

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Preston Shultz, Woodstock

File No. 2009-053

FINDINGS AND CONCLUSIONS

Complainant Preston Shultz brought this complaint pursuant to General Statutes § 9-7b alleging that certain unnamed individuals affiliated with the Woodstock PTO had used public resources to oppose a referendum in Woodstock in 2009. According to the complainant, the opposition group had used copiers and the school's automated alert system to oppose the referendum and had distributed materials against the referendum on school property.

After the investigation of the Complainant's allegations, the State Elections Enforcement Commission makes the following findings and conclusions:

1. On May 13, 2009, the Woodstock Board of Selectmen set a referendum for June 9, 2009, to put an ordinance proposed by a citizen to a vote as required in the Town Charter and ordinances of the Town of Woodstock. The proposed ordinance would have cut short the terms of the then-serving Woodstock Board of Education and reconfigured the election and composition of the Board of Education. Woodstock voters rejected the measure.
2. Complainant lodged a complaint with the Commission, alleging that the actions of groups opposing the referendum ran afoul of General Statutes § 9-369b, which prohibits the expenditure of public funds to influence any person to vote for or against a ballot question or proposal.
3. Complainant alleged that unidentified members of the Woodstock PTO provided their own paper but used the school district's copying machines to photocopy flyers which allegedly advocated that voters in Woodstock vote "No" in the upcoming budget referendum.
4. Complainant was unable to provide any additional information regarding the identity of the persons who made those copies, when the alleged actions occurred, or any witnesses who may have additional information to substantiate these allegations. The Commission's independent investigation yielded no additional evidence. Given the lack of evidence, the Commission dismisses this allegation.
5. Evidence of the use of public funds to promote the outcome of a referendum could have been a violation of General Statutes § 9-369b.

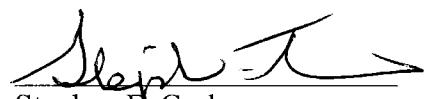
6. Complainant also alleged that members of the Woodstock PTO used school property to distribute flyers opposing the ordinance at the beginning and end of the school day.
7. Complainant was unable to identify any individuals who distributed these materials and could not provide the alleged flyer distributed or the identities of others present when he witnessed the alleged distribution. The Commission's independent investigation yielded no additional evidence. Given the lack of evidence, the Commission dismisses this allegation.
8. Evidence of the use of public funds to promote the outcome of a referendum could have been a violation of General Statutes § 9-369b.
9. Complainant also alleged that unidentified members of the Woodstock PTO used an automated phone system to contact parents of all the district's students.
10. Complainant did not receive this phone call but based this allegation on a letter from Kathie S. Kelly who said "a friend of mine [Kelly's]" had received a phone call reminding parents to vote in the referendum. According to Kelly's letter, the message simply reminded parents to vote in the referendum. There was no evidence it advocated for or against the referendum.
11. As stated in prior Commission decisions, "the Commission has consistently held and advised that the publication and dissemination of printed materials limited to the 'time, date and place' of a pending referendum is permissible and is not prohibited by General Statutes § 9-369b." In the Matter of a Complaint by William A. Michael (Bethel), File No. 2008-069 (State Elections Enforcement Comm'n, Aug. 13, 2008). In File No. 2008-069, the Commission extended this "time, date, and place" exception to automated telephone calls. *See id.*
12. The Commission's investigation revealed no evidence that the phone calls went beyond that "time, date, and place" restriction.
13. Given the lack of evidence regarding the content of the telephone messages that were alleged to have emanated from the school system's automated telephone system, the Commission will dismiss this allegation.
14. Complainant's final allegation concerned a school bus driver, Becki Leavitt, who distributed flyers in opposition to the referendum after returning from a school trip to Washington, D.C. There was insufficient evidence to support a finding that Ms. Leavitt distributed this information in her role a school employee, and the Commission will dismiss this allegation.

ORDER

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

That the matter be dismissed.

Adopted this 19th day of October of 2011 at Hartford, Connecticut.



Stephen F. Cashman
By Order of the Commission