

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Marshall Miles, Salisbury

File No. 2013-117

FINDINGS AND CONCLUSIONS

The Complainant brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that Respondent Region One School District Superintendent Patricia Chamberlain made comments at the August 8, 2013 meeting of the Region One School District Board of Education meeting amounting to a violation of General Statutes § 364a.

After an investigation of the Complaint, the Commission makes the following findings and conclusions:

1. Respondent was at all times the superintendent of the Region One School District.
2. The Region One School District includes the towns of Canaan, Cornwall, Kent, North Canaan, Salisbury and Sharon.
3. The Complainant alleges that at the August 8, 2013 budget meeting of the Region One School District Board of Education, the Respondent made the following statement:

I am actually happy to donate my raise back to one of the endowment funds, or split my raise between all of the endowment funds if the budget passes on the fifth referendum. Further concession I would offer if the budget passes the 5th [sic] referendum is that I would give up the last year of the three year contract.

4. The Complainant alleges that the above statement attributed to the Respondent amounts to a violation of General Statutes § 9-364a, which reads:

Any person who influences or attempts to influence by force or threat the vote, or by force, threat, bribery or corrupt means, the speech, of any person in a primary, caucus, referendum convention or election; or wilfully and fraudulently suppresses or destroys any vote or ballot properly given or cast or, in counting such votes or ballots, wilfully miscounts or misrepresents the number thereof; and any presiding or other officer of a primary, caucus or convention who wilfully

announces the result of a ballot or vote of such primary, caucus or convention, untruly and wrongfully, shall be guilty of a class C felony.

5. The gravamen of the Complainant's allegation is that somehow the Respondent's statement amounted to an attempt to influence by force or threat the vote, or by force, threat, bribery or corrupt means, the speech of persons voting in the Region One School District budget referendum held on August 20, 2013.
6. Leaving aside the question of whether such a statement did, or could ever, amount to a violation of General Statutes § 9-364a, a criminal statute, the Commission must first consider whether such statute even applies in this context. When considering an alleged violation related to a referendum, the Commission must first consider whether such referendum was "pending."

A referendum is pending when all of the necessary legal conditions have been satisfied to require the publication of a warning (notice) that a referendum question will be submitted to a vote of the eligible voters of a municipality on a certain date. For example, a referendum may be deemed to be pending when a sufficient number of signatures have been certified by the town clerk under General Statutes § 7-7, or when the selectmen (or other authorized municipal official) have determined that a referendum will be conducted and a date has been set, or when the exact wording of the question has been finalized.

Understanding Connecticut Campaign Finance Laws: A Guide to Financing Referendum Questions (Connecticut State Elections Enforcement Commission. Hartford, Connecticut) May 2013.

7. In this instance, seven referenda were held in the Region One member towns before the budget was finally approved. In each instance, the Region One Board of Education ("BOE") followed the format of first holding a "budget meeting" at which point the budget was set by a majority vote of BOE members present, with a date certain for a referendum known, but a question not formally set. The BOE adjourned each "budget meeting" and a "district meeting" of the BOE was held at a later date. At the district meeting, the BOE choose a moderator, set the question and adjourned the meeting to a referendum to be held the next day.
8. Turning to the question, the statement attributed to the Respondent was made at the August 8, 2013 "budget meeting" of the BOE, which occurred after the defeat of the fourth referendum. The minutes of the August 8, 2013 "budget meeting" reflect that the statement was made *during* the deliberation by the BOE, but *before* they voted on a budget to be

considered at a fifth referendum. Moreover, while the budget number was set at the August 8, 2013 and a referendum date of August 20, 2013 was discussed, the wording of the actual question to be put to the District One voters was not actually set until the August 19, 2013 “district meeting” held one day before the fifth referendum.

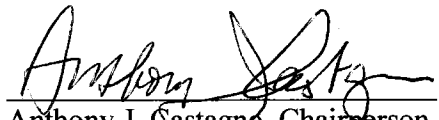
9. Considering the aforesaid, it is unnecessary for the Commission to determine whether August 8, 2013 or August 19, 2013 constituted the date on which “all of the necessary legal conditions [were] satisfied to require the publication of a warning (notice) that a referendum question [would] be submitted to a vote of the eligible voters of a municipality on a certain date.” The evidence is sufficient to show that the earliest possible time that the referendum could have been considered pending was at the time the BOE voted on a budget number at the end of the August 8, 2013 “budget meeting.” The comments attributed to the Respondent were made prior to this vote, during the BOE’s deliberation.
10. As such, the Commission finds that the referendum was not pending at the time the Respondent made the comments attributed to her. Accordingly, this matter should be dismissed.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter is dismissed.

Adopted this 16th day of April, 2014 at Hartford, Connecticut.


Anthony J. Castagno, Chairperson
By Order of the Commission