

Electioneering by Public Employees: *A Guide for Municipalities*



*An Advisory of the New Hampshire Municipal Association
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Summary of Changes Pursuant to [2026 Chapter Law 285 \(HB 340\)](#)

Amendments and adds new language to RSA 659:44-a, electioneering by public employees:

[2026 Chapter Law 285](#) (HB 340) amends RSA 659:44-a, which governs electioneering by public employees, and adds new language to RSA 652:16-h, which defines electioneering.

Under the amended language in RSA 659:44-a, the definition of electioneering by public employees has been shifted from one based on the intent of the individual to one based on the content of the communication. This shift, however, does not prevent public employees from doing their jobs and providing factual information about municipal issues, including matters that may appear on the ballot or warrant, or before a public body. Instead, it prevents public employees from using their official capacity and municipal resources to explicitly campaign for or against any candidate, political party, warrant article or ballot question. The revisions to RSA 659:44-a maintain the definition of public employee as those defined in RSA 273-A:1, IX and continue to require that the communication be made by the individual in their official capacity in order for enforcement actions to be taken. Communications made by public employees in their personal capacity continue to be protected speech and are allowed.

What is the practical effect of these changes? It means that public employees can inform and explain, but not campaign. Public employees can continue to do such things as:

- explain what a warrant article/ballot question would do;
- provide costs, tax impacts, staffing figures or other factual information;
- explain current operation levels or service levels;
- describe the likely operational effects if a proposal passes or fails;
- answer questions from the public, elected officials or the media;
- provide reports, data or analysis that is part of the employee's job duties; or
- correct inaccurate information concerning operations or services.

Further, municipalities can continue to provide factual information to the public about warrant articles/ballot questions through their printed communications. The key is that the information provided must be neutral and not tell a person how to vote.

As part of this legislation, new language was added to RSA 652:16-h, which adds to the definition of electioneering. Specifically, the new paragraph addresses surveys conducted by public employees. The biggest change introduced by this language is that the new section under RSA 652:16-h expands the definition of public employee, ***for this paragraph only***, to include not only those public employees defined under RSA 659:44-a but also those public employees listed under RSA 273-A:1,IX(b), (c), or (d), which include such positions as department heads, directors and public safety chiefs.

What is the practical effect of changes relative to surveys and electioneering? It means that public employees, including but not limited to town administrators, police chiefs and library directors, can continue to conduct surveys of the public to gather information about such topics as budgets, services, operations, and community priorities. However, public employees should be particularly careful when the topic of a survey includes a candidate, political party, or warrant article/ballot question. Surveys involving these topics are not prohibited. Instead, special care should be taken to ensure that questions are neutrally written to gather information and not encourage a specific position. In sum, surveys should be used to gather information not as a campaign tactic.

The Attorney General is charged with enforcing both RSA 659:44-a and RSA 652:16-h. The penalty section of RSA 659:44-a was updated with passage of this legislation and now includes a penalty of a misdemeanor or civil penalty not to exceed \$1,000 levied against the person guilty of violating this section.

The bottom line for this statutory revision is that public employees in their professional capacity can continue to provide facts, explain proposals, and offer their professional expertise even when an issue is or will be a warrant article or ballot question. The key to communicating and not violating this law is to remember the communication should be one to *inform and explain, not campaign*.

Effective Date: January 1, 2026

Sections Affected: RSA 659:44-a; RSA 652:16-h