STATE OF CONNECTICUT

STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by Donna Rusgrove, Burlington   File No. 2018-032

FINDINGS AND CONCLUSIONS

The Complainant, Donna Rusgrove, brings this Complaint pursuant to Connecticut General Statutes § 9-7b, alleging that the Respondent, Alan Beitman, violated General Statutes § 9-369b by using a community notification system to provide information about an upcoming referendum. The following are the Commission's Finding and Conclusions.

1. The Respondent, Alan Beitman, is the Superintendent of Schools for Regional School District 10 (hereinafter "Region 10").

2. Prior to May 1, 2018, Region 10 had fulfilled the requirements to hold a referendum concerning the school budget for that district.

3. The referendum in question was scheduled to be held on May 1, 2018.

4. At 8:01 a.m. on May 1, 2018, the Respondent used an email system called SchoolMessenger to send the following message:

   > Subject: Region 10 Budget Referendum
   >
   > Region 10 Budget Referendum today
   >
   > Tuesday, May 1, 2018
   >
   > 6 am – 8 pm
   >
   > Town Halls

5. The content of the May 1, 2018 email has been independently verified as part of the Commission's investigation of this matter.

6. In 2013 and again in 2015, the General Assembly amended General Statutes § 9-369b to restrict the use of community notification systems in relation to referenda. See Public Acts 2013, No 13-247 § 386; Public Acts 2015, No. 87-215.

7. However, the General Assembly did provide certain exceptions to the general prohibition on the use of community notification systems as they relate to referenda.

8. Specifically, General Statutes § 9-369b (a) (3) (B) provides:

> At the direction of the chief elected official of a municipality or, with respect to a referendum called for by a regional school district, the request of the chairperson of the regional school board of education having jurisdiction over such municipality included in such regional school district, a municipality that maintains a community notification system may use such system to send or publish a notice informing all residents enrolled in such system of an upcoming referendum. Such notice shall be limited to (i) the time and location of such referendum, (ii) a statement of the question as it is to appear on the ballot at the referendum, and (iii) if applicable, the explanatory text or other material approved in accordance with subdivision (1) or (2) of this subsection. Any such notice shall not advocate the approval or disapproval of the proposal or question or attempt to influence or aid the success or defeat of the referendum.
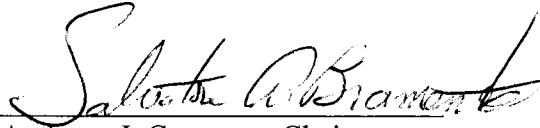
9. Thus, if the chairperson of a regional school district's board of education directs that a notification of an upcoming referendum be sent using a community notification system, and such notification is limited to time and location, the statement of the question, and/or any explanatory text, such use of the community notification system is permissible.

10. In this case, Thomas Fausel, the chairperson of the Regional School District 10 Board of Education, provided an affidavit to the Commission attesting that the Respondent's May 1, 2018 message sent through SchoolMessenger was at his direction.

11. Moreover, the content of the message was limited to the time and location of the referendum.

12. Therefore, as the Respondent's message was sent at the direction of the school board's chairperson and was limited to time and location information about the referendum, such use of the school's community notification system was permissible.

13. Accordingly, it is the determination of the Commission that this Complaint should be dismissed.

ORDER

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

That the Complaint be dismissed.

Adopted this 19th day of December, 2018 at Hartford, Connecticut.

Anthony J. Castagno, Chairperson
By Order of the Commission
Salvatore Bramante   Co Chair