



# CITY OF ATLANTA

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68 MITCHELL STREET SW, SUITE 3180  
ATLANTA, GEORGIA 30303-0312  
(404) 330-6286  
FAX: (404) 658-7720

**ETHICS OFFICE**  
Ginny Looney  
City Ethics Officer  
[glooney@atlantaga.gov](mailto:glooney@atlantaga.gov)

## **Formal Advisory Opinion 2005-7 Use of City Property by Candidates for City Office**

### **Opinion Summary**

City elected officials and city employees generally may not use city property to promote any candidate for political office. There are exceptions to this general prohibition when the property is made available for use by all candidates or the general public or the use is de minimis.

### **Question Presented**

What restrictions does the Code of Ethics place on the use of city property by city elected officials and city employees staff during an election campaign?

### **Facts**

During campaigns for municipal office in 2005, the Ethics Office has received several questions on the use of city property to promote the candidacies of city officials or individuals running for city office. The Ethics Officer has asked the Board of Ethics to address these issues to provide guidance on the circumstances under which city property may be used during a political campaign.

### **Discussion**

The City's Code of Ethics does not directly address campaigns for an elective office. The only reference in the ethics code to political campaigns is in the list of exceptions to the definition of prohibited gratuities. The second exception states that campaign or political contributions made and reported in compliance with state law are not a prohibited "gratuity." See Atlanta, Ga., Code of Ordinances § 2-801 (2). The State Ethics in Government Act regulates campaign contributions for municipal office, see OCGA § 21-5-1 to § 21-5-73, and other provisions in the City's Charter and Code of Ordinances place certain restrictions on city officials and employees who become candidates for elective office. See, e.g., Atlanta, Ga., Code of Ordinances § 114-2 (employees must resign from city job if they file as candidate for mayor, council

president, or member of council); § 98-46 (candidates may not publicly address police employees at police facilities); § 6-3019 (NPU meetings shall not be used for political forums or campaigning for city, county, state, or federal elections).

The primary provision in the Code of Ethics affecting political campaigns prohibits the use of city property for personal use or private gain. Section 2-811 states:

No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor or service for the private advantage of such official or employee or any other person or private entity. However, no official or employee is prohibited from requesting, using or permitting the use of any city-owned or city-supported property, vehicle, equipment, material, labor or service which as a matter of city policy is made available to the public at large or which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official city business.

The Board of Ethics has interpreted this provision as permitting city officials and employees to use city facilities without charge when they are acting in an official capacity and performing official duties on behalf of the city, but not when an event is done solely for the personal benefit of an individual official or employee, such as a political campaign activity, a private business transaction, or an event sponsored by a private or non-city group. See FAO2004-1 (defining “official city business”). The board’s reference to political campaigns has invoked several follow-up questions concerning the use of city property during campaigns.

### **Guidelines**

To assist candidates and employees, the Board establishes the following guidelines for use of city property by city officials and employees:

#### **City website**

- No city official or employee may use the City of Atlanta’s website to solicit campaign contributions, seek volunteers, advertise a campaign, or provide a link to any campaign website
- Candidates are not prohibited from placing a link at their campaign website to the City’s website

#### **City e-mail addresses**

- No official, candidate, or employee should use the city’s email directory and city email addresses to solicit political support
- The State Ethics Commission has ruled that city email addresses may not be used for the electronic filing of campaign contribution disclosure reports

#### **City facilities**

- A candidate may use a city facility during a campaign if the property is a public forum open to all members of the general public, such as the steps of City Hall

- City facilities may be used for political forums when the forum is open to all candidates in a specific race and the general public is invited to attend the event
- City officials may not campaign or distribute campaign literature in a city building unless, as a matter of city policy, the public at large is permitted to engage in similar activity

#### **City equipment, vehicles, and staff**

- City officials and employees may not use city computers, telephones, vehicles, copiers, or staff to promote a candidacy of any individual running for city, county, state, or federal elective office
- City police officers may not drive an elected official out-of-town as part of a statewide get-out-the vote campaign unless the measure is necessary for the personal security of the official and the City is reimbursed for the expense
- A city employee who works for an elected official may refer individuals who call or write about the official's campaign to the candidate's campaign committee or staff

#### **City funds**

- A councilmember may not use photographs paid for by city funds in campaign literature unless the photographs are available for use or purchase by any member of the public
- A councilmember may not hand out a city-funded newsletter during a campaign event or while soliciting votes during an election year after filing as a candidate for municipal office

Adopted November 17, 2005

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