

Taking Positions on Ballot Measures: School Bonds, Levies, Initiatives, and Referenda

Guidance for Councils and Local PTAs

A local PTA or council may take a position on a ballot measure, such as school levy or bond, a legislative bill, initiative, or a referendum.

Taking a position

- A formal position regarding a ballot measure can be taken by the board of directors or membership of a local PTA or council. It is the best practice to have important ballot measure decisions made by the members.
- The issue can be included on the agenda at a regularly scheduled meeting or a special meeting. To fulfill the legal requirement for meeting notice, ten days' notice of the meeting must be given to all PTA members/board members.
- An approved facility-use form must be completed for the local PTA or council meeting if the meeting is held on school property.
- The best practice is to make a motion to support or oppose the ballot measure, and to present both the "pro" and "con" positions on the issue under discussion to the body making the decision to support or oppose.
- For help finding supporting materials on ballot measures contact your council or region legislative chair, or the WSPTA legislative director ptalegdir@wastatepta.org.

Communicating a position

- Persuasive communication may not be sent through school district property. This includes "kid mail" (flyers sent home with students), electronic methods which use district email or websites, and flyers posted or circulated on school property.
- A PTA newsletter may contain a meeting summary which includes the position taken, if a meeting summary is customarily included in newsletters throughout the year.
- Local PTAs and councils may send persuasive information to members regarding the position taken, and supporting materials via U.S. postal mail, email (to personal email accounts, not school addresses), and through social media (Facebook, etc.).

Contributions to school district levy or bond issues

PTAs often contribute funds and volunteer support to school district levy or bond issues. The Washington State Public Disclosure Commission (PDC) regulates the amount of money that a levy or bond committee can receive as well as the committee's reporting requirements.

Expenditure coordinated with the levy/bond committee

If the PTA makes an expenditure on behalf of the committee that is coordinated with the committee (such as a monetary contribution), then the committee itself (not the PTA) reports to the PDC. The maximum size of any monetary contribution by a PTA depends on the reporting method selected by the committee. If the committee elects to use the abbreviated reporting method, then the maximum contribution a PTA can make is \$300, but the PTA should check with the committee to ensure correct reporting. If the committee elects to use the full reporting method, then the PDC does not limit the size of the contribution.

Expenditure not coordinated with the levy/bond committee

If the PTA makes an expenditure on behalf of the committee that is not coordinated with the committee (such as an independent mailing), and if that expenditure is less than \$100, there is no reporting requirement. If the expenditure is more than \$100, the **bond/levy campaign committee** is required to report the expenditure on PDC Form C-6 "Report of Independent Expenditure."

Political activities: IRS requirements

Federal law prohibits a 501(c)(3) organization from engaging in any activities in support of or in opposition to any candidate for public office. This prohibition is reflected in Article II of the *WSPTA Uniform Bylaws*, which states in paragraph B:

"WSPTA and its constituent organizations or members in their official capacities may not, directly or indirectly, participate or intervene in any political campaign on behalf of, or in opposition to, any candidate for public office."

This means that there can be no connection between your PTA and any political party or candidate for public office, including candidates for school board positions. However, this does **not** mean that you must refrain from all political activities or from carrying on efforts concerned with legislative issues or official actions that threaten the well-being of children and youth.

If you engage in lobbying, you must be very careful to observe the rules applicable to lobbying activities. In addition to federal prohibitions, state law prohibits the use of school facilities to support or oppose a ballot issue or election campaign.

State law also prohibits the use of school facilities by any group to distribute literature on behalf of ballot measures. This prohibition includes sending support/oppose information home with students or publishing such information in the PTA newsletter, if the newsletter is sent home with students.

Examples of prohibited activities

- Contributions to candidates for public office, including "in-kind" donations such as staff or volunteer time or use of facilities.
- Published or distributed statements in a political campaign.
- Endorsement of a candidate.
- Use of school facilities to produce materials that support or oppose a ballot measure, unless the district offers printing services on an equal access, nondiscriminatory basis to others.
- Printing or distributing materials promoting a ballot measure in the school newsletter.
- Use of a school or district sponsored event to promote or oppose a candidate or a ballot measure.

