



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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June 27, 2006

Kim Hogan
Lexington High School PTSA
39 Carville Ave.
Lexington, MA 02421

Re: CPF-06-43

Dear Ms. Hogan:

This office has received a complaint regarding the June 2006 issue of the Lexington High School Newsletter.

In Anderson v. City of Boston, 376 Mass. 178 (1978), the Supreme Judicial Court concluded that the City of Boston could not appropriate funds, or use funds previously appropriated for other purposes, to influence a ballot question submitted to the voters at a state election. The court stated that the campaign finance law, M.G.L. c. 55, demonstrates an intent "to assure fairness of elections and the appearance of fairness in the electoral process" and that the law should be interpreted as prohibiting the use of public funds "to advocate a position which certain taxpayers oppose." 376 Mass. at 193-195.

Accordingly, this office has concluded that governmental entities may not expend public resources¹ or contribute anything of value in support of or opposition to a ballot question. In addition, public resources may not be used to distribute commentary regarding a ballot question unless expressly authorized by state law. See OCPF IB-91-01. Even if such information is intended to be objective and factual (the person who writes it believes it is "informational" rather than "advocacy") it may not be distributed using public resources without legislative authority. Only six municipalities have obtained such legislation: Burlington, Cambridge, Dedham, Newton, Sudbury, and Lancaster.

The June edition of the newsletter discussed the content of the override. Therefore, the use of public resources (the school's copying machine, toner, paper and bulk mail permit) in connection with its copying and distribution did not comply with the campaign finance law. The PTSA has, however, agreed to pay \$300 to the Town of Lexington for the value of the toner and paper used as well as for the approximate value of the bulk mail permit used.

¹ Public resources include, but are not limited to: stationery and office supplies, school bulk mail permits, and office equipment such as telephones, copier and fax machines and word processors.

In addition, the PTSA will file a report with the Lexington Town Clerk (Form M22 "Report of Ballot Question Expenditures by Corporation or Organization – Municipal Form") disclosing its expenditures relating to the ballot question. The campaign finance law requires the treasurer of an organization that expends money in order to influence or affect the vote on any question submitted to the voters to file reports setting forth the amount of every expenditure together with the date, purpose and full name and address of the person to whom it was made. If the question appears on the ballot at a town election, this report must be filed with the town clerk as follows: on the eighth day preceding the primary, on the eighth day preceding the town election, and as a final report on the thirtieth day following the town election. See M.G.L. c. 55, § 22. Because the election took place on June 5, the report is due on July 5.

You have stated that further editions of the newsletter will not contain discussions regarding municipal ballot questions.

Because we anticipate that the guidance in this letter will ensure future compliance, and because the PTSA has agreed to reimburse the Town for the value of the materials provided, this matter may be closed at this time. If public resources are used in the future to influence an election in a manner not consistent with Anderson, however, the person(s) who authorize the use of the public resources may be required to provide restitution by making a payment to the Town or other public entity. See M.G.L. c. 55, § 22A.

In accordance with an opinion issued by the Supervisor of Public Records, this letter is a public record. A copy will be forwarded to the person(s) who brought this matter to our attention.

If you have any questions about this letter or any other campaign finance matter, please do not hesitate to contact this office.

Sincerely,



Michael J. Sullivan
Director

cc: Donna Hooper, Lexington Town Clerk
Dr. Paul Ashe, Superintendent of Lexington Public Schools
Dr. Michael Jones, Principal, Lexington High School

MJS/gb