

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
John P. Flanagan, Hamden

File No. 2012-094

FINDINGS AND CONCLUSIONS

Complainant John P. Flanagan brings this complaint pursuant to General Statutes § 9-7b alleging that respondent Michael P. D'Agostino wrongly utilized his position as the chairperson and a member of the Board of Education to promote his candidacy for the General Assembly in the November 2012 election. Complainant alleged that Respondent had improperly solicited contributions from subordinates, namely individuals who worked for the Board of Education. Complainant also alleged that Respondent enlisted the assistance of a union operative to solicit funds using the Board of Education's email system. Finally, Complainant alleged that Respondent made promises of special treatment for the employees of a school if they made contributions to his candidate committee.

After the investigation of the Complainant's complaint, the Commission makes the following findings and conclusions:

1. Complainant filed this complaint on August 13, 2012. At the time, Complainant was vying with Respondent for the Democratic Party nomination in the 91st General Assembly district.
2. The complaint included numerous allegations, which were all related to Respondent's purported use of his elected office as a member of the Hamden Board of Education to procure campaign contributions.
3. The allegations raised by the Complainant center on the fact that Respondent solicited campaign contributions from employees of the Hamden Board of Education and that he utilized his elected position as a member and chairperson of that board violated Connecticut's campaign finance statutes.
4. Respondent replied to the complaint, addressing each allegation that Complainant raised.
5. Specifically, Complainant alleged that Respondent violated General Statutes § 9-610 (d), which prohibits incumbents from using public funds "to mail or print flyers or other promotional materials intended to bring about his election or reelection" in the three months prior to the election. General Statutes § 9-610 (d).
6. Complainant also charged that Respondent's fundraising efforts violated General Statutes § 9-622 (5), which prohibits defraying costs for a political campaign without informing the campaign treasurer of the defrayal.

7. Complainant also alleged that, as a member of the Board of Education, Respondent could not seek contributions from individuals working in the school system and that Respondent's solicitation for contributions suggested that he would reward schools if the parents and concerned citizens there "put us over the top."
8. In his response to the allegations, Respondent wrote that he contacted school system employees using an email account that he had created specifically for his candidate committee, not through an email address affiliated with his role on the Board of Education. *See* Letter from Michael D'Agostino to Charlie Urso (February 1, 2013).
9. Respondent stated that he obtained the individuals' email addresses by contacting the school system, but that these email addresses are available online, via each school's website, or through a Freedom of Information Act request to the school system. *See* E-mail Message from Michael D'Agostino to Charlie Urso (May 31, 2013); Letter from Michael D'Agostino to Charlie Urso (February 1, 2013).
10. Respondent also addressed the propriety of his soliciting contributions for his state representative campaign from teachers and other employees of the Hamden Board of Education, when he served at the time as the chairman of that board. Respondent noted that he "supervised" none of the staff employed by the Hamden Board of Education, and that he possessed no authority to "oversee or control" any teachers or other public school employee. *See* Letter from Michael D'Agostino to Charlie Urso (February 4, 2013).
11. Finally, Respondent addressed the alleged collaboration with the labor organization that represents Hamden Board of Education teachers to collect contributions for his campaign as well as the purported promise to reward certain schools if the contributions from their parents and concerned citizens' groups "put us over the top." Respondent denied each of these allegations, noting that he did not "supervise" the labor union representative, who was also a school board employee, that neither he nor his candidate committee worked jointly with the labor union to promote his candidacy, and that he made no promise to reward certain schools that collected contributions for his candidate committee. *See* Letter from Michael D'Agostino to Charlie Urso (February 1, 2013).
12. General Statutes § 9 -610 (d) comprises two different prohibitions on the use of public funds to promote the candidacy of a public official. First, § 9 -610 (d) (1) prevents an incumbent within the three months preceding an election from using public funds "to mail or print flyers or other promotional materials" that are intended to promote the candidacy of the incumbent. General Statutes § 9 -610 (d) (1). Second, § 9 -610 (d) (2) bans any individual from authorizing the use of public funds during the 12- months preceding an election for any promotional campaign or advertisement that "features the name, face or voice of a candidate for public office" or promotes the nomination or election of a candidate.
13. Here, Complainant alleged that Respondent used his position as a member of the Hamden Board of Education to promote his candidacy. Respondent is alleged neither to have used public funds "to mail or print flyers or other promotional materials" within the 3-month period before the election nor to have authorized the use of public funds to create an advertising or promotional campaign that

featured his name, face or voice. Given the specificity of the types of communications to which General Statutes § 9-610 (d) apply, neither of the subsections are violated by the communications in this case.

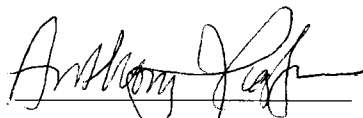
14. General Statutes § 9-622 includes within the definition of "illegal practice" municipal employees soliciting contributions for a candidate for state, district, or municipal office, for a political committee, or a party committee from persons they supervise or those persons' families. *See* General Statute § 9-622 (12) (making it an illegal practice for municipal employees to solicit contributions from subordinates).
15. In his role as a member and chairman of the Hamden Board of Education, Respondent did not supervise any subordinates in the school system, so General Statutes § 9-622 would not apply in this instance.
16. As for the remaining allegations in the complaint regarding coordination between the union and Respondent's candidate committee, the allegation of promises to members of the community who "put us over the top," and potential defrayal of costs normally borne by the candidate committee to the board of education, the Commission has investigated the allegations raised by Complainant and has found that none can be substantiated as violations of Connecticut's campaign finance statutes.

ORDER

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

That the complaint be dismissed.

Adopted this 19 day of June of 2013 at Hartford, Connecticut.



Anthony J. Castagno

By Order of the Commission