

Student Body Association Support Ballot Measures FAQs

Introduction

Because your student body association (SBA) may consider supporting some propositions affecting your students, questions may come up regarding the scope of permissible advocacy activities of SBA student officers and other student members. The following FAQs and helpful advice can help your SBA navigate the legal concerns regarding propositions advocacy.

Disclaimer: The opinions contained within this document do not and are not intended to constitute legal advice, and are provided for general information purposes only. Should you have further questions regarding the scope of your SBA's participation in political activities, whether a specific course of action is authorized by law, or to ensure your SBA's activities do not violate any policies of the district, consult your district's legal counsel with the help of your advisor.

Additionally, please reach out to vpla@studentsenateccc.org for any questions you have regarding this document.

While we encourage you to be as politically active as you can be, inside and outside your SBA, we do not want you to engage in any potentially illegal political activities. In fact, we strongly urge you to only pass a resolution and engage in any other proposition advocacy *outside* of your SBA.

Are Propositions Ballot Measures?

Yes. Propositions are simply titles for measures that appear on the ballot. Propositions are added to the ballot through legislation or by the petitions of Californians. Propositions are assigned numbers by the California Secretary of State.

Is it Legal for SBAs to Support Propositions?

Yes, though restrictions apply as a result of California laws regulating the participation of public entities in electoral contests.

Specifically, California Education Code §§ 7050 et seq. imposes strict limitations on the use of district and SBA resources for ballot and bond measures.

- 1) Section 7054 (a) states:

“No [...] community college district funds, services, supplies or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate...”

In other words, SBA, college, or district resources cannot be used to support or defeat any candidate or ballot measure.

- 2) **However**, Section 7054 (b) allows SBA resources to be used to provide information to the public about the possible effects of a ballot measure, provided that: the “information provided constitutes a **fair and impartial presentation of relevant facts** to aid the electorate in reaching an informed judgment regarding the [...] ballot measure;”

In summary, SBA resources cannot be used to advocate for a measure, whether through express advocacy or implicit/suggestive advocacy. However, SBA resources can be used to inform the students about the measure, including its potential benefits and consequences. Students can participate more directly in proposition advocacy, but it must be done on their own time and without the resources of their SBA.

What Does SBA Resources Mean?

SBA resources include any equipment, funds, or supplies owned by the SBA, college or district, or the time of any employees, officers, or student members of the SBA, college or district in an official capacity. This includes items such as: office phone, fax, email, paper, pens, paint, posters, SBA-owned cell phones, radios, vehicles, printers, copiers, scanners, and student time.

This list is not exhaustive and may include other resources involving the expenditure of your SBA’s funds. For specific inquiries, check with your advisor or your district’s general counsel.

If my SBA Wants to Provide Information to Students about Propositions, What Type of Information May We Disseminate?

The law authorizes SBAs to supply informational materials to students regarding a ballot measure. However, any information disseminated to students must give a **fair and balanced presentation of the facts**.

What does this mean?

- 1) Full disclosure of all relevant facts needed to aid the public in making an informed judgment regarding the initiative or measure.

- 2) The materials should identify the consequences, both good and bad, of the initiative.
 - a) For example, the material should include the anticipated improvement in educational opportunities if the initiative were to pass, as well as the increased tax rate and other less desirable consequences that may occur.
- 3) SBAs should take extra care to ensure that the language used to convey this information is not inflammatory, argumentative, persuasive, and does not give the impression that the SBA is trying to influence or urge anyone to vote “yes” or “no”.
- 4) Instead, the materials should be neutral in tone, balanced, and provide objective facts to inform the students about the particular initiative or ballot measure.

Permissible information includes:

- 1) Providing the “pros” and “cons” regarding a ballot measure on a “fact sheet” or similar document that fairly and adequately describes both sides of the matter.
- 2) Distributing materials to announce public forums in which all candidates or sides of an issue are invited to appear.
- 3) Making sure literature from both sides of a ballot measure are equally available and displayed at any event.
- 4) Ensuring the presence of an opposition speaker at any forum or discussion of an issue or measure.

Please note that there is no hard and fast rule regarding what is “informational” material as opposed to material that advocates for a position or a side. This is a fact-specific determination so please ensure great care and attention to detail is used in the development of any materials even mentioning propositions.

