

## **PTA -- Taking Positions on Ballot Measures: School Bonds, Levies, Initiatives and Referenda**

### **Guidance for Local Unit and Council PTAs**

A local unit PTA or a PTA Council may take a stand on a ballot measure (such as a school levy or bond), a legislative bill, initiative, or a referendum. The following information is provided to assist in this process.

#### Taking the Position

- A formal position regarding a ballot measure can be taken by the general membership of a local unit PTA or PTA Council or the executive board. It is best practice to have important ballot measure decisions made by the general membership.
- The issue can be included on the agenda as an "action item" at a regularly scheduled meeting or a special meeting. To fulfill legal requirements of notice, ten days notice of the meeting must be given to all members/board members.
- An approved facilities use form must be completed for the local unit or council meeting if the meeting is held on school property.
- Best practices would be to present both the "pro" and "con" positions of any issue to the body making the decision to support/oppose. For help finding supporting materials on ballot measures contact your council or region legislation chair, MIPTA Legislative Director or the MIPTA office (734-975-9500).

#### Communicating the Position

- Any communication which is persuasive in nature cannot be sent through school district property. This includes "school mail" (flyers sent home with students), electronic methods which use district email/websites, or flyers posted/circulated on school property.
- A PTA newsletter may contain a meeting summary which includes the position taken, if a meeting summary is customarily included in newsletters throughout the year.
- Units/Councils may send persuasive information to members regarding the position taken, and supporting materials via U.S. postal mail, email (to personal email accounts, not school addresses), and through social media (Facebook, Etc.).

#### **Frequently Asked Questions**

##### Does a local unit need to take the same position as the Michigan State PTA or Farmington Area PTA Council?

No, as individual 501 c-3 organizations, each local unit and council has the ability to take their own position on this or any other public policy issue of importance. Each local unit PTA or Council PTA may be impacted differently by the issue, and therefore can make a determination based on what is best for their community.

### Do the members need to vote on an issue?

While the executive board can take a stand on an issue, they are accountable to the membership; therefore it is recommended that issues go to the members for a vote whenever possible. This can occur at a regular general meeting or a specially called general meeting.

### How does a PTA call a special general meeting?

Ten days notice must be delivered to the members and the notice must include the agenda of the meeting.

### What is the process for taking an issue to the members?

It is best to take the following steps:

- The executive board includes the item on the agenda of its board meeting. A motion is made to present a recommendation to the membership, with discussion and vote following.
- The item is placed on the agenda for the general meeting
- During the meeting, a motion is presented on behalf of the executive board specifying the recommendation
- The motion is discussed and information is presented regarding the item. It is best practice to present information on both sides
- The members vote on the motion

### What if the executive board does not want to take a position?

The executive board may place the item on the agenda of the general meeting as a "discussion" item. Information can be presented (again from both sides), and the members may discuss the item. If a member then makes a motion to support or oppose, the motion is handled like any other motion.

### What position can a local unit take?

A local unit or council may support, oppose, or choose to take no position.

### What if a member brings the issue up at a general meeting?

If a member makes a motion regarding an issue, the motion would be handled like any other motion. There would be a second, discussion, and vote.

### What if a member brings a petition to a meeting?

If a member brings a petition to a meeting, the members can choose how to handle the petition:

- The President can ask if anyone objects to the petition. If there is a majority of members who object, the petition must be put away.
- The President can also ask if the members wish to discuss the issue. If so, the President can ask whether they wish to do so at this meeting, or at a future meeting (in order to gather and present information).

### What if the executive board takes a position without asking the members?

The executive board is accountable to the membership. If a member objects to the position taken by the executive board, they may request that the item be placed on the agenda for a general meeting.

### What information can a local unit send home via school mail?

There are very strict guidelines as to what can be sent home via school mail.

- The principal has the final say regarding what can be included in school mail.
- The agenda (which includes action discussion items on policy issues) can be sent out prior to the general meeting.
- Factual information that encourages civic duty may be sent to members (i.e. encouraging voter participation, etc.)
- Notice of the position taken by the PTA as part of a meeting summary may be sent to members, as long as this is standard practice for all meetings.

