

Business and Non-Instructional Operations

Spending Public Funds for Advocacy

The Orange Board of Education recognizes that C.G.S. 9-369b prohibits the expenditure of municipal funds to influence a vote on a pending referendum question. This includes the dissemination of printed materials and the preparation of video and website presentations. The Superintendent is directed to avoid violating this prohibition which applies to in-kind expenditures as well as direct expenditures of money. Individuals violating this prohibition are personally liable.

The Orange Board recognizes that public funds may be expended concerning a referendum when the following conditions are met:

1. By vote of the legislative body, the town/city may authorize the preparation and printing of concise explanatory texts concerning referenda proposals. The Town Clerk is responsible for preparing the text subject to the approval of the town/city attorney who shall assure that such text does not advocate either the approval or disapproval of the question. The town's/city's legislative body may also authorize the preparation and printing of materials concerning any referendum proposal or question in addition to the explanatory text. Such materials are also subject to the approval of the town/city counsel and must be neutral, advocating neither approval nor disapproval of the referendum question.
2. A public official may expend public funds to prepare a written, printed or typed summary of his/her view on a referendum issue and distribute that summary to the news media at a bona fide press conference. Such summary may express support or opposition to the referendum question. The summary may be provided upon request to members of the public. Public funds may not be used to provide for a general distribution of the summary.
3. The Superintendent or Board members may respond to a constituent

request for information concerning the referendum, including personal views.

4. The town/city via public ordinance may provide for the preparation and printing of concise summaries of arguments in favor of, and arguments opposed to, local proposals or questions approved for submission to the electors of the town/city at a referendum. The ordinance must provide for a committee to prepare such summaries, with members representing the various viewpoints. Such summaries must be approved by vote of the town's/city's legislative body and posted and distributed by the Town Clerk.

5. The school District will not use its automated calling system, electronic mail, text, telephone or other electronic or automated means for the purpose of reminding or encouraging parents/guardians and students about the time, date and place concerning referenda and encouraging them to vote. This prohibition shall not apply to a regularly published newsletter or similar publication.

The Orange Board recognizes that school officials and Board members retain their First Amendment rights to express their position on the proposed school budget or other referendum questions. The prohibition contained in this policy only pertains to the expenditure of public funds.

It is further recognized that individuals, individually or collectively, can spend private funds to advocate for a referendum result, as they see fit, as permitted by the regulations of the State Elections Enforcement Commission.

The Orange Board further recognizes the statutory right of any community member to bring a complaint if such individual claims to have been aggrieved in connection with a referendum by (1) an election official's ruling, (2) a mistake in the vote count, or (3) a violation of prohibited acts concerning absentee voting. A person may file a complaint with any judge of the Superior Court.

Legal Reference: Connecticut General Statutes

9-355 Official neglect or fraud

9-357 Fraudulent registration

9-358 False swearing before registrar, moderator or board

9-359 Absentee ballots

9-359a False statement in absentee balloting. Class D felony

9-360 Fraudulent voting

9-361 Primary or enrollment violations

9-369b Explanatory text related to lead question. Expenditures of state and municipal funds to influence vote prohibited. Exception. Civil penalty. (as amended by PA 00-92 and PA 04-117, PA 13-247 and PA 15-173).

Policy adopted: January 19, 2021

Business/Non-Instructional Operations

Spending Public Funds for Advocacy

1. Spending Public Funds to Inform Citizens Regarding Referenda Section 9- 369b, Connecticut General Statutes is the exclusive method by which a municipality or regional school district could expend public funds for printing and distribution of information concerning a referendum question. It sets forth the following conditions for such expenditure:

- a. A vote of the municipality's legislative body is needed to authorize the "explanatory text";
- b. The preparation of the text must be made by the municipal clerk and approved by the municipal attorney;
- c. The text shall specify the intent and purpose of each referendum or question; and
- d. Such text shall not advocate either the approval or the disapproval of the referendum proposal or question.

Materials in addition to the explanatory text may now be prepared and printed with public funds if they (1) do not advocate either the approval or disapproval of the referendum; (2) are authorized by vote of the local legislative body; and (3) are approved by the municipal attorney.

In a municipality that has a town meeting as its legislative body, the board of selectmen by majority vote can authorize the issuance of an explanatory text or other neutral printed matter.

