

**CITY OF SAN DIEGO  
ETHICS COMMISSION**

**Office of the Executive Director**

**MEMORANDUM**

**DATE:** April 5, 2013

**TO:** Chair and Members of the San Diego Ethics Commission

**FROM:** Stacey Fulhorst, Executive Director

**SUBJECT:** Use of City Resources for Campaign Activities (Social Media)  
Docketed for Ethics Commission meeting on April 11, 2013

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As you know, the City's Ethics Ordinance prohibits City Officials from using City resources for activities associated with a campaign for elective City office. SDMC §27.3564(b). During the course of the 2012 election cycle, the Commission staff was asked about the use of computers and smart phones by City Officials to access social media accounts that contain campaign-related content. (A brief description of the most popular social media sites is attached.) The Commission staff would like to incorporate guidance in this area into educational materials for the 2014 election cycle and would therefore like to obtain the Commission's concurrence with the proposed guidelines set forth below.

In formulating guidance concerning the use of City resources and social media, staff considered the following factors:

- City Charter section 31 prohibits all City employees from participating in campaign-related activities in the workplace or on City time. (See attached email from the City's Human Resources Director dated August 1, 2011).
- Commission staff disseminated a memo regarding the use of City resources for campaign-related activities in September of 2011 (see attached) and advised City employees that the prohibition in the Ethics Ordinance applies to the following (if used to communicate regarding a campaign-related issue): the use of City telephones<sup>1</sup>, City

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<sup>1</sup> In February of 2013, the City implemented a new policy whereby City employees may elect to receive a monthly stipend for using their personal cell phones for City business in lieu of receiving a City-issued cell phone. Staff will therefore advise City Officials that the prohibition concerning the use of City telephones for campaign-related activities applies to their personal cell phones if they are receiving the monthly City stipend.

computers, and City Outlook email accounts; the use of intangible resources such as wired or wireless internet access even if using personal computer equipment (except when such access is intended for public use, such as in a library); and the use of City time<sup>2</sup> to communicate via telephone, email, or social media.

- Each Council office maintains a website hosted by the City that includes links to the Councilmember's Facebook and/or Twitter account, inviting constituents to "follow" them. In addition, Council office websites routinely include links to official newsletters and press releases, which may in turn include links to social media accounts.
- Commission staff has advised elected officials that they may not include links to their campaign websites on their Council office websites or in any materials generated with City resources (including staff time).
- In order to comply with the Ethics Ordinance, elected officials typically implement procedures to refer constituents with campaign-related inquiries to their campaign staffs. In other words, if someone calls or emails a Council office and asks about making a campaign contribution or attending a campaign event, the Council office staffer will respond by providing a telephone number or email address for the campaign.

In light of the foregoing, and in order to strike a reasonable balance between the need for elected officials to communicate with constituents via social media and the City's interest in prohibiting the use of City resources for campaign purposes, the Commission staff suggests incorporating the following guidelines into the appropriate educational materials:

- Any social media account maintained by City staff or linked directly from a City website may not include campaign-related material, including campaign-related material posted by other users. In other words, City Officials must routinely monitor any social media accounts that utilize City staff time or are directly linked to from a City website in order to promptly remove campaign-related messages, photographs, etc., posted by others.
- City Officials may re-designate their social media accounts, changing the focus from City business to campaign advocacy. As long as the account (in whole or in part) is used for campaign-related purposes, however, no City resources may be used to maintain the account, and any links to the account from a City website must be removed. (City Officials need not take any action with regard to links to the account that appeared in prior City newsletters and press releases.)

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<sup>2</sup> Commission staff has previously advised City Officials that "City time" is not tied to a standard nine-to-five schedule. Thus, a City Official spending an hour in the middle of a workday on campaign activities is not violating the Ethics Ordinance if he or she is otherwise giving forty hours of work per week to the City. Note that the Mayor and/or the City Council may adopt policies that are more stringent than the provisions in the Ethics Ordinance.