Examples of permitted activities

Local PTAs and councils may provide educational or nonpartisan information, even at school facilities, without violating state or federal law. For example, local PTAs and councils may:

- Comment on elected officials already in office (although an upcoming election could make such activity fall into the prohibited category).
- Sponsor a candidate forum to which all candidates have been invited and are given equal "air time" and which an impartial moderator runs.

- Distribute a candidate questionnaire if the questions are framed without bias and the responses are not accompanied by any commentary.
- Participate in voter registration and other “get out the vote” efforts so long as they are not directed towards assisting a candidate for public office.
- Hold meetings to determine your PTA’s support of or opposition to ballot issues or advocate its position to your members.
- Use school facilities for a meeting supporting or opposing a ballot measure to the extent that the facilities are made available on an equal access, nondiscriminatory basis, and it is part of the normal and regular activity of the district (however, you need to be certain that the school district truly has an equal access policy).
- Print and distribute a separate newsletter advocating support for a ballot measure so long as no district resources are used (such as kid mail, newsletters, websites, use of school copy machine or school supplies such as paper, etc.)
- Remind voters of upcoming election dates in the PTA newsletter or in the PTA’s portion of the school newsletter, if it is usual and customary for the PTA to include this type of information prior to all elections.

Use of the internet to communicate positions

Some school districts provide PTAs with email addresses and web pages. PTAs using technology provided by school districts must comply with all the same restrictions as the district when using the technology (for example, a PTA may not promote a levy on its district-sponsored web site or home page.)

What activities are considered lobbying?

- Advocating the adoption or rejection of specific legislation.
- Communicating with a legislator (or his or her staff) regarding specific legislation.
- Using the public to contact a legislator (or staff) with respect to specific legislation.
- Local PTA examples of lobbying activities/expenses: legislative assembly, Focus Day, legislative roundtables, candidate forums, bond/levy and initiative/referendum campaigns.

Activities that do not constitute lobbying:

- Publication of position papers on issues that do not address pending or proposed legislation.
- Communication to your members regarding pending legislation as long as you are not asking your members to engage in grassroots lobbying.
- Conducting, commissioning, and/or publishing nonpartisan analysis, study or research that has a demonstrated factual foundation and is presented in an independent and objective way.
- Responding to a legislator’s request for advice or assistance, even with respect to pending legislation.
- Communications that relate to pending legislation that might affect the existence, duties, or powers of your organization.
- Routine communications with legislators or governmental officials.

Lobbying activities by PTAs are not prohibited by law. However, the Internal Revenue Service limits lobbying activities of all 501(c)(3) organizations to “an insubstantial part” of its activities. Under current law, there are two ways in which a PTA can meet “insubstantial” tests of the Internal Revenue Code.

No Election

One way to meet the “insubstantial” test is to limit expenditures on lobbying activities to a small percentage of the organization’s overall expenditures. For example, it is generally

recognized that an organization that spends no more than 5% of its exempt purposes expenditures on lobbying is not engaged in lobbying to a substantial degree. Some experts take the position that larger percentages can be spent on lobbying without violating the “insubstantial” requirement of the law.

Each percentage point above 5% increases the possibility that the lobbying activities will be deemed substantial. Accordingly, the WSPTA recommends that if you are going to rely upon this test to satisfy the requirements of the Internal Revenue Code that you spend no more than 5% of your total exempt purposes expenditures on lobbying.

Section 501(h) Election

The second method for complying with the “insubstantial” requirement is to make what is called a Section 501(h) election. This is done by filling out and filing IRS Form 5768 “Election/Revocation of Election by an Eligible 501(c)(3) Organization to Make Expenditures to Influence Legislation.” This form is a very simple, single-page form which is filed with the Internal Revenue Service. If a 501(h) election is made, then a PTA may spend up to 20% of its first \$500,000 of its total exempt purpose expenditures (and lesser percentages of amounts above \$500,000) in lobbying activities.

