



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411
BOSTON, MASSACHUSETTS 02108

MICHAEL J. SULLIVAN
DIRECTOR

TEL: (617) 727-8352
(800) 462-OCPF
FAX: (617) 727-6549

August 28, 2009

Peter G. Schafer
Superintendent of Schools
Abington Public Schools
One Ralph Hamlin Lane
Abington, MA 02351

Re: CPF-09-45

Dear Mr. Schafer:

This office has completed its review of a complaint we received concerning the use of the Abington Public Schools' email network to distribute a notice regarding the formation of a ballot question committee prior to the July 25 town election in Abington.

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. The court stated that the campaign finance law 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.

In accordance with Anderson, this office has consistently advised that governmental entities may not use public resources to support or oppose ballot questions. Specifically, this office has advised that governmental entities may not use public resources to distribute flyers, brochures or other material to voters or a class of voters advocating the support or opposition of a ballot question absent express statutory authorization. See IB-91-01. Consistent with this advice, the office has stated that public resources should not be used to distribute a notice regarding the formation of a ballot question committee. See AO-00-06 (a copy is enclosed), in which the office stated that such activity raises concerns under Anderson and also under section 13 of the campaign finance law. Section 13 states that public employees may not directly or indirectly solicit or receive contributions "for any political purpose whatever." A ballot question committee raises and spends money to influence ballot questions. Therefore, public employees should not encourage persons to contact the organizers of a committee being organized to influence a ballot question.

Turning to the particular notice that was sent by the Abington Public Schools by email on June 25, the notice stated that "the purpose of this meeting is to discuss the upcoming override vote to be held July 25, 2009." You have stated that you understood that the email was informing



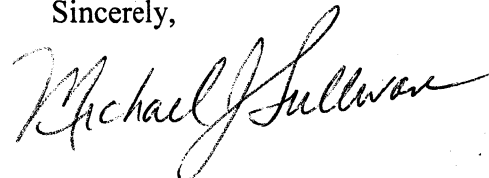
persons of a community meeting, that you did not know it would be for the purpose of the formation of a ballot question committee, and that not everyone who attended the meeting wanted to support the override. Further, the announcement did not, by its terms, indicate that the "committee" was a ballot question committee, and the committee did not file a statement of organization until after the meeting (on July 1).

Nonetheless, given the timing of the meeting and the interest of the group in discussing the upcoming override, one might reasonably have anticipated that a group calling itself "the Come Together for Abington Committee" was, or would become, a ballot question committee.

We have determined, however, that further action by this office would not be warranted. You should be careful to avoid even the appearance that public resources are being used in connection with any election-related email announcement in the future. If you are not sure whether a proposed email is appropriate, we encourage you to contact OCPF prior to the distribution of the email.

In accordance with the opinion of the Supervisor of Public Records, this letter is a public record. A copy is being provided to the person(s) who brought this matter to our attention. Thank you for your cooperation in resolving this matter.

Sincerely,

A handwritten signature in black ink that reads "Michael J. Sullivan". The signature is written in a cursive, flowing style.

Michael J. Sullivan
Director

Enclosure