- Notwithstanding the above, City Officials may include a link to their campaign websites within the contact information for the account holder on social media accounts, even if City resources are used to maintain and/or link to these accounts. They may also establish separate social media accounts for campaign purposes, and link to these accounts in the contact information included on social media accounts used for City business. These second-tier links are analogous to using a minimal amount of City staff time to provide campaign contact information to people who call or email about a campaign-related matter. Note that this allowance for second-tier links would not permit a City Official to use City resources to disseminate a message via Facebook or Twitter that encourages others to access a link to campaign materials.

Essentially, City Officials would have the option of either closely monitoring social media accounts that utilize City resources in order to remove campaign material, or allowing campaign material on their sites and eliminating the use of City resources to maintain and/or link to these accounts.

Note that Commission staff believes the proposed guidelines are consistent with the current language in the Ethics Ordinance such that no amendments to the Municipal Code are necessary. Also note that staff distributed this memo to the Commission's "interested persons" email lists and encouraged feedback and participation. The staff may modify its recommendations after receiving input from the public and/or after experience with these guidelines provides more information.

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Stacey Fulhorst  
Executive Director

#### Attachments

- 1) Summary of Social Media Sites
- 2) Memo from Scott Chadwick dated August 1, 2011
- 3) Memo from Stacey Fulhorst dated September 7, 2011

## Summary of Social Media Sites

**Facebook** is a social networking service. Users must register before using the site, after which they may create a personal profile, add other users as friends, and exchange messages. Users can communicate with friends and other users through private or public messages and a chat feature. They can also create and join interest groups and "like pages." Facebook enables users to choose their own privacy settings and choose who can see specific parts of their profile. Users can control who sees other information they have shared, as well as who can find them in searches, through their privacy settings. Users may also include a "follow" button on their page, which allows users to follow public postings by the user without needing to add them as a friend.

**Twitter** is an online social networking service and microblogging service that enables its users to send and read text-based messages of up to 140 characters, known as "tweets." Unregistered users can read tweets, while registered users can post tweets through the website interface or a range of applications for mobile devices. Tweets are publicly visible by default, but senders can restrict message delivery to just their followers. In addition, users have the capability to block those who have followed them. Users can also group posts together by topic or type with the use of hashtags – words or phrases prefixed with a "#" sign.

**YouTube** is a video-sharing website on which users can upload, view, and share videos including movie clips, TV clips, and music videos, as well as amateur content such as video blogging, short original videos, and educational videos. Unregistered users can watch videos, while registered users can upload an unlimited number of videos. All YouTube users can upload videos up to 15 minutes each in duration. YouTube videos can be embedded in on Internet websites, including social networking pages and blogs.

The three sites identified above are the most popular social media sites. There are, however, many other such sites, including LinkedIn, Pinterest, MySpace, Google+, LiveJournal, Ning, and myLife. In general, these sites bring together people from all over the world to engage in Internet-based social interaction on any number of subjects or interests. Membership is typically free, and there are no fees charged to post messages, photographs, or videos.



THE CITY OF SAN DIEGO

MEMORANDUM

DATE: August 1, 2011

TO: All Unclassified Unrepresented and Classified Unrepresented Employees

FROM: Scott Chadwick, Human Resources Director

SUBJECT: **POLITICAL ACTIVITIES IN THE WORKPLACE POLICY**

As a reminder, all City employees are prohibited from participating in political or campaign-related activities in the workplace, while on duty or on City time, or while in City uniform. All City employees are also prohibited from using City resources to engage in political or campaign-related activities. This directive is intended to be consistent with provisions of the San Diego Charter and the San Diego Municipal Code. This directive is not intended to infringe upon employees' rights to freedom of expression or association, and is not intended to prohibit employees from being active in political campaigns.

San Diego Charter section 31 provides, in part:

No officer or employee of the City, except elected officers and unsalaried members of commissions, shall during regular hours of employment take an active part opposing or supporting any candidates in any City of San Diego political campaign or make contributions thereto in behalf of any candidates, nor shall such person seek signatures to any petition seeking to advance the candidacy of any person for any municipal office. Nothing in this section shall be construed to prevent any officer or employee, whether Classified or Unclassified, from seeking election or appointment to public office or from being active in State or Federal political campaigns, in any bond issue campaign including municipal bond issues, or from being active in local political campaigns.