Because this “safe harbor” election provides PTAs with absolute certainty as to the amount that can be spent on lobbying activities, the WSPTA recommends that all 501(c)(3) PTAs make this election. The election must be filed with the Internal Revenue Service prior to the end of the fiscal year (June 30) in which you wish to claim the election, and once filed does not need to be filed for future tax years. If for any reason you wish to discontinue the election, you can revoke it any time and once revoked it can be reinstated.

Frequently asked questions

Does a local PTA need to take the same position as the Washington State PTA?

No. As individual 501 (c)(3) or (c)(4) organizations, each local PTA and council may take their own position on any public policy issue. Each local PTA or council may be impacted differently by the issue, and therefore can decide based on what is best for their community.

Do members need to vote on an issue? How does a PTA call a special membership meeting?

While the board of directors may take a stand on an issue, they are accountable to the membership; therefore, it is recommended that issues go to members for a vote whenever possible. Ten days’ notice must be delivered to the members and the notice must include the agenda of the meeting.

What if the board of directors does not want to take a position?

The board of directors may place the item on the agenda of a membership meeting as a “discussion” item. Information can be presented (pro and con), and members may discuss the item. If a member then makes a motion to support or oppose, the motion is handled like any other motion.

What positions can a local PTA take?

A local PTA or council may support, oppose, or choose to take no position.

What if a member brings an issue up at a membership meeting?

If a member makes a motion regarding an issue, the motion would be handled like any

other motion. There would be a second, discussion, and vote.

What if a member brings a petition to a meeting?

If a member brings a petition to a meeting, the members may choose how to handle the petition. The president or meeting chair can ask if anyone objects to the petition. If most members object, the petition must be put away. The president or meeting chair can ask if the members wish to discuss the petition. If so, the president can ask if they wish to do so at this meeting, or at a future meeting (to allow time to gather and present information.)

What if the board of directors takes a position without asking members?

The board of directors is accountable to the membership. If a member objects to a position taken by the board of directors, they may request that the item be placed on the agenda for a membership meeting.

What information can a local PTA send home via “kid mail?”

There are strict guidelines as to what can be sent home via kid mail, and the principal has the final say regarding what can be included in kid mail.

- An agenda (which includes action or discussion items on policy issues) can be sent out prior to the membership meeting.
- Information that encourages civic duty may be sent to members (i.e. encouraging voter participation, etc.)
- Notice of the position taken by the PTA as part of a meeting summary may be sent to members, if this is standard practice for all meetings.

What can a local PTA or council do after taking a position?

- Send out information regarding its position to members via U.S. postal mail or e-mail (provided it does not utilize school district email).
- Post information on its website **provided** that the school or district does not maintain the site.
- Send out a press release.
- Contribute funds to a campaign (see below).
- Gather to lobby or campaign for an issue. Some examples include phone banking, sign waving, signature gathering, etc.

Can a PTA contribute funds to a bond/levy or initiative/referendum campaign?

Yes. If the members wish to do so, a local PTA or council may contribute monetarily to a campaign within the following guidelines:

- The funds may not constitute a substantial portion of the PTA budget – the general rule is that total yearly funds spent on lobbying activities may not exceed 3-5% of the total yearly PTA expenditures, unless the PTA has filed a 501(h) election with the IRS.
- There is a line item in the budget for such activities. Many PTAs have a small line item to cover donations.
- If a line item exists, the board of directors and/or membership may vote to allocate funds from the budget.
- If there are not enough funds in the line item, the board of directors or membership may vote to reallocate funds according the standing rules of the local PTA or council.
- Members may vote to allocate funds to a campaign.
- If there is no line item in the budget, the members must vote to place the line item in the budget and allocate funds for that line item at a membership meeting.