

# **Community Engagement 2.0... When Traditional Methods Won't Do**

## **Legal Dos and Don'ts of School Budget Campaigns**

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### **NJSBA Winter School Public Relations Forum**

**Michael F. Kaelber, Esq.**  
**Director, Legal, Policy and Labor Relations Services**  
**Department, NJSBA**



# LEGAL DOS AND DON'TS

**A board of education may pay for, produce and distribute a publication in which it exhorts the public to “Vote Yes” on the upcoming school budget tax levy.**

**True**

**False**



# LEGAL DOS AND DON'TS

## Citizens v. Parsippany-Troy Hills

13 N.J. 172 (1953)

- **Board may make reasonable expenditures for voter education**
- **Board may not spend public funds to support one side**
  - **Overdramatization of consequences of referendum failure**
  - **“Vote Yes” – 3 times**



# LEGAL DOS AND DON'TS

## Citizens v. Parsippany-Troy Hills

13 N.J. 172 (1953)

- **Proper board expenditures – examples**
- **Use of outside group/civic associations**
- **Implicit expenditures**



# LEGAL DOS AND DON'TS

## Schettino V. Ridgefield Bd. of Ed. (1993)

### Commissioner's remedy-

- **Rejects ALJ equal coverage - establishes board procedures**
- **Board review of election publications**
- **Consultation with board attorney**
- **Full board approval prior to distribution**



# LEGAL DOS AND DON' TS

## In re: Old Bridge Election (1994)

- **Cable television panel presentation**
- **3 of 4 speakers urge public to vote yes**  
*“Give us your vote of support and vote ‘yes’ on April 20<sup>th</sup>.” “We appeal to you to please vote for the budget.”*
- **Public- funded advocacy**



# LEGAL DOS AND DON' TS

## Enterline v. Hillsborough (1996)

Functional exhortation to “vote yes”

“Approved referendum enables us to continue providing the quality education our children deserve.”

“Responsibly planning...is what the March 28 bond referendum is all about.”



# LEGAL DOS AND DON' TS

## Enterline v. Hillsborough (1996)

**Overdramatized ramifications of a defeated bond referendum**

***“Emotionally, a defeated referendum can split a community, tarnish the image of a school district, and over time, reduce property values.”***





# LEGAL DOS AND DON'TS

## Enterline v. Hillsborough (1996) Commissioner Remedy

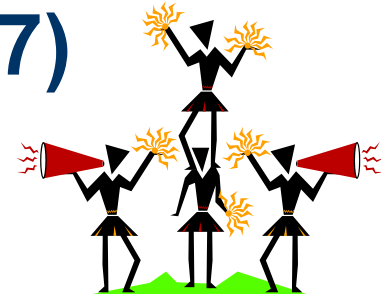
- **Open session-Board review of bond referendum publications**
- **Assistance of counsel**
- **Must include findings that materials are educational and not for purpose of influencing opinion**



# LEGAL DOS AND DON'TS

## Schoen v. Edison (1997)

(Board Wins!!!)



- **Not unreasonable to hire consultant**
- **Board self-policed materials**
- **Board declined to distribute some materials, letters to the editor, phone bank script**



# LEGAL DOS AND DON' TS

## Schoen v. Edison (1997)

... to spend public funds materials must be informative and balanced, rather than advocative.

...if there is no evidence that the information is deliberately incomplete, inaccurate, or selectively biased, the mere absence of opposing viewpoint(s) does not warrant a finding that the material contravenes Citizens...



# LEGAL DOS AND DON'TS

## Adams v. Greenwich Township Board of Education (1999)

- **Bond referendum information did not unfairly advocate**
- **Omission of state aid not fatal**
- **4 Fliers - Board intended to present facts and exhort voters to ask questions**



# LEGAL DOS AND DON' TS

## In re Use of Abbott Funds

### Elizabeth Bd. of Ed. - 2009

- Board spent \$ 88,373 on color brochure, 4 TV spots to oppose Mayor' s proposed sale of land
- Use of public funds for advocacy – “political advertisement at heart of Citizens”
- Commissioner deducts \$88,373 in state aid



# LEGAL DOS AND DON'TS

**The Executive County Superintendent must approve all publications distributed by the board of education to the community at large to ensure that public funds are being expended properly.**

**True**

**False**



# LEGAL DOS AND DON'TS

## Accountability Regulations 2009

*N.J.A.C. 6A:23A-5.2 – Public Relations*

- **Communications to community at large – 60/90 days before the election**
- **Promotional efforts to advance election positions prohibited**
- **Executive County Superintendent approval**



# LEGAL DOS AND DON'TS

## Accountability Regulations 2009

*N.J.A.C. 6A:23A-9.3*

**Efficiency Standards, Public Relations  
Definition, Use of Consultant**

*N.J.A.C. 6A:23A-22.6*

**Charter Schools and Public Relations**





# LEGAL DOS AND DON'TS

**Your board president is concerned about the upcoming school budget election, given the economic climate. She has developed a marketing proposal for the board which includes a series of bi-weekly community newsletters, starting on March 1, with placement on the school's website and on the local cable access bulletin board.**



# LEGAL DOS AND DON'TS

## ***N.J.S.A. 18A:42-4 – Use of Students***

- **Literature may not be given to students that promotes, favors or opposes candidacy or public question**
- **Student may not be requested to engage in activity that promotes, favors or opposes candidacy or public question**
- **Board must adopt policy**



# LEGAL DOS AND DON' TS

## **Use of Student Record Information**

*N.J.A.C. 6A:32-7.1 et seq.*

**Limited Access; Student Directory Information**

## **Campaign Literature**

*N.J.S.A. 19:44A-22.2*

**Name, residence, and “paid for by” language**



# LEGAL DOS AND DON'TS

## Marketing Tactics

- **Raffles – prohibited as inducement to vote, licensing - *N.J.S.A. 19:34-39,40***
- **Scheduling of PTA meetings/Back to School night on Election Day - not prohibited, public goal to increase voter participation, caution**



# LEGAL DOS AND DON'TS

**The superintendent has reviewed the board president's marketing plan and has added a few suggestions:**

- **Give students election information to take home, including information on how to obtain an absentee ballot**
- **Use the Reverse 911/Honeywell phone system to communicate election information, encouraging people to vote**
- **Email or text all parents, advising them of the election date and time and encouraging them to vote**



# LEGAL DOS AND DON'TS

**A board member, who does not agree with the proposed budget, has created his own personal website, on which he is encouraging people to “Vote No!” He has also been seen outside the local supermarket handing out literature opposing the budget and has asked for permission to hand out the same literature at the next board meeting.**



# LEGAL DOS AND DON'TS

**School Officials can never get into ethical difficulty regarding school board candidate campaigning or promoting or opposing the school district budget.**

**True**

**False**



# LEGAL DOS AND DON' TS

## **School Official Ethical Considerations SEC Advisory Opinion AO3-07 (April 2007)**

- **Identify yourself as a board member**
- **Indicate opinions are your own and not necessarily that of the board of education**
- **Information is accurate and not confidential**
- **No private action that could compromise the board**





# LEGAL DOS AND DON'TS

## School Official Ethical Considerations Case Law

- **Board candidate fliers posted in school administration offices**
- **Campaign flier contained incomplete and inaccurate fiscal information**
- **Using district automated call system to remind voters to vote on Election Day**



# LEGAL DOS AND DON' TS

**Questions?**