The following are good indicators that your material is appropriate:

- 1) It does not tend to sway the reader to take a “side” or direct them how to vote.
- 2) It is informative, objective, and factual.
- 3) It doesn’t specifically target the voting population.
- 4) It was not released outside normal channels of communication or specifically for the purpose of encouraging anyone to vote for the measure.
- 5) It does not include words such as “vote for”, “vote against”, “cast your ballot”, “support”, “reject”, “sign petitions for”, or “defeat.” Use of these words could give a strong impression that your SBA is trying to sway someone to vote in a particular way.

Can my SBA Pass a Resolution in Support of a Proposition?

Yes! Your SBA can pass as resolution provided that the following conditions are met:

- 1) The resolution states the SBA's position without emphasizing that members of the public cast a "yes" or "no" vote and that no resources or funds are spent in connection with the SBA's action.
- 2) The language used in the resolution should be "simple, measured, and informative." It should not be inflammatory, persuasive, or urge community members to adopt a position in support of or in opposition to the initiative.
- 3) The adoption of the resolution should occur during a regularly-scheduled open meeting and the public should be afforded the opportunity to express its views and address the SBA prior to any action being taken.

Remember: Courts have recognized that public agencies such as an SBA will inevitably "take sides" on a ballot measure. However, the mere fact that a SBA, college, or district has an opinion or position regarding the merits of a ballot measure is not, by itself, improper. What is improper is the SBA, college, or district using public funds or resources to mount a campaign on the measure or initiative.

Are There Restrictions on How an SBA May Communicate its Adoption of a Resolution Related to a Ballot Measure?

Yes. The SBA may report their position in a communication so long as it is part of a regular summary of actions taken at a SBA meeting (e.g. posting meeting minutes or agendas) and is not irregular.

- 1) Any communication should be informational in nature and should be communicated in a manner consistent with the SBA's regular practice, whether that is by email, newsletter, or another format. Also, any expenditure used for publication should be consistent with those regularly incurred by the SBA.
- 2) SBAs should be cautious not to print and distribute special publications (e.g., a mailer or special email to anyone with a copy of the resolution) or events or any activities solely for the purpose of announcing the SBA's position on a ballot measure because this could give the appearance that the purpose of the publication or press conference was primarily to influence the voters.

Can SBA Officers and Student Members Actively Support or Oppose a Ballot Measure in their Private (individual) Capacities?

Yes. We strongly encourage it. SBA officers and student members may participate in outside campaign activities and other political affairs as private citizens so long as the activities do not involve the use of SBA funds or resources and participation does not occur during SBA operating hours.

This means that SBA officers and students members, in their private capacities, can do the following:

- 1) Attend rallies, meetings, and other political or campaign-related events that expressly advocate a position for or against a particular measure.
- 2) Urge community members, family and friends to vote “yes” or “no” on a particular initiative.
- 3) Solicit or receive political contributions to promote the passage of a ballot measure.

Caution: SBA officers and student members should make it known that their views are not intended to be representative of the SBA. Rather, it should be clear that they are speaking and acting on their own behalves and are doing so on their own time and at their own private expense.

While acting in an individual capacity and expressing support for or opposition of a ballot measure, SBA officers and student members should avoid using their SBA titles or positions. SBA officers and student members should make it clear that any communications made in his or her individual capacity are not attributable to the SBA.

Can SBA Officers and Student Members Be Held Personally Liable for Authorizing an Improper Campaign Expenditure?

Yes. This is why it is important to pass a resolution and engage in no other advocacy activities for ballot measures in order to limit liability to your SBA and its members. It may be hard for your SBA to determine the legality of informational materials, so we advise against it.

Once my SBA has Passed a Resolution What Can We Do Next?

Please use the other advocacy materials and tools we have provided to engage in proposition advocacy outside your SBA and on your own time without SBA resources.

Conclusion

SBA resources may not be used in any circumstances to urge the support or defeat of any ballot measure, either explicitly or implicitly. However, SBA resources may be used under limited circumstances to provide fair and impartial information on the effects of a ballot measure where the intended purpose is to aid the public in making its own informed decision on the measure. However this practice is not recommended by the SSCCC due to the difficulty in establishing the requirements for permissible materials, and the potential for personal liability associated with distributing impermissible informational materials.

Instead, we encourage SBAs to pass a resolution stating their position on a ballot measure in accordance with their regular resolution process, provided that this resolution is only a statement of position and does not provide for specific action.

Feel free to actively campaign or support a ballot measure in your individual capacities. However, you must make it clear that your efforts are outside your SBA and are not intended to represent the views of your SBA.

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