



ATPE Opposition to SB 1569

Regarding school district employees' communications

April 1, 2019

The **Association of Texas Professional Educators (ATPE)** appreciates this opportunity to offer written input in opposition to Senate Bill (SB) 1569 by Sen. Pat Fallon.

ATPE wholeheartedly agrees with Sen. Fallon that employees or elected leaders of a political subdivision should not use public resources to engage in electioneering, which is already tightly defined in Texas law. First, under Chapter 11, Texas Education Code, electioneering is defined as advocating for or against a candidate, political party, or ballot measure. This mirrors language also found in Chapter 251, Texas Election Code, which defines political advertising using the same criteria. Precisely because of its lack of ambiguity, this three-pronged test has long been the legal standard used to determine whether a communication is of a political nature. For example: A communication created on school district time or using school district money in support of Proposition X or Candidate Y clearly constitutes electioneering and an unlawful use of public resources.

As filed, SB 1569 would introduce two new and wholly subjective criteria for prohibited electioneering to include activity that advocates for or against “a political philosophy” or “a matter of public interest.” Neither term is defined in statute, and each phrase is subject to widely varying interpretation. For example, extolling the virtues of American democracy and our free enterprise system could be considered advocating for a “political philosophy” under this statute – despite the fact that both are required elements of Texas public schools’ curriculum under Chapter 28, Texas Education Code. Likewise, a sign on a school bulletin board promoting a food drive for Hurricane Harvey victims could easily be construed as advocating for “a matter of public interest.” Surely it is not the Texas Legislature’s intent to outlaw teaching American exceptionalism or encouraging community engagement.

Perhaps even more troubling, SB 1569 would expand the definition of “political advertising” in Chapter 251, Texas Election Code, to include any political communication “directed to an individual person or multiple persons *through any form of communication* (emphasis added).” This broad statutory construction could treat private conversations between co-workers as political advertising and **subject to criminal penalties** under Chapter 255. Section 4 of SB 1569 would also criminalize the provision of neutral information by prohibiting a political subdivision from factually describing the purpose of a measure if the communication does not advocate for its passage or defeat.

Public resources clearly should not be used for electioneering, but such activity is already expressly prohibited in statute. SB 1569 would impose a separate set of restrictions on the speech of public school employees that is far more expansive than restrictions imposed upon any other category of public employees. ATPE believes expanding current law to broadly restrict the speech of educators as proposed by SB 1569 is unnecessary, discriminatory, and raises serious concerns about potential violations of the First Amendment.

SB 1569 threatens to overshadow the good work this body has done this session to show appreciation for Texas’ educators. We urge you to vote **NO** on SB 1569. For additional information, contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org.

The Association of Texas Professional Educators (ATPE) has been a strong voice for Texas educators since 1980. It is the leading educators’ association in Texas with 100,000 members statewide. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for 5 million public schoolchildren. ATPE is the ally and the voice of Texas public school educators.