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CALIFORNIA SECRETARY OF STATE

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January 12, 2024

County Clerk/Registrar of Voters (CC/ROV) Memorandum # 24028

TO: All County Clerks/Registrars of Voters

FROM: /s/ Robbie Anderson
Elections Counsel

RE: Presidential Primary: Prohibitions on Electioneering and the Corruption of the Voting Process

This memorandum is to serve as an updated reminder regarding prohibitions on electioneering and activities related to the corruption of the voting process.

Elections Code Provisions

“Electioneering” is defined in Elections Code section 319.5 as “the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot” within 100 feet of either of the following:

- the entrance to a building that contains a polling place as defined by Section 338.5, an elections official’s office, or a satellite location specified in Section 3018, or
- an outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

Prohibited materials, information, or activity includes, but is not limited to:

- a display of a candidate’s name, likeness, or logo.
- a display of a ballot measure’s number, title, subject, or logo.
- buttons, hats, pencils, pens, shirts, signs, or stickers containing information about a candidate or measure on the ballot.
- any audible broadcasting of information about a candidate or measure on the ballot.

- obstructing access to, loitering near, or disseminating visible or audible electioneering information at vote-by-mail ballot drop boxes.

It should be noted that a campaign slogan or a political movement slogan (or the initials representing the campaign or political movement) does not constitute electioneering under the legal definition of electioneering as stated above. Accordingly, the display of slogans on clothing, face coverings, and/or buttons is not prohibited. Examples of campaign slogans or political movement slogans include but are not limited to: Make America Great Again (MAGA), Black Lives Matter (BLM), Keep America Great (KAG), Vote for Science, and Build Back Better.

The Elections Code also provides penal provisions for anyone who engages in electioneering or activities related to the corruption of the voting process.

Elections Code section 18370 provides:

A person shall not, on Election Day, or at any time that a voter may be casting a ballot, do any of the following:

- circulate an initiative, referendum, recall, or nomination petition or any other petition.
- solicit a vote or speak to a voter on the subject of marking the voter's ballot.
- place a sign relating to voters' qualifications or speak to a voter on the subject of the voter's qualifications except as provided in Section 14240
- do any electioneering as defined by Section 319.5

within 100 feet of either of the following:

- the entrance to a building that contains a polling place as defined by Section 338.5, an elections official's office, or a satellite location specified in Section 3018, or
- an outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

A person shall not, on election day, or at any time that a voter may be casting a ballot, do any of the following within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot:

- solicit a vote.
- speak to a voter about marking the voter's ballot.
- disseminate visible or audible electioneering information.

Any person who violates any of the provisions of Section 18370 is guilty of a misdemeanor.

Additionally, Elections Code section 18541 provides:

A person shall not, with the intent of dissuading another person from voting, do any of the following:

- solicit a vote or speak to a voter on the subject of marking his or her ballot
- place a sign relating to voters' qualifications or speak to a voter on the subject of the voter's qualifications except as provided in Section 14240
- photograph, video record, or otherwise record a voter entering or exiting a polling place
- obstruct ingress, egress, or parking

within 100 feet of either of the following:

- the entrance to a building that contains a polling place as defined by Section 338.5, an elections official's office, or a satellite location specified in Section 3018, or
- an outdoor site, including a curbside voting area, at which a voter may cast or drop off a ballot.

A person shall not, with the intent of dissuading another person from voting, do any of the following within the immediate vicinity of a voter in line to cast a ballot or drop off a ballot:

- solicit a vote.
- speak to a voter about marking the voter's ballot.
- disseminate visible or audible electioneering information.

Any violation of Section 18541 is punishable by imprisonment in a county jail for not more than 12 months, or in the state prison. Any person who conspires to violate this section is guilty of a felony.

Public Notices relating to Electioneering and the Corruption of the Voting Process

As required by Elections Code sections 18372 and 18504, the Secretary of State promulgated regulations for public notices relating to electioneering and corruption of the voting process.

Both notices are posted on our website at <https://elections.cdn.sos.ca.gov/pdfs/electioneering-prohibitions.pdf>.

Exit Polling

The Secretary of State's office recommends advising news organizations and other pollsters to refrain from exit polling activities within at least 25 feet of a polling place.

2024 Poll Worker Training Standards and Electioneering

The Secretary of State's 2024 Poll Worker Training Standards, located at <https://www.sos.ca.gov/elections/voting-resources/voting-california/help-strengthen-our-democracy/poll-worker-training-standards>, encourages county elections officials to ensure poll workers are trained on the issue of electioneering.

Poll workers must understand how to measure a 100-foot perimeter from the above-identified locations (or request assistance from roving inspectors), what activities are prohibited within that perimeter, and what to do if they either see or hear about electioneering in or near their polling place.

Poll workers also need to be aware what types of materials are not allowed in the polling place and what to do, if, for example, a voter enters a polling place wearing a t-shirt, face covering, or button promoting or opposing a candidate or ballot measure.

Voting Law Compliance Handbook and Electioneering

The California Secretary of State's Voting Law Compliance Handbook is available at <https://www.sos.ca.gov/elections/publications-and-resources/voting-law-compliance-handbook> and it provides information on electioneering, among other things. Written in a "question-and-answer" format, the handbook contains the following information:

When I went into my polling booth, I noticed a little pencil with a candidate's name on it urging voters to be sure and mark the box for him. Can the candidate or his supporters do that?

No, it is illegal to have items with a candidate's name on them in the polling place. This constitutes electioneering and any electioneering must be conducted a minimum of 100 feet from the place where people are voting. Sometimes, a voter inadvertently leaves such materials in the voting booth. (Elec. Code, §§ 319.5, 18370.)

A lady working at my polling place last Election Day was wearing a T-shirt that said "Down with Liberals" on it. Can she wear that?

Yes. It is not considered electioneering because the t-shirt doesn't actually advocate voting for or against a particular candidate or measure. If the shirt had a statement for or against something or someone on the ballot, it would not be allowed within 100 feet of the polls. If the elections official is aware of the situation, he or she will likely

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request that the woman cover it up or change into something that does not cause the slightest appearance of partisanship. (Elec. Code, §§ 319.5, 18370, 18541, 18546.)

If you have any questions about this memorandum, please feel free to contact either Rachele Delucchi at rdelucch@sos.ca.gov or Robbie Anderson at aanderso@sos.ca.gov. Thank you.