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OPINION COMMITTEE



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Rob Eissler
Chairman

COMMITTEE ON PUBLIC EDUCATION

TEXAS HOUSE OF REPRESENTATIVES

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Scott Hochberg
Vice Chairman

December 15, 2011

Texas Attorney General Greg Abbott
Office of the Attorney General
300 W. 15th Street
Austin, TX 78701

RQ-1031-GA

Opinion Request

Dear General Abbott:

I am writing to request your opinion regarding Section 22.011 of the Texas Education Code as enacted by House Bill 1682 of the 82nd Texas Legislature. The bill became effective on June 17, 2011. Although I am making this request on behalf of the United Way, my questions would of course apply to any charitable campaign.

House Bill 1682 was intended to prohibit the coercion of school district employees to make charitable contributions. Because local United Ways operate workplace giving campaigns in schools across the state, United Ways of Texas and its statewide network of local United Ways – including the Montgomery County United Way in my district – watched the bill closely. However, because United Way agrees that any coercion to make a charitable contribution is completely unacceptable, United Ways across the state did not oppose the bill.

Like much of the Education Code, implementation of Section 22.011 is left to locally-elected school boards. Because the statute prohibits both “direct” and “indirect” coercion, implementation was varied widely between different districts, which has caused confusion statewide. While the overwhelming majority of school districts understand that the intent of the legislation was to prevent coercion not prohibit workplace campaigns, some school districts have informed local United Ways that the workplace campaigns that have taken place in some communities for decades are now prohibited. As a result, local United Way campaigns in some of the neediest communities in Texas have been reduced by tens of thousands of dollars.

My questions are as follows:

- Does HB 1682 prohibit school districts from allowing or authorizing any charitable campaign to be conducted as part of its operations?

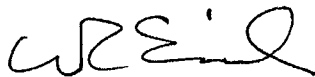
Members

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- Under the provisions of HB 1682, are representatives of charitable campaigns allowed to make a non-coercive request for donations at meetings of school district personnel? Please address in this regard whether a district may allow such presentations at meetings that district personnel are required to attend. If a presentation may be made at a required meeting of district personnel, is the answer dependent upon whether the presentation is not the sole or primary purpose of the meeting?
- Under the provisions of HB 1682, may a district allow written or electronic materials soliciting charitable contributions to be distributed through internal mail or email systems?
- Under the provisions of HB 1682, may district personnel encourage employees in any way to contribute to a charitable campaign, either in a presentation or in distributing solicitations?
- Under the provisions of HB 1682, may district personnel collect charitable contributions on behalf of a charitable campaign if doing so could identify which employees participated?

I thank you for your assistance in clarifying the implementation of this legislation. Because local United Way campaigns are underway, I would appreciate your prompt attention to this important issue. Please do not hesitate to contact me or my staff should you have questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Rob Eissler". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Chairman Rob Eissler
Texas House of Representatives

Cc: Representative Randy Weber