



COMMON
CAUSE

Pennsylvania

Holding Power Accountable

**TESTIMONY OF COMMON CAUSE/PENNSYLVANIA
SUPPORTING EFFORTS TO BOLSTER
PROHIBITIONS ON USE OF SENATE STAFF AND RESOURCES
FOR POLITICAL PURPOSES.**

Senate Rules Committee

February 3, 2009 – Harrisburg, PA

Good afternoon Chairman Pileggi and distinguished members of the Senate Rules Committee. I am Barry Kauffman, Executive Director of Common Cause/PA. Common Cause is a citizens' government integrity advocacy organization with over 5,000 members and affiliates throughout Pennsylvania. We have over thirty-five years experience in working for more open, accountable and responsive government.

We thank you for inviting us to present our views on SR-228. Based on reports in the media and actions of Attorney General Corbett over the past several years, there appears to be a need to add greater clarity to restrictions already existent in state law regarding use of government personnel and resources for political campaign purposes.

We'd like to begin by commending you for this effort. If Pennsylvanians are ever to regain confidence in the integrity of their government institutions and government officials, they must be assured that their tax dollars are not being used for partisan political purposes unless specifically authorized by law and in a manner to which all candidates have equal access.

While current law does appear to ban government personnel from engaging in partisan activities during official work hours and also prohibits the use of government resources that are not otherwise available to all candidates on the same terms, these standards seemingly have been routinely flouted. Therefore, bolstering these standards *and their enforcement* clearly is in order. Your attempts to do so in SR-228 are to be commended.

We offer the following observations in the spirit of making this effort even more effective. All references are to SR-228, PN-1604.

- 1) The proposed standards in SR-228 are both valuable and important. We encourage you to consider modifying them for general application to all public employees and amending them into the state ethics law, or similar statute. This would make them applicable not only to the Senate, but also to the House, the executive branch, the judicial branch, independent agencies, commissions and authorities, county government and local government. Furthermore, if they are instituted merely as a Senate Rule they can be suspended at any time or be abandoned in the rules of future legislative sessions.
- 2) Page 2, beginning on line 3; in the definition of “Campaign activity” under number “2,” the prohibition on responding to candidate questionnaires is applied only to those “sent directly to the campaign”. Such questionnaires may, however, be sent to an incumbent candidate’s government office because the sender does not know how to reach the campaign office. Government staff should be directed either to return the questionnaire to the sender noting that they are not permitted to respond to such questionnaires and indicating the proper address to which it could be sent, or, alternatively, to forward it to the campaign staff.
- 3) Page 2. Between lines 10 and 11; also, under the definition of “Campaign activity” between numbers “6” and “7,” you should insert a prohibition on participating in any effort to challenge the petitions or signatures on petitions of any opposing candidate.
- 4) Page 2, line 12; in the definition of “Campaign activity” under number “7,” you may want to include television and radio ads, website construction and maintenance, emails, faxes, and robocalls
- 5) Page 2, beginning at line 19; under the definition of “Newsletter,” we are unclear about the rationale for the standards regarding “one page,” “more than one subject” and “printed in quantities of 25,000 copies or more” and how this definition would apply to emails and faxes.
- 6) Page 3, beginning at line 3; you may want to make the definition of “Senate office” fully inclusive by changing the language to something like “Any office, meeting room, or similar space under the jurisdiction of the Senate, used by Senate officials or staff for official business, or paid for with Senate funds.”
- 7) Page 3, line 6; under the definition for “Senate resources,” after the word “owned” the words “leased or rented” should be inserted.

- 8) Page 4 at the end of line 6; there is a need to ensure that employees are not pressured into such arrangements. Therefore, to ensure such activities are strictly voluntary, language should be added to indicate “Such reductions of working hours and pay may not be requested of an employee by a Senator or supervisor. No commensurate pay, bonus, or stipend may be provided to replace or reward for forfeited pay.”
- 9) Page 4, beginning on line 11; Practice #2 should be expanded to indicate “No campaign activity may occur within the state capitol complex, a district office or any other state or government or subdivision owned, rented or leased facility unless it is available to all candidates for similar purposes and on the same terms.”
- 10) Page 4, lines 17 and 18; we recommend deleting these lines and replacing them with “refer questions relating to the campaign to the Senator’s campaign office.”
- 11) Page 4, line 27; we wonder what the term “limited basis” means with regard to use of staff time to deal with “unsolicited campaign-related communication” on personally owned communication devices. These terms would benefit from more refinement.
- 12) Page 5, line 14; prohibition 3(c) should be expanded to include any caucus-based campaign committee or any political action committee operated by a Senator, Senate candidate or caucus.
- 13) Page 5, line 21; in prohibition 4(a), after the word “require,” add “or request, either directly or by implication”; and on line 23, before the period insert “promotion, job recommendation, bonus or similar job related inducement”.
- 14) Page 5, line 26; in prohibition 4(b), after the word “require” add “or request, either directly or by implication”; and before the period on line 27 insert “promotion, job recommendation, bonus or similar job related inducement.”
- 15) Page 5, line 28; in prohibition 4(c) after the word “agrees” should be inserted “or offers.”
- 16) Page 6, line 19; at the end of prohibition 5 insert, “No use of the Senate seal or any other government logo or imprimatur shall be used in any campaign literature, advertisement or other campaign promotional materials”

- 17) Page 7, line 9: in prohibition 7(a), after the word “require” insert “or request”; and before the period on line 10 insert “promotion, job recommendation, bonus or similar job related inducement.”
- 18) Page 7, line 11; in prohibition 7(b), after the word “agrees” insert “ or offers.”
- 19) Section 8, beginning on page 7, line 20, embodies the problem with these enhanced standards existing chamber rule form. It maintains an internal disciplinary process that too often takes the “see no evil” or “protect the club” approach. These standards need to be embedded in statute and have the protection and enforcement of an independent outside agency (which appears to be required for a violation by a “Senate employee” under 9(c) on page 9 beginning at line 19).
- 20) Page 7, line 23; replace the word “should” with “shall.”
- 21) Page 8 lines 22-23. Is there an established definition of what a “de minimis violation” may be? If not, it would be useful to establish one. The same concern arises on page 9, lines 9 and 20.
- 22) Page 10, line 19; provision 9(g). There are probably circumstances in which “final determinations” should be made public (e.g. if a found violation requires a referral to law enforcement officials). This section should specify such conditions.

Once again, Common Cause/PA commends you for your efforts to add greater specificity and clarity as to what activities are not permitted by Senators, Senate officials and Senate employees, and restrictions on how Senate resources may be used.

Thank you for requesting Common Cause/PA’s views on this resolution. I am happy to attempt to respond to any questions or comments that you may have.