### What can a local unit do after taking a position?

- A local unit may send out information regarding its position to members via U.S. postal mail or e-mail (provided it does not utilize school district email).
- A local unit may post information on its website provided that the site is not maintained by the school or district.
- A local unit may send out a press release.
- A local unit may contribute funds to a campaign (see below).
- A local unit may gather to lobby or campaign for an issue. Some examples include phone banking, sign waving, signature gathering, etc.

### Can a PTA contribute funds to a bond/levy or initiative/referendum campaign?

If the members wish to do so, a local unit or council may contribute monetarily to a campaign within the following guidelines.

- The funds may not constitute a substantial portion of the PTA budget – the general rule is that total yearly funds spent on lobbying activities may not exceed 3 - 5 % of the total yearly PTA expenditures.
- There is a line item in the budget for such activities. Most units do have a small line item to cover donations to campaigns.
- If a line item exists, the executive board and/or membership may vote to allocate funds from the budget.
- If there are not enough funds in the line item, the executive board or general membership may vote to reallocate funds according the standing rules of the local unit or council.
- The general membership may vote at a general meeting to allocate funds to a campaign.
- If there is no line item in the budget, the members (at a general meeting) must vote to place the line item in the budget and allocate funds for that line item

## **Political Activities - IRC and CFDC Requirements**

### **Michigan PTA**

**Adapted from [www.nonprofitvote.org/nonprofits-voting-elections-online/ballot-measures/](http://www.nonprofitvote.org/nonprofits-voting-elections-online/ballot-measures/)**

Federal law prohibits a 501(c)(3) organization from engaging in any activities in support of or in opposition to any candidate for public office. This prohibition is reflected in Article IV of the Michigan PTA Bylaws, which states in Section j:

*“The organization or members in their official capacities shall not - directly or indirectly - participate or intervene (in any way, including the publishing or distributing of statements) in any political campaign on behalf of, or in opposition to, any candidate for public office; or devote more than an insubstantial part of its activities to attempt to influence legislation by propaganda or otherwise.”*

This means that there can be no connection between your PTA and any political party or candidate for public office, including candidates for school board positions. However, this does not mean that you must refrain from all political activities or from carrying on efforts concerned with legislative issues or official actions that threaten the well-being of children and youth.

If you engage in lobbying, you must be very careful to observe the rules applicable to lobbying activities which are discussed in a later section. In addition to federal prohibitions, Michigan State law prohibits the use of school facilities to support or oppose a ballot issue or election campaign.

State law also prohibits school facilities to be used by any group to distribute literature on behalf of ballot measures. This prohibition includes sending support/oppose information home with students or publishing such information in the PTA newsletter (if the newsletter is sent home with students.)

#### Examples of Prohibited Activities

- You may not make contributions to candidates for public office (including “in kind” donations such as staff or volunteer time or use of facilities).
- You may not publish or distribute statements in a political campaign.
- You may not endorse a candidate.
- You may not use school facilities to produce materials that support or oppose a ballot measure, unless the district offers printing services on an equal access, nondiscriminatory basis to others.
- You may not print or distribute materials promoting a ballot measure in the school newsletter.
- You may not use a school or district sponsored event to promote or oppose a candidate or a ballot measure

#### Examples of Permitted Activities

You may provide information of an educational or nonpartisan nature, even at school facilities, without violating state or federal law. For example:

- You may comment on elected officials already in office (although an upcoming election could make such activity fall into the prohibited category).
- You may sponsor a candidate forum to which all candidates have been invited and are given equal “air time” and which an impartial moderator runs.
- You may distribute a candidate questionnaire if the questions are framed without bias and the responses are not accompanied by any commentary.
- You may participate in voter registration and other “get out the vote” efforts so long as they are not directed towards assisting a particular candidate for public office.
- You may hold meetings to determine your PTA’s support of or opposition to ballot issues or advocate its position to your members.
- You may use school facilities for a meeting supporting or opposing a ballot measure to the extent that the facilities are made available on an equal access, nondiscriminatory basis, and it is part of the

normal and regular activity of the district (however, you need to be certain that the school district truly has an equal access policy).

- You may print and distribute a separate newsletter advocating support for a ballot measure so long as no district resources are used (such as school mail, newsletters, websites, use of school copy machine or school supplies such as paper, etc.)
- You may remind voters of upcoming election dates in the PTA newsletter or in the PTA's portion of the school newsletter, if it is usual and customary for the PTA to include this type of information prior to all elections.

