

MASS EMAIL (CEO/COUNTY CHAIRS/CSO): Advisory No. 2024-29: Certain Activities in Vicinity of Polling Places

From Texas Secretary of State Elections Division <TXSoSAgency@public.govdelivery.com>

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To Irene Espinoza <iespinoza@co.bailey.tx.us>

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Texas Secretary of State



ELECTIONS DIVISION

TO: Texas Election Officials

FROM: Elections Division, Texas Secretary of State

SUBJECT: Advisory No. 2024-29: Certain Activities in Vicinity of Polling Places

DATE: October 1, 2024

Election Officials,

Our office has issued the following advisory: [Advisory No. 2024-29: Certain Activities in Vicinity of Polling Places](#)

When posted, this advisory will be located on your [Conducting Elections](#) pages.

On September 30, 2021, the U.S. District Court for the Southern District of Texas issued a final judgment in *Ostrewich v. Hudspeth, et al.*, a lawsuit challenging the electioneering provisions in Sections 61.003, 61.010, and 85.036 of the Texas Election Code to the extent that such provisions related to voters' apparel during voting. The lawsuit was based on the United States Supreme Court case of *Minnesota Voters Alliance v. Mansky*, 138 S. Ct. 1876 (2018).

In June 2023, the Fifth Circuit affirmed the district court's ruling as to Section 61.010 and reversed the portion that struck down Sections 61.003 and 85.036 of the Code. The Supreme Court subsequently denied certiorari. Thus, all three electioneering laws, Sections 61.003, 61.010, and 85.036 of the Texas Election Code, were upheld and remain in force now.

Each early voting and election day polling place must be organized with 100-foot distance markers posted at surrounding outside entrances to the building. As a result of the above-referenced litigation and Sections 61.003, 61.010 and 85.036, during the voting period and inside this protected area, during early voting and

on election day, it is prohibited to electioneer, including expressing preference for or against any candidate, measure, or political party, **regardless of whether they are or are not on the ballot**, or relating to the conduct of an election.

Please note that the prohibition on electioneering, regardless of whether the candidate, measure or political party is on the ballot, was addressed in Election Advisory No. 2024-09, as well as the Election Judges and Clerks Handbook.

As always, please let us know if you have any questions or concerns.

Thank you,

Heidi Martinez

Managing Attorney – Elections Division

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The information contained in this email is intended to provide advice and assistance in election matters per §31.004 of the Texas Election Code. It is not intended to serve as a legal opinion for any matter. Please review the law yourself, and consult with an attorney when your legal rights are involved.

If you have any questions regarding this e-mail, please e-mail elections@sos.texas.gov

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