

SCHOOL BUDGET & BOND REFERENDA INFORMATION

Boards of Education are authorized by law to disseminate educational and informational material concerning proposed budgets or other school programs, including those matters that are subject to public referendum.

The Commissioner of Education and the courts have consistently ruled that it is not only the right but the duty of a Board of Education to see to it that the voters of the District have sufficient facts before them in order to vote intelligently on those propositions which the Board brings before the electorate for decision. The Board has an affirmative obligation to disseminate such information, with regard to School District matters, in order to inform the School District electorate and to enable voters to intelligently exercise the franchise.

In a recent case, however, the New York State Court of Appeals ruled that the Board's authority to disseminate information is limited to that which is "reasonably necessary" to educate the public, and does not allow a School Board "to disseminate information, at the taxpayers' expense, patently designed to exhort the electorate to cast their ballots in support of a particular position advocated by the Board." The advertisement successfully challenged in the case urged an affirmative vote on the School District's budget and bond issue proposal, and contained subjective statements in support of that position.

The power to expend District funds for the dissemination of information has been held to be clearly implied in the general powers of Boards of Education and in the general scheme of the Education Law. Again, the ruling seems to indicate that this authority is limited to what is "reasonably necessary" to educate the public.

In addition, the Commissioner has upheld the distribution of such information compiled by a Board to the parents of school children through the children themselves, as a lawful exercise of authority by the Board, and as necessary in order to make possible the intelligent use of the franchise.

The Commissioner has also ruled that neither the Education Law nor any other statute confers on minority Board members or individual District residents the right to have their views printed in a Board publication addressed to the community, stating that the views expressed must be the views of the Board, acting by a majority of its members. In the past, the Commissioner has indicated that such a right could be granted by a bylaw or regulation adopted by a Board itself. In any event, however, individual Board Members may communicate their views at their own expense.

References:

Education Law §§1709(33); 1716