San Diego Charter section 135 provides that employees in the administrative service of the City cannot use their positions "to influence or coerce the political action of any person or body, or to interfere with any nomination or election to public office."

San Diego Municipal Code section 27.3564(b) makes it unlawful "for any *City Official* [as defined by San Diego Municipal Code section 27.3503] to engage in campaign-related activities, such as fund-raising, the development of electronic or written materials, or research, for a campaign for any elective office using *City* facilities, equipment, supplies, or other *City* resources." San Diego

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All Unclassified Unrepresented and Classified Unrepresented Employees  
August 1, 2011

Municipal Code section 27.3571 prohibits the solicitation of political campaign contributions in certain circumstances.

For guidance on public employees' participation in the political process, employees may refer to a publication titled, "Political Activity, Public Funds, and City Employees," available from the City Clerk's Office on the City Intranet at <http://citynet.sannet.gov/cityclerk/index.shtml>

*If an unclassified unrepresented or classified unrepresented employee wants to participate in political activities scheduled during the employee's work hours, the employee MUST submit a leave slip and use annual leave, which may be used in increments of less than eight hours. This directive is an exception to the rule set forth in Personnel Regulation H-4(J), which provides that certain salaried exempt employees under the Fair Labor Standards Act will be paid for all absences of less than a day and no deduction from leave credits will be made to recover the cost of the absence. It is mandated by the prohibition on using City time or resources to engage in political or campaign-related activities.*

Violations of this directive may result in discipline, up to and including termination.

Should you have questions regarding this memo, please contact me directly at 619.236.5587.

SCOTT CHADWICK  
HUMAN RESOURCES DIRECTOR

cc:

City Council

Julie Dubick, Chief of Staff

Aimee Faucett, Deputy Chief of Staff

Jan Goldsmith, City Attorney

Jay M. Goldstone, Chief Operating Officer

Wally Hill, Assistant Chief Operating Officer

Hadi Dehghani, Personnel Director

Stacey Fulhorst, Executive Director, Ethics Commission

Ken Whitfield, Comptroller

**CITY OF SAN DIEGO  
ETHICS COMMISSION**

**Office of the Executive Director**

**M E M O R A N D U M**

**DATE:** September 7, 2011

**TO:** Elected City Officials and Unclassified City Employees

**FROM:** Stacey Fulhorst, Executive Director

**SUBJECT:** Prohibited Uses of City Resources for Campaign-Related Activities

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As the 2012 election cycle approaches, it is important to remember that the City's Ethics Ordinance prohibits City Officials from using City resources for activities associated with a campaign for elective City office. This prohibition applies to all types of City resources, including City equipment, supplies, facilities, and personnel. The guidelines set forth below contain details regarding the scope of this prohibition. Note that this memorandum pertains only to City candidate elections; please consult the City Attorney's Office for guidance relating to the use of City resources for activities associated with ballot measure elections.

For purposes of this memo, the term "City Official" includes elected officials and their staffs, unclassified employees of the City, and employees of City agencies required to file Statements of Economic Interests. Campaign-related activities include any type of activity that is intended to support or oppose a candidate's election to office. Such activities include communications associated with campaign fundraising and campaign strategy, as well as those comprised of advocacy for or against a City candidate. They also include communications that suggest a candidate is qualified to hold office (even if the communication does not mention an election). On the other hand, campaign-related activities do not include communications concerning City business, even if certain aspects of City business are also issues in a campaign.

City Equipment and Supplies

Although it is probably apparent that City Officials are prohibited from using City computers and office supplies to develop campaign literature, other uses of City equipment and supplies may not be as evident. For example, City Officials may not use City telephones, City computers, or City Outlook e-mail accounts to communicate regarding issues associated with a candidate's campaign. Instead, City Officials who engage in campaign-related communications must use telephones, computers, and e-mail accounts that they own personally or are provided by the campaign. This is required even when a City Official is responding to an inquiry; the official

should immediately direct the caller or person initiating the contact to a campaign telephone number or campaign e-mail account.

