



177 Post Street, Suite 700
San Francisco, CA 94108

Jesse Franklin-Murdock
JFM@dhillonlaw.com

January 29, 2024

VIA FEDERAL EXPRESS

Davis Joint Unified School District
526 B Street
Davis, California 95616
Attn: General Counsel

**Re: *Elisabeth Y. Bourne*
Demand to Cease and Desist Illegal Use of District Resources**

Dear Sir or Madam:

Our law firm represents Elisabeth Y. Bourne in her capacity as a concerned citizen and stakeholder of the Davis Joint Unified School District (the "District"). It has come to Ms. Bourne's attention that the District has used public resources in order to urge voters to adopt Measure N, a parcel tax that would fund District operations. As school districts are prohibited from using public resources to advocate for the adoption of ballot measures, we write to demand that the District cease its illegal conduct immediately.

California law makes clear that educational agencies like the District may not use public funds to advocate for candidates or ballot measures in elections. The law is clear: "No school district or community college district funds, services, supplies, or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board of the district." (Cal. Educ. Code, § 7054(a).) There is a limited exception related to "provid[ing] information to the public about the possible effects of any bond issue or ballot measure" where the "informational activities are otherwise authorized by the Constitution or laws of this state" and the "information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure." (Cal. Educ. Code, § 7054(b).) The Office of the Attorney General provided guidance making clear that the "prohibited purpose" need not be the "sole purpose of an improper expenditure to bring it within these prohibitions." (99 Cal. Op. Att'y Gen. 18 (2016).) The legislature made its intent to protect elections from undue influence on the part of government agencies clear when it made violations of Section 7054 a misdemeanor or felony punishable by imprisonment and fine. (*See* Cal. Educ. Code, § 7054(c).)

Perhaps recognizing its obligations under California law, the District adopted policies that mirror and expand upon the restrictions imposed by the Education Code. Board Policy 1160 states: "No district funds, services, supplies, or equipment shall be used to urge the support or defeat of any ballot measure or candidate, including any candidate for election to the Board." If the District's Board publicizes its position on a ballot measure, "[s]uch publicity shall be for informational purposes and shall not attempt to influence voters." Board Policy 1160. "The Superintendent or designee may research, draft, and prepare

a district bond measure or other initiative for the ballot, but shall not use district resources to influence voters or otherwise campaign for the measure.” (*Id.*) Board Policy 3471 states: “No district funds, services, supplies, or equipment shall be used to support or defeat a tax ballot measure.”

In its apparent zeal to urge District residents to vote for Measure N, the District has ignored its obligations to avoid using public resources to urge voters to support ballot measures. What follows is an inexhaustive, yet lengthy, series of violations that have been observed. The ubiquity of signage related to parcel taxes at District schools represents a flagrant attempt on the District’s part to use public resources to influence an election in contravention of California law and its own Board Policies.

The following banner was posted outside the District’s headquarters on B Street. If the banner was procured using District funds, such use of funds would have been illegal as the purpose of the banner is to urge the public to vote for Measure N. And even if no public funds were used, hanging the banner on District property nonetheless constitutes the use of District equipment for a proscribed purpose.



A similar banner was observed on District property at Davis Senior High School fronting Covell Boulevard that links the parcel tax to the District’s athletic programs:

///



Yet another banner was observed at Davis Senior High School near the gymnasium off of Oak Boulevard:



A similar banner was observed near the All Student Center at Davis Senior High School:

///



The Davis Senior High School library contained a similar poster (again, using District equipment and likely District funds) urging the public to support Measure N by implying that library services depend upon it:



Holmes Junior High School also contained a banner near the front office that is illegal for the same reasons:

///



Another banner was observed at Holmes Junior High School near Drexel Street:



The Holmes Junior High School library contained another sign related to Measure N:



The Emerson/Da Vinci Junior High School contained multiple signs tying Measure N to its nursing and counseling programs, respectively, inside of its office:



A further sign was observed outside the main office of Patwin Elementary School:



The library at Patwin Elementary School contained yet another sign:

///



The music room at Patwin Elementary School contained a sign linking its music program to Measure N:



A large banner was observed on the fence outside of Patwin Elementary School:

///



Birch Lane Elementary School also had a large banner on the fence outside of the school:



Another sign was observed in the teachers/staff lounge at Birch Lane Elementary School:



Finally, the main office of North Davis Elementary School had a sign related to Measure N outside of its office:



Aside from its illegal signage, the District has engaged in further violations of California law and Board Policies pertaining to urging support for a ballot measure. The District’s website contains a special section entitled, “PARCEL TAX,” which contains material that resembles campaign literature, rather than neutral, informative content. (See Davis Joint Unified School District, “Measure N – Parcel Tax Renewal 2024, https://www.djUSD.net/about/parcel_tax (last accessed Jan. 29, 2024).) This page contains dire language that the expiration of the parcel tax (i.e., Measure N’s failure) “could lead to teacher layoffs, larger class sizes, and cuts to academic programs and services.” The website further contains a list of eight bullet points that the District maintains will result from Measure N’s adoption. Each bullet point is phrased in positive terms (e.g., “high-performing teachers and educational staff” and “outstanding academics”). Yet the website does not explain any costs or trade-offs associated with Measure N, which would be present if the District were actually trying to present District residents with a neutral and informative description of Measure N. The District’s page further contains an embedded YouTube video that is designed to urge residents to vote for Measure N using similar language and phrasing as the page itself.

The District’s conduct is a clear violation of California law, and its actions are compromising the integrity of the forthcoming election as it relates to Measure N. On behalf of Ms. Bourne, we therefore demand that the District (1) immediately cease and desist any and all ongoing or planned uses of public resources to urge the public to support Measure N (or any other ballot measure or candidate); (2) take immediate action to ensure that all campaign literature posted in violation of Cal. Educ. Code, § 7054 is removed, including, without limitation, the signs, banners, website, and video discussed above; (3) instruct all of its employees of its obligations regarding the use of public funds under Section 7054; and (4) confirm in writing that it has complied with these demands.

///

Davis Joint Unified School District
Attn: General Counsel
January 29, 2024
Page 10 of 10

Thank you for your attention to this matter. If you would like to discuss this matter, please contact me (JFM@dhillonlaw.com). All rights reserved.

Regards,



Jesse Franklin-Murdock