For any referendum called for by a regional school district, the Regional Board of Education shall authorize the preparation and printing of concise explanatory texts of proposals or questions approved for submission to the electors of a municipality at a referendum. The Secretary of the Regional School Board shall

prepare such explanatory text which is subject to the approval of to school Board's counsel. The Regional Board's Secretary shall also undertake any other duty of a municipal clerk as described in this statute.

2. Expenditure of Public Funds for Advocacy Prohibited When a Referendum is Pending

With two exceptions discussed below, no expenditure of state, municipal or regional school district funds can be made to influence any person to vote for approval or disapproval of any referendum question. The ban applies when a referendum is pending.

A referendum question is pending when the necessary legal conditions have been satisfied to require the publication of the warning (notice) of the referendum. For example, a referendum is pending when a sufficient number of signatures have been certified by the Town Clerk under C.G.S. [7-7](#) or when the selectmen, or other authorized government official, have determined that a referendum will be conducted.

3. Pro-Con Summaries

By ordinance, a municipality may provide for the preparation and printing of concise summaries of arguments in favor of and opposed to a referendum question for which an explanatory test is prepared under Section [9-369b\(a\)](#) or (b). The ordinance must provide for a committee to prepare these summaries. Other conditions for this exception are specified in Section [9-369b\(d\)](#).

4. Press Releases and Constituent Responses Permitted

The other exception is that an official can express his/her views on pending referendums at a bona fide news conference, and may use public funds, facilities, and supplies to prepare a press release to be disseminated at the conference. Also, an official may use public funds, facilities and supplies to respond to a constituent request for information concerning the referendum, including the official's views. The exception is lost however, if the official responds to the citizen's request with the

knowledge that the response will be disseminated to others in the community.

5. Children in School as Couriers

Children in school may not be used as couriers of information that advocates a position on a referendum. A notice limited to the time, place and question to be voted upon may be sent home to parents via children in school.

6. Use of School Teachers, Administrators, Facilities, Supplies, and Equipment Prohibited

The prohibition on state and municipal funds also applies to the use of school facilities, supplies, and equipment and postal permits to advocate a position on a referendum. For example, parent teacher organizations and school administrators may not use school equipment to prepare or copy advocacy material even if the town, regional district or school system is reimbursed for such use. This prohibition also extends to the use of a school's public address system to advocate a result of a referendum.

7. Use of School Facilities by Outside Political Committees and Organizations for Meetings or Rallies.

School facilities may not be used by political committees or other groups for the purpose of advocating a position on a referendum unless such facilities are accessible to all such committees or groups on a non-discriminatory basis. A charge can be made for the use of school facilities for this purpose and all groups or committees must be charged the same.

8. What Constitutes Advocacy?

A communication advocates a position on a referendum when in part, or taken as a whole, it urges the listener or reader to vote in a particular manner. The style, tenor, and timing of a communication are factors which are considered by the Commission when reviewing alleged improprieties of Section 9-369b.

9. Civil Penalties for Violations

The State Elections Enforcement Commission may impose a civil penalty against any official who violates Section 9-369b(a), in an amount not exceeding twice the amount of the improper expenditure or \$1,000, whichever is greater. The official is personally liable for the penalty and cannot be reimbursed or indemnified by the state, regional school district or municipality for payment of a civil penalty.

10. Political Committees to Promote Referenda

Under Chapter 150 of the General Statutes, public officials and citizens alike may join together to advocate their views on a referendum by registering a political committee with the clerk of the municipality in which the referendum is to be held. Upon its registration, the political committee is permitted to solicit, receive and expend private funds to promote the success or defeat to a referendum question. If less than \$500 is expected to be collected or spent, a group may file a certification of exemption in lieu of a political committee registration form.

11. Independent Personal Expenditures

Any citizen or public official may independently (acting alone) make expenditures of his/her own funds to promote the success or defeat of a referendum question without forming a political committee in conformance with Chapter 150, Connecticut General Statutes. However, once such individual spends more than \$1,000 to promote the success or defeat of a

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referendum question, he/she must file statements according to the same schedule and in the same manner as is required of a campaign treasurer of a political committee under Section 9-333j.

Legal Reference: Connecticut General Statutes

9-333j Statements to be filed by campaign treasurers.
Treatment of surplus or deficit. Filing dates.

9-369b. Explanatory text related to lead question.
Expenditures of state and municipal funds to influence vote prohibited. Exception. Civil penalty. (as amended by PA 00-92 and PA 04-117, PA 13-247 and PA 15-173.)

Regulation approved: January 19, 2021