

**STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION**

In the Matter of a Complaint by Joan Coe, Simsbury

File No. 2021-059

FINDINGS AND CONCLUSIONS

Complainant, Joan Coe, filed the instant complaint with the Commission pursuant to Connecticut General Statutes § 9-7b. Complainant alleged that Respondent Simsbury Board of Education¹ expended municipal funds for a sign promoting the passage of a referendum in violation of the law. The following are the Commission's findings of fact and conclusions of law:

1. On or about March 29, 2021 Respondent placed signs (the "Latimer Lane Signs") on the grounds of the public schools in the town, at the town hall, and on a town playground.
2. The Latimer Lane Signs included a large logo of the Latimer Lane School, a school in the Town of Simsbury, and also stated:

It's Elementary.

TIME TO MEET THE NEED

[www.simsbury.k12.ct.us/schools/
latimerlane/renovation-project](http://www.simsbury.k12.ct.us/schools/latimerlane/renovation-project)

3. Respondent paid for the production of the Latimer Lane Signs.
4. The link on the Latimer Lane Signs lead to a website that described a proposed renovation project at the Latimer Lane School (the "Latimer Lane Renovation Project") and explained why it was needed.
5. On or about April 7, 2021 the Board of Selectmen for the Town of Simsbury voted to send a question to referendum concerning whether to approve the allocation of funds for the Latimer Lane Renovation Project.

¹ The complaint in this matter lists the Simsbury Board of Education as the Respondent and, because no violation was found in the Commission's investigation, that is the Respondent so listed. However, had municipal funds been used to advocate for or against the passage of a pending referendum, it would be the individual that authorized such expenditure that would bear the liability for such violation and any penalty assessed would be the personal liability of that individual for which the Town could not indemnify pursuant to General Statutes § 9-369b (b).

6. On or about April 7, 2021 Respondent was notified that the Simsbury Board of Selectmen had voted to send the Latimer Lane Renovation Project to referendum.
7. On or about April 8, 2021 Respondent removed the Latimer Lane Signs and took the website describing the Latimer Lane Renovation Project offline.
8. On or about April 26, 2021 the Town of Simsbury noticed the referendum concerning the Latimer Lane School Project.
9. Connecticut law prohibits the use of municipal funds to influence voters to vote for or against a pending referendum. Specifically, General Statutes § 9-369 (a) (4) provides:

Except as specifically authorized in this section, no 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 or to otherwise influence or aid the success or defeat of any such referendum. The provisions of this subdivision shall not apply to a written, printed or typed summary of any official's views on a proposal or question, which is prepared for any news medium or which is not distributed with public funds to a member of the public except upon request of such member. For purposes of this section, the maintenance of a third-party comment posted on social media or on an Internet web site maintained by the state, a municipality or a regional school district permitting such third-party comments shall not constitute an expenditure of state or municipal funds.

10. The Commission has historically stressed that in determining whether the prohibition in § 9-369b applies to an expenditure the "threshold question" is "whether the referendum was pending at the time of the public expenditure." See *In the Matter of a Complaint by David W. Bolton, Union*, File No. 2007-186.
11. Furthermore, the Commission has, in prior cases, determined that General Statutes § 9-369b only applies when a referendum is "legally pending," or when "the last legal condition" has been satisfied to ensure that the referendum will take place. See *In the Matter of a Complaint by Diane Gagnon, Hampton*, File No. 2017-074; *In the Matter of a Complaint by Matthew Paulson, Bethel*, File No. 2015- 030; *In the Matter of a Complaint by Kirk Carr, Clinton*, File No. 2014-053; *In the Matter of a Complaint by Thomas A. Karhrl, Old Lyme*, File No. 2007-185.
12. In this case, both the website concerning the Latimer Lane Renovation Project and the Latimer Lane Signs were removed upon notice that the Board of Selectmen had voted to send the question concerning the Latimer Lane Renovation Project budget to a referendum and before the issue was noticed by the Town Clerk.

13. Thus, because there was no referendum pending when the website concerning the Latimer Lane Renovation Project and the Latimer Lane Signs were produced or displayed, the provisions of General Statutes § 9-369b did not apply to those communications and, therefore, there was no violation.
14. Accordingly, it is the determination of the Commission that this matter should be dismissed.

ORDER

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

That the allegations in this matter be dismissed.

Adopted this 2nd day of June, 2021 at Hartford, Connecticut.



Stephen T. Penny, Chairperson
By Order of the Commission