

CLIENT NEWS BRIEF

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**CALIFORNIA SUPREME COURT CLARIFIES USE OF SCHOOL MAILBOXES
FOR POLITICAL CAMPAIGN PURPOSES**

In San Leandro Teachers Assn. v. Governing Board of the San Leandro Unified School District (2009) ___ Cal. 4th. ___ (“San Leandro”), the California Supreme Court has upheld a school district’s right to prohibit a teachers’ union from using district mailboxes to distribute endorsements of candidates for school board.

In San Leandro, the San Leandro Unified School District (“District”) prohibited the San Leandro Teachers Association (“SLTA”) from using district mailboxes to distribute two newsletters that endorsed specific school board candidates. The court acknowledged that as a representative employee organization, the SLTA is authorized to use the mailboxes to communicate with its employee members pursuant to the Educational Employment Relations Act (Gov. Code § 3540 *et seq.*) and the collective bargaining agreement. However, the court found that SLTA’s use of the mailboxes to distribute political endorsements violated section 7054 of the Education Code.

Section 7054 prohibits the use of “school district . . . funds, services, supplies or equipment” for the purpose of urging the support or defeat of a school board candidate. The court reasoned that school mailboxes constitute “equipment” because the legislative history of section 7054 refers to “materials produced with taxpayer monies.” The court also consulted the legislative history to conclude that the intent of section 7054 is to prevent use of public resources for ballot initiatives or candidacies in a way that would compromise the integrity of the electoral process. In light of the legislative history, the court held that section 7054 prohibits the use of school mailboxes, constructed at taxpayer expense, to give one group an unfair political advantage.

The court further held that the District’s prohibition of the SLTA’s political endorsements does not violate the First Amendment of the United States Constitution or the liberty of speech clause of the California Constitution because it is viewpoint-neutral and serves the reasonable purpose of maintaining the integrity of the electoral process. The court found that maintaining the integrity of the electoral process also makes the prohibition a “reasonable regulation” for the purposes of Government Code section 3543.1, subdivision (b), which protects an employee organization’s right to access certain work spaces, including mailboxes, subject to reasonable regulation.

The court's holding in San Leandro is significant because it clarifies that school districts may determine that internal school mailboxes should be kept free of literature that promotes political candidates.

The Supreme Court's holding is narrow in scope. First, it does not prohibit a school board from opening up mailboxes to candidate endorsement literature; section 7058 of the Education Code allows for such distribution, so long as the opportunity is made available to all sides equally. Second, this holding does not prevent the use of school mailboxes for distribution of union literature that merely urges members to become involved in upcoming elections, or engages in public policy discussions in general terms. Finally, this decision does not resolve whether literature in mailboxes that endorses ballot propositions, rather than candidates, may be prohibited.

For more information regarding this case, contact any of our seven offices throughout the state.

As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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