



Commonwealth
of Massachusetts

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Office of Campaign and Political Finance

One Ashburton Place, Room 411

Boston, MA 02108

Advisory Opinion

March 28, 2003

AO-03-03

Tina Aiello
178 Florence Street
Melrose, MA 02176

Re: Activities of PTO and ballot question committee

Dear Ms. Aiello:

This letter is in response to your request for an opinion regarding anticipated activities by a PTO and a ballot question committee in connection with their support of an anticipated Proposition 2 ½ override.

You have stated that you are active in the Beebe School PTO, which like other PTOs in Melrose has created a subcommittee to support an anticipated Proposition 2 ½ override. There are 12 parents in the Beebe School subcommittee, some of whom are also active in a separate citywide ballot question committee organized to raise funds and make expenditures to support the override. Although the Aldermen have not yet placed the question on the ballot, you expect there will be a special election in June and that the question will be on the ballot at that time.

You have asked several questions, each of which is answered below.

Question 1:

The ballot question committee would like to use a PTO created school directory, which lists student and parent names, addresses, phone numbers and e-mail information, to generate a list of supporters of the override.¹ The information in the directory was gathered both at a joint PTO/school sponsored open house and through subsequent PTO notices delivered to families' homes through the school. Inclusion of address, phone and e-mail information in the directory was voluntary. The

¹ The directory also includes class lists given to the PTO by the school. The committee would not use the class list information.

directory, which was copied at PTO expense without the use of school resources, was distributed to all families of children in the school via the children.

May the ballot question committee create its own e-mail list generated from the directory to distribute a message asking parents if they would like to receive more information regarding the override?

Answer: Yes. No campaign finance issues are raised by such a list. It is our understanding that schools often distribute parent handbooks containing such information. If you have questions regarding the extent to which directory or other student information may be released by schools you should contact the Massachusetts Department of Education, at (781) 338-3700.

The directory is not an in-kind contribution from the PTO if the PTO provides the directory upon request to any parent and it is provided to a parent who is in the ballot question committee.

Question 2: If the committee can create its own e-mail list from the directory, is it restricted as to the type of information it can distribute?

Answer: No. The campaign finance law does not restrict the kind of information that might be distributed in the e-mail list.

Question 3: Can the override be discussed at PTO meetings on school property?

Answer: Yes. The campaign finance law generally does not contain any restrictions on what may be discussed at a meeting of a group such as a PTO. The campaign finance law does, however, stipulate that funds may not be solicited or received to support the override at such meetings if the meetings take place in a public school building. See M.G.L. c. 55, § 14, which prohibits political fundraising in “any building or part thereof occupied for state, county or municipal purposes.”

Question 4: Can the PTO take a position on the override issue?

Answer: Yes. Nothing in the campaign finance law prohibits the PTO from stating its position on an override issue.

Question 5: Can the PTO contribute funds already in its possession to the override campaign?

Answer: Yes. The PTO would, however, be required to file a report disclosing its expenditures. See M.G.L. c. 55, § 22.

Section 22 requires the treasurer of every corporation, association, organization or other group of persons, other than a political committee, which expends money in order to influence or affect the vote on any question submitted to the voters in a town election to file Form CPF M22 “Report of Ballot Question Expenditures by Corporation or Organization,” on the eighth day preceding the preliminary or primary, on the eighth day preceding the election and on the thirtieth day following an election.

Any group, however, that **solicits** or **receives** any money or other thing of value for political purposes is deemed to be functioning as a political committee and is therefore subject to the provisions of the campaign finance law. See OCPF Interpretive Bulletin IB-90-02. An organization functioning

as a political committee is also subject to all limitations on contributions and expenditures, and all relevant reporting requirements, imposed by M.G.L. c. 55. Therefore, although the PTO may *make expenditures* to support the override, it may not *raise* funds for that purpose, as such activity may only be undertaken by a ballot question committee.

Question 6: Can the PTO hold a fundraiser on school property (or off of school property) to support the override campaign?

Answer: No. If a group or association solicits or receives any money or other things of value for the purpose of promoting or opposing a question submitted to the voters, the group or association is functioning as a ballot question committee. As such, it would be subject to all the provisions of the campaign finance law as of the date of the solicitation or receipt of such money or other thing of value. It would need to create a separate, segregated account, organize with the local clerk or election commission as a ballot question committee, and file campaign finance reports before and after the election, disclosing the group's receipts and expenditures. See IB-90-02.

A fundraiser to support a ballot question may not be held in any building or part thereof occupied for state, county or municipal purposes, including a public school. Such activity by any person or group would violate section 14. This prohibition would not, however, apply to the grounds of a public school (e.g., a sports field). A fundraiser could take place there, assuming equal access is provided to any other similar group, absent a policy prohibiting such events. Equal access means that a group opposing the override must be given access on the same terms and conditions and could have a fundraiser of their own at another time.

Question 7: May a parent who is a member of the committee or PTO approach other parents unsolicited on school property (at pick-up or drop-off time) to provide information regarding the ballot question? May such information be provided on school property if a parent specifically requests it?

Answer: In general, the campaign finance law does not restrict informal private exchanges such as a conversation, or an informal exchange of information, on school property. (An exception would be the absolute prohibition against fundraising activity in a public building discussed above). There are campaign finance implications, however, when a school department gives permission to a group to conduct organized political activity on public property, such as leafleting or a meeting by a ballot question committee designed to influence a ballot question. For example, if the school department allows a ballot question committee or the subcommittee of a PTO created to support an override to distribute ballot question information at a table set up near the entrance of the school, equal access would need to be provided to the opponents of the ballot question.²

Question 8: The PTO typically distributes information by having children bring flyers or newsletters home from school in their backpacks. May the ballot question subcommittee distribute minutes of meetings in the same manner, where the meetings are set up specifically to support the override?

Answer: No. This office has consistently advised that distribution of ballot question information in this manner would involve the use of public resources (teachers) for a political purpose. See, e.g., AO-94-11 and AO-00-06. Where a PTO subcommittee is established specifically to promote

² A more restrictive policy adopted by school administrators restricting or prohibiting such activity would not violate the campaign finance law.

a ballot question, the distribution of the subcommittee's minutes in this manner would not be consistent with the campaign finance law.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and in your conversations with OCPF staff. The advisory opinions and interpretive bulletins referenced in this letter are available on-line at www.mass.gov/ocpf. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in black ink and is positioned to the left of a vertical line that extends downwards from the end of the signature.

Michael J. Sullivan
Director

MJS/gb

cc: Dorothy McGuire, Melrose Election Commissioner