



ATPE Input to State Affairs Committee

Regarding Election Security

May 29, 2024

The **Association of Texas Professional Educators (ATPE)** appreciates this opportunity to offer written input to the Senate Committee on State Affairs concerning the election security interim charge. The charge requests the committee to “evaluate current laws that prohibit political subdivisions and public school districts from using government resources for illegal electioneering” and to “make recommendations to strengthen these laws and put a stop to illegal electioneering.”

ATPE agrees that public resources should not be used to engage in electioneering. To be effective and constitutional, the statutes and rules implementing such a prohibition must remain clear and unambiguous:

- Section 11.169, Texas Education Code, states that “the board of trustees of an independent school district may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party.”
- Section 255.003, Texas Election Code, states that “an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.”
- Chapter 251 defines political advertising as a communication advocating for or against a candidate, political party, or ballot measure. This definition includes broadcast, print, and internet communications.
- Section 255.0031 clarifies that this prohibition applies to internal mail systems.
- A violation of this type is a Class A misdemeanor, which is a criminal offense punishable by up to one year in jail, a fine of up to \$4,000, or both.
- Chapter 273 grants subpoena power and authorizes the attorney general to prosecute election law violations.

Past attempts to expand “electioneering” definitions have attempted to introduce subjective criteria, such as discussing a “political philosophy” or “matter of public interest.” Such expansions would have criminalized the teaching of citizenship and American exceptionalism as required by the Texas Essential Knowledge and Skills (TEKS) curriculum standards.

Any changes to current law must consider how educators are to faithfully implement state curriculum standards without fear of prosecution, as well as be clearly and narrowly tailored to avoid trampling on individual First Amendment liberties while also safeguarding against misuse of public resources.

With regard to reigning in wasteful uses of public resources, we also urge the committee to address the increasing number of frivolous lawsuits attempting to weaponize the justice system to cast doubt on people’s liberty to exercise their constitutionally protected right to speak freely as citizens, outside of prohibited electioneering. Such examples of “lawfare” cost taxpayer money and threaten to undermine trust in the electoral process. **Efforts to preserve election integrity must include tort reform.**

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 largest educator association in Texas and one of the largest independent, nonunion educator associations in the United States. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for more than 5 million public schoolchildren.