### Use of Internet Technology

Some school districts provide PTAs with email addresses and web pages. PTAs using technology provided by school districts must comply with all the same restrictions as the district when using the technology (for example, a PTA may not promote a levy on its district-sponsored website or home page.)

### School District Levy or Bond Issues

PTAs often contribute funds and volunteer support to school district levy or bond issues. The Michigan State Campaign Finance Disclosure Commission (CFDC) regulates the amount of money that a levy or bond committee can receive as well as the committee's reporting requirements.

If the PTA makes an expenditure on behalf of the committee that is not coordinated with the committee (such as an independent mailing), and if that expenditure is less than \$100, there is no reporting requirement. If, on the other hand, the expenditure is more than \$100, the bond/levy campaign committee is required to report the expenditure on CFDC Schedule 4B-1 "Ballot Question Independent Expenditures."

If the PTA makes an expenditure on behalf of the committee that is coordinated with the committee (such as a monetary contribution), then the committee itself (not the PTA) reports to the CFDC. The maximum size of any monetary contribution by a PTA depends on the reporting method selected by the committee. If the committee selects to use the abbreviated reporting method, then the maximum contribution a PTA can make is \$500, but the PTA should check with the committee to ensure correct reporting. If the committee selects to use the full reporting method, then the CFDC does not limit the size of the contribution.

### Lobbying

Lobbying activities by PTAs are not prohibited by law. However, the Internal Revenue Service limits lobbying activities of all 501(c)(3) organizations to "an insubstantial part" of its activities. This limitation is set forth in Article IV, Section g of the Michigan PTA Bylaws. What is "Insubstantial"? Under current law, there are two ways in which a PTA can meet "insubstantial" tests of the Internal Revenue Code:

#### **No Election**

One way is to limit expenditures on lobbying activities to a small percentage of the organization's overall expenditures. For example, it is generally recognized that an organization that spends no more than 5% of its exempt purposes expenditures on lobbying is not engaged in lobbying to a substantial degree. Some experts take the position that larger percentages can be spent on lobbying without violating the "insubstantial" requirement of the law.

However, each percentage point above 5% increases the possibility that the lobbying activities will be deemed substantial. Accordingly, the Michigan PTA recommends that if you are going to rely upon this test to satisfy the requirements of the Internal Revenue Code that you spend no more than 5% of your total exempt purposes expenditures on lobbying. The problem with trying to meet this test is it is vague and somewhat subjective, and accordingly lacks certainty.

### **Section 501(h) Election**

The second method for complying with the “insubstantial” requirement is to make what is called a Section 501(h) election. This is done by filling out and filing IRS Form 5768 “Election/Revocation of Election by an Eligible 501(c)(3) Organization to Make Expenditures to Influence Legislation.” This form is a very simple, single-page form which is filed with the Internal Revenue Service. If a 501(h) election is made, then a PTA may spend up to 20% of its first \$500,000 of its total exempt purpose expenditures (and lesser percentages of amounts above \$500,000) in lobbying activities.

Because this “safe harbor” election provides PTAs with absolute certainty as to the amount that can be spent on lobbying activities, the Michigan PTA recommends that all 501(c)(3) PTAs make this election as soon as possible. The election must be filed with the internal Revenue Service prior to the end of the tax year (June 30th) for which you wish to claim the election, and once filed does not need to be filed for future tax years. If for any reason you wish to discontinue the election, you can revoke it any time and once revoked it can be reinstated.

### Examples of Lobbying Activities

- Advocating the adoption or rejection of specific legislation
- Communicating with a legislator (or his or her staff) in regards to specific legislation
- Using the public to contact a legislator (or staff) with respect to specific legislation
- Local Unit PTA examples of lobbying activities/expenses: legislative assembly, Focus Day, legislative roundtables, candidate forums, bond/levy and initiative/referendum campaigns.

### Examples of Activities that do not Constitute Lobbying

- Publication of position papers on issues that do not address pending or proposed legislation
- Communication to your members regarding pending legislation, as long as you are not asking your members to engage in grass roots lobbying
- Conducting, commissioning, and/or publishing nonpartisan analysis, study or research that has a demonstrated factual foundation and is presented in an independent and objective way
- Responding to a legislator’s request for advice or assistance, even with respect to pending legislation
- Communications that relate to pending legislation that might affect the existence, duties or powers of your organization
- Routine communications with legislators or governmental officials