

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

July 31, 2015

Ms. Sondra Odom, President  
Pearl School Board  
3375 Highway 80 East  
Pearl, Mississippi 39208

Re: School District Employees Campaigning

Dear Ms. Odom:

Attorney General Jim Hood received your letter of request and assigned it to me for research and reply.

### Issue Presented

Your letter states:

I am president of the School Board for the Pearl Public School District and the vice president for the Mississippi Association of School Boards. Several of the administrators, teachers, and other staff employed by the Pearl School District, as well as from other districts across the state, have expressed an interest in supporting efforts to pass Initiative 42, the proposed constitutional amendment on public education that will be on the ballot in November of this year.

I am aware that district employees cannot campaign for Initiative 42 during work hours, or use district resources to create or distribute materials for the initiative. However, does state law in any way restrict school district employees from supporting the passage of Initiative 42 during their free time and using their own resources?

### Response

No. We have previously opined that school employees may voluntarily participate in political activities as long as their participation in such activities is limited to the hours when they are not involved in their work-related duties. *MS AG Op.* Horne (February 25, 2000); *MS AG Op.*, Cole (March 21, 1994).

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Also, please note the registration and reporting requirements in Section 23-17-47 *et seq.* These statutory provisions, which are applicable to ballot measures such as Initiative 42, were recently challenged and found to be constitutional in Justice v. Hosemann, 771 F.3d 285 (5<sup>th</sup> Cir. 2014).

### Applicable Law

Mississippi Code Annotated Section 23-15-871 (Revised 2007) sets forth general prohibitions with respect to campaign activities of employers and employees including public employees. While the language of that statute is specifically directed toward the election of candidates, we are of the opinion that its provisions should be adhered to regarding initiatives and other referenda. It provides in part:

....it shall be unlawful for any employer, or employee having the authority to employ or discharge other employees, to make any statement public or private, or to give out or circulate any report or statement, calculated to intimidate or coerce or otherwise influence any employee as to his vote, and when any such statement has obtained circulation, it shall be the duty of such employer to publicly repudiate it; in the absence of which repudiation the employer shall be deemed by way of ratification to have made it himself ... . Nor shall any employee be requested, directed or permitted to canvass for or against any candidate or render any other services for or against any candidate or group of candidates, during any of the hours within which the salary of said employee as an employee is being paid or agreed to be paid; ..... or to take any active part in any election campaign whatsoever; nor shall any employee at the expense, in whole or in part, of any employer take any part whatever in any election campaign, except the necessary time to cast his vote. The prohibitions of this section shall apply to all state, state district, county and county district officers, and to any board or commission and the members thereof by whatever name designated and whether elective or appointive, and to each and every one of those employed by them or any of them.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Phil Carter  
Special Assistant Attorney General