

Declaratory Ruling Permits School Districts to Use Electronic Signs to Post Time, Date and Location of Referendum

Education Law Notes

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The Connecticut State Elections Enforcement Commission [“SEEC”] has issued its first ruling interpreting the 2013 amendment to Connecticut General Statutes Section 9-369b, the state law that prohibits the use of public funds to influence any person to vote for or against a referendum question. This amendment [link to Section 386 of Public Act 13-247] established that:

“[n]o person shall use or authorize the use of municipal funds to send an unsolicited communication to a group of residents regarding a referendum via electronic mail, text or telephone or other electronic or automated means for the purpose of reminding or encouraging such residents to vote in a referendum, provided such prohibition shall not apply to a regularly published newsletter or similar publication.”

This amendment was intended to prevent school districts from using their AlertNow or other robocalling systems to send notice of the time, date and place of a referendum to a targeted audience, such as parents and guardians. The language of this new proscription, however, was sufficiently broad as to call into question whether school districts could continue to use electronic signs located on school grounds to post the time, date, and location of referenda.

In Declaratory Ruling 2015-01, the SEEC concluded that the 2013 proscription against using municipal funds to transmit a message about a referendum by “other electronic or automated means,” was not intended to include an electronic sign located on school property. The SEEC noted that such signs are fundamentally different from the other methods of communication that the statute specifically enumerates -- e-mail, text, or telephone -- because they are physical objects and their message “is not transmitted beyond the physical space it occupies.” Additionally, the SEEC cited practical concerns, noting that if such signs were covered by the law, “a town would be unable to use any electronic sign to provide the public with any information concerning a municipal referendum, whether that sign were on school grounds, in a public park, or in the town hall itself,” and observing that “as electronic signage is increasingly supplanting traditional signage for its ease of use, cost and flexibility, such a prohibition may further suppress overall voter participation and undermine the participatory goals of municipal referenda.”

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As a consequence of the SEEC's ruling, school districts and municipalities should feel secure in the knowledge that while a referendum is pending, they may use electronic signage on their property to publicize the time, date and location of a referendum without running afoul of the new provisions of Conn. Gen. Stat. §9-369b.

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