

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
George A. Ruhe, Wethersfield

File No. 2012-045

FINDINGS AND CONCLUSIONS

This Complainant brings this complaint pursuant to Connecticut General Statutes § 9-7b and alleges that Martin Walsh, a member of the Wethersfield Board of Education, violated General Statutes § 9-369b (a) by urging support for a pending referendum during a televised Board of Education meeting.

After an investigation of the allegations and information contained within the complaint, the Commission makes the following findings and conclusions:

1. The Complainant alleges that a statement made by Martin Walsh (the "Respondent"), a member of the Wethersfield Board of Education ("BOE"), at a televised BOE meeting was an act violating General Statutes § 9-369b (a).
2. That the Respondent's comment urged support for a pending referendum and that it was made during the BOE comment period at the BOE's March meeting is not in dispute.
3. The agenda and minutes of such meeting reflect that the agenda provided both members of the general public and members of the BOE an opportunity to comment upon any issue during the Public Comment and Board Comment agenda items respectively. Based on such agenda, although appearing as separate agenda items, the opportunity afforded by the BOE to both BOE members and the general public appears substantially similar, if not identical. The minutes of the BOE's April 10, 2012 meeting reflect that the Complainant himself twice enjoyed such a privilege during the Public Comment section of the meeting.
4. Connecticut General Statutes § 9-369b (a) provides, in relevant part:

Except as provided in subsection (b) of this section, any municipality may, by vote of its legislative body, authorize the preparation and printing of concise explanatory texts of local proposals or questions approved for submission to the electors of a municipality at a referendum. ... *[N]o expenditure of state or municipal funds shall be made to influence any person to vote for approval or disapproval of any such proposal or question.*
[Emphasis added.]

5. The General Statutes § 9-369b (c) provides, in relevant part:

The State Elections Enforcement Commission ... may impose a civil penalty on any person who violates subsection (a) or (b) of this section by authorizing an expenditure of state or municipal funds for a purpose which is prohibited by subsection (a) of this section....

6. The BOE may not pick and choose among the speakers on the basis of the content or viewpoint of their speech. See *City of Madison v. Wisconsin Employment Relations Commission*, 428 U.S. 167 (1976).
7. The Commission finds that the Respondent's opportunity to make comment was, in effect, no greater than any member of the public wishing to speak and, as such, the nature of the Respondent's municipal office was immaterial as to the broadcast at issue. Accordingly, the Commission declines to further investigate the matter or examine the other elements that would be necessary to establish a violation of General Statutes § 9-369b (a).
8. Based on the above findings, the Commission concludes that the evidence does not support a finding of a violation of § 9-369b (a).

ORDER

IT IS HEREBY ORDERED that the complaint be dismissed.

Adopted this 27 day of June, 2012 at Hartford, Connecticut by vote of the Commission.



Stephen F. Cashman, Chair
By Order of the Commission