proposed bond issue).

or

(e) goods or services provided to or for the benefit of a candidate, a candidate’s personal campaign committee, or a political issues committee for political purposes at less than fair market value.”

Example: The City sells used computers at less than fair market value to a personal campaign committee.

Utah Code § 20A11-1202(8)

“(a) ‘Influence’ means to campaign or advocate for or against a ballot proposition.

Example: The City includes a message on your paycheck stub, urging you to vote for a bond issue.

(b) 'Influence' does not mean providing a brief statement about a public entity's position on a ballot proposition and the reason for that position."

Example: The City issues a flyer briefly stating (and giving its reasons) why it favors or opposes a bond issue.

Utah Code § 20A-11-1202(11)

"'Political purposes' means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any

(a) candidate for public office at any caucus, political convention, primary, or election; or

Example: A television or radio commercial urging voters to vote for or against a candidate; putting a candidate's campaign sign on someone's lawn; or attending a political rally in support of a candidate.

Utah Code §20A-11-1202(13)

"(a) "Public funds" means any money received by a public entity from appropriations, taxes, fees, interest, or other returns on investment.

Example: Property and sales taxes; license and permit fees; investment income of the City.

(b) "Public funds" does not include money donated to a public entity by a person or entity."

Example: A private donation to the City of a large sum of money as a reward for information about a crime.

31. Can an elected City elected official or a City employee speak out on political issues, urge people to vote for a particular candidate, or contribute his or her own money toward a candidate?

Yes. Provided, however, that an elected official or City employee may not use his or her personal endorsement and City position in a manner to suggest or imply City endorsement of any candidate or position. City employees must also comply with *Utah Code § 10-3-1108* (relating to political activity of City employees). See question 10.

Utah Code § 20A-11-1206(1)

"Nothing in this chapter prohibits a public official from speaking, campaigning, contributing personal money, or otherwise exercising the public official's individual First Amendment rights for political purposes."

Utah Code § 20A-11-1202(11)

“Political purposes’ means an act done with the intent or in a way to influence or intend to influence, directly or indirectly, any person to refrain from voting or to vote for or against any:
(a) candidate for public office at any caucus, political convention, primary, or election;
or ”

Utah Code § 20A-11-1202(14)

“Public official’ means an elected or appointed member of government with authority to make or determine public policy.”

- (b) “Public official” includes the person or group that:
- (i) has supervisory authority over the personnel and affairs of a public entity; and
 - (ii) approves the expenditure of funds for the public entity.

32. Can the City publish a flyer stating why the City needs a new public facility and informing people that a bond election is upcoming to vote on whether bonds to pay for that facility should be issued?

Yes, but only if the flyer allows opponents of the bond issue to state why they oppose the bonds.

Utah Code §20A-11-1206(2)

“Nothing in this chapter prohibits a public entity from providing factual information about a ballot proposition to the public, so long as the information grants equal access to both the opponents and proponents of the ballot proposition.”

Utah Code § 20A-11-1202(2)

“Ballot proposition’ means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection.”

33. Can the City pay for a radio commercial simply encouraging people to vote at an election, without encouraging them to vote for particular candidates?

Yes.

Utah Code § 20A-11-1206(3)

“Nothing in this chapter prohibits a public entity from the neutral encouragement of voters to vote.”

34. Can an elected City official or City employee express support for or opposition to a ballot proposition?

Yes. Provided, however, that an elected official or City employee may not use his or her personal endorsement and City position in a manner to suggest or imply City endorsement of any candidate or position. City employees must also comply with *Utah Code § 10-3-1108* (relating to political activity of City employees). See question 10.

A "ballot proposition" is a question submitted to the voters for their approval or rejection. It would include, for example, a vote to issue bonds for a new city facility, or a question about a proposed amendment to the State constitution.

Utah Code § 20A-11-1206(4)

"Nothing in this chapter prohibits an elected official from campaigning or advocating for or against a ballot proposition."

Utah Code § 20A-11-1202(2)

"'Ballot proposition' means constitutional amendments, initiatives, referenda, judicial retention questions, opinion questions, bond approvals, or other questions submitted to the voters for their approval or rejection."

F. Actions of Candidates

35. Can a candidate lawfully promise a City office or position to someone if the candidate wins the election?

No.

Utah Code § 20A-1-608

(1) In order to aid or promote his nomination or election, a person may not directly or indirectly appoint or promise to appoint any person or secure or promise to secure, or aid in securing the appointment, nomination, or election of any person to any public or private position or employment, or to any position of honor, trust, or emolument.

(2) Nothing contained in this section prevents:

(a) a candidate from stating publicly his preference for, or support of, any other candidate for any office to be voted for at the same primary or election; or

(b) a candidate for any office in which the person elected will be charged with the duty of participating in the election or nomination of any person as a candidate for any office from publicly stating or pledging his preference for, or support of, any person for that office or nomination.

Utah Code § 20A-1-601

(1) A person may not, directly or indirectly, by himself or through any other person:

* * *

(b) give, offer, or promise any office, place, or employment, or to promise or procure, or endeavor to procure, any office, place, or employment, to or for any voter, or to or for any other person, in order to:

(i) induce a voter to vote or refrain from voting at any election;

(ii) induce any voter to vote or refrain from voting at an election for any particular person or measure; or

(iii) obtain the political support or aid of any person;