In addition to tangible City equipment and supplies, City Officials may not use the City's intangible resources, including electricity, wired internet access, and wireless internet access, for campaign-related purposes. For example, a City Official may not use the City's network to connect to the internet for campaign purposes, even if the official is using his or her own computer. An exception exists for City resources that are equally available to all members of the public. For example, a City Official may use a public library's computer or internet access for campaign-related research or communications.

Other intangible items that may not be used for campaign-related purposes include e-mail lists that have been generated with City resources and Twitter accounts accessed with City resources or on City time. For example, if a Council District website invites constituents to join an e-mail list, that e-mail list may not be exported or otherwise appropriated for campaign-related purposes. Similarly, City equipment and City staff time may not be used to communicate via Twitter on issues related to a campaign.

#### City Facilities

City Officials may not use City office space for campaign-related activities. This prohibition does not apply, however, to the use of a City facility that is equally available to all candidates (such as a park or recreation center) provided that the City Official does not use the power or authority of his or her position to obtain special access to the facility.

#### City Time

The prohibition against using City resources for campaign-related purposes does not apply to the time spent by the candidate personally. In other words, a current elected official running for re-election may participate in campaign-related activities at any time, including during normal working hours, without submitting a leave slip. Although the City's elected officials are expected to spend a substantial amount of their time working on City matters, they are ultimately answerable to their constituents with respect to the time they spend on campaign-related activities.

All other City Officials are, however, prohibited from engaging in campaign activities while on City time. If City Officials want to work on a campaign for elective City office during regular business hours, they must submit a leave slip and use annual leave for the time spent on those campaign-related activities. A time and attendance type "1004 - A/L Political Activity" has been set up for unclassified (and classified unrepresented) City employees to use for leave time associated with campaign activities. As explained in Human Resources Director Scott Chadwick's August 1, 2011, memorandum, this mandate is an exception to the standard rule that unclassified employees need not submit a leave slip when working less than an eight hour day. If, for example, a Council staffer chooses to attend a campaign rally at 2:00 p.m. on a workday, he or she must submit a leave slip for the time spent at the rally. It is not sufficient for the staffer

to "make up" the time in the evening or on another day. (Note that a leave slip would not be required if the Council staffer attended the rally solely on his or her lunch hour.)

It is important to remember that the prohibition against using City time for campaign-related activities applies even if a City Official is using personal equipment. For example, a City Official may not engage in telephone conversations, tweet messages, or exchange e-mails regarding a campaign-related issue during regular working hours, even if the City Official is using his or her own computer or telephone for such communications (unless the City Official uses leave time for such activities). For purposes of these prohibitions, regular working hours consist of the eight hours per day that are customarily worked by the official on a typical weekday.

It is also important to keep in mind that the Ethics Ordinance does not in any way impair the ability of a City Official to spend personal time supporting a City candidate. City Officials may volunteer their personal time to support a candidate's campaign and may publicly advocate for a candidate, as long as all such activities take place without the use of City resources. In addition, City Officials may make contributions to City candidates, although City Officials and candidates are prohibited from knowingly soliciting contributions from City employees.

Although the restrictions discussed above may limit the flexibility of City Officials who are frequently expected to work more than 40 hours in a week, please remember the importance of the underlying public policy, which is to assure the public that their tax dollars are not being used for campaign-related purposes.

If you have any questions, please contact me or Steve Ross at your convenience at (619) 533-3476.

Sincerely,

Stacey Fulhorst  
Executive Director

cc: Frank Alessi, Executive Vice President, Centre City Development Corporation  
Carol Wallace, President & CEO, San Diego Convention Center Corporation  
Richard Gentry, President & CEO, San Diego Housing Commission  
Don Del Rio, General Counsel, San Diego Data Processing Corporation  
Jerry Groomes, President, Southeastern Economic Development Corporation