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November 7, 2022

**VIA EMAIL ONLY**

President Stacie Smith  
Wylie Independent School District Board of Trustees  
951 South Ballard Avenue  
Wylie, Texas 75098  
stacie.smith@wylieisd.net

RE: Improper Electioneering in Wylie ISD

Dear President Smith:

I represent a group of Wylie citizens concerned about matters occurring in Wylie ISD (hereafter, "WISD"). Over the weekend, Wylie residents received a flyer, paid for by WISD, regarding issues relevant in the now-occurring trustee elections. The material in that flyer is also maintained on the WISD webpage and available at the curiously-named page: [www.wylieisd.net/facts](http://www.wylieisd.net/facts). The website also directs future inquiries to an email address: [communications@wylieisd.net](mailto:communications@wylieisd.net).

You may not be aware, but the Texas Education Code prohibits the expense of WISD funds (*i.e.*, taxpayer money) in this manner. "Notwithstanding any other law, 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." TEX. EDUC. CODE § 11.169. The Texas Constitution prohibits a political subdivision of the State from granting "public money or thing of value in aid of, or to any individual ... whatsoever." TEX. CONST., art III, § 52(a); *see also id.* § 51 (prohibiting the Legislature from authorizing a grant of public money to an individual). Article III, section 52(a), prevents the gratuitous grant of public funds to any individual. *Edgewood Indep. Sch. Dist. v. Meno*, 917 S.W.2d 717, 740 (Tex. 1995). "A transfer of funds for a public purpose, with a clear public benefit received in return, does not amount to a lending of credit or grant of public funds in violation of article III, sections 51 and 52." *Id.*

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As the Texas Attorney General has noted:

The Education Code does not define the term “electioneer.” A common understanding of the term is “to work for the election of a candidate or party.” MERRIAM-WEBSTER’S COLLEGIATE DICTIONARY 400 (11th ed. 2005); see also TEX. ELEC. CODE § 85.036(f)(2) (defining “electioneering” for purposes of a specific Election Code provision to include “the posting, use, or distribution of political signs or literature”). Thus, the Legislature prohibited a board of trustees of a school district from using public funds to work for a particular measure or candidate.

Op. Tex. Att’y Gen. No. KP-0177 (2018)

The Texas Election Code also prohibits this activity. “An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.” TEX. ELEC. CODE § 255.003(a). An independent school district is a political subdivision. “Political advertising” constitutes fliers or websites “supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure.” TEX. ELEC. CODE § 251.001(16).

The content and the timing of this material underscores that it is political advertising meant to support certain candidates and oppose others. As you can see, there is no requirement that support or opposition mention the candidate or measure by name. Simply put, it is unlawful for WISD to use public money on this electioneering and political advertising.

Therefore, please immediately remove the [www.wylieisd.net/facts](http://www.wylieisd.net/facts) page and information from the WISD website and cease all expenditures of public money for electioneering or political advertising. Please also preserve all communications, invoices, drafts, and all other material regarding the flyer or the website page pursuant to WISD’s obligations under the Texas Public Information Act and the Texas Rules of Civil Procedure.

I appreciate your prompt attention to this matter.

Sincerely,  
  
Timothy Davis