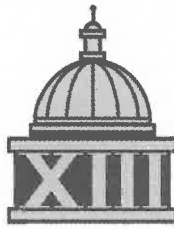


HOWARD JARVIS, Founder (1903-1986)
JON COUPAL, President
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May 29, 2019

Jackie Lacey
District Attorney's Office
211 West Temple St., Ste. 1200
Los Angeles, CA 90012

Re: LAUSD Spending for Political Advocacy

Dear Ms. Lacey,

This is a formal request for an investigation by your office into the expenditure of public funds by the Los Angeles Unified School District for advertising Measure EE, a 16¢ per square foot parcel tax on the June 4, 2019, election ballot. Howard Jarvis Taxpayers Association believes the nature of the advertising, and the sheer amount of money spent, violates the law and the rights of taxpayers.

“[U]se of the public treasury to mount an election campaign which attempts to influence the resolution of issues which our Constitution leaves to the ‘free election’ of the people (see Const., art. II, § [3]) ... presents a serious threat to the integrity of the electoral process.” (*Stanson v. Mott* (1976) 17 Cal.3d 206, 218.)

The Free Speech clauses of the federal and state constitutions prohibit the use of public funds for political advocacy because taking money from taxpayers and using it to buy messaging constitutes compelled speech “and compelled speech offends the First Amendment.” *Smith v. U.C. Regents* (1993) 4 Cal.4th 843, 852.

Under California statutory law, including Education Code § 7054, school districts are strictly prohibited from engaging in political advocacy using public resources. No use may be made of school property, funds, personnel, supplies or equipment “for the purpose of urging the support or defeat of any ballot measure.” A school district may communicate with voters for the limited purpose of providing information, but only if the communication “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.” (Educ. Code § 7054.)

In the bill that added section 7054 to the Education Code, the new statute was accompanied by a finding of legislative intent: “The Legislature hereby finds and declares that, in a democratic society, the use of public funds in election campaigns is unjustified and inappropriate. No public entity should presume to use money derived from the whole of taxpayers to support or oppose ballot measures or candidates.” (Stats 1995 ch. 879, Sec. 1.)

Jackie Lacey
May 29, 2019
Page 2 of 2

Whether a communication constitutes “a fair and impartial presentation of relevant facts” under section 7054, or crosses the line into prohibited “support ... of [the] ballot measure,” is determined by several factors. “[W]hile ... public agencies may generally publish a ‘fair presentation of facts’ relevant to an election matter, in a number of instances publicly financed brochures or newspaper advertisements which have purported to contain only relevant factual information, and which have refrained from exhorting voters to ‘Vote Yes,’ have nevertheless been found to constitute improper campaign literature. (See 35 Ops.Cal.Atty.Gen. 112 (1960); 51 Ops.Cal.Atty.Gen. 190 (1968); cf. 42 Ops.Cal.Atty.Gen. 25, 27 (1964).) In such cases, the determination of the propriety or impropriety of the expenditure depends upon a careful consideration of such factors as the style, tenor and timing of the publication.” (*Stanson v. Mott*, 17 Cal.3d at 222.)

Rather than disseminating a balanced and dispassionate comparison of relevant facts, which could have been developed in house at minimal expense, LAUSD has spent large sums to hire professional campaign consultants and graphic designers to produce a polished website linked to other websites and social media pages, professionally filmed and edited videos – including an animated video, full color banners festooning the street frontage of schools and greeting voters at polling places, targeted direct mail appeals, and media advertising. Students compete for raffle prizes by providing their parents’ data on pledge cards to be used for emailing and phone banking. LAUSD employees print and distribute campaign materials, and schedule and participate in community outreaches and voter registration drives during school hours. Not just the wording, but also the “style, tenor and timing” of these activities sends a clear message that LAUSD endorses Measure EE and wants voters to support it.

Section 7054 provides, “A violation of this section shall be a misdemeanor or felony punishable by imprisonment in a county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both, or imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16 months, or two or three years.” These are criminal penalties. HJTA cannot officially investigate or prosecute criminal violations. Only you can.

According to your Mission Statement, “The Los Angeles County District Attorney’s Office is dedicated to protecting our community through the *fair and ethical* pursuit of justice.” Fair and ethical means without favoritism or deference. Lady Justice wears a blindfold to signify this ideal, that justice is blind and should be applied without regard to finances, politics, or sympathies. We hope you will treat this request for an investigation seriously.

Sincerely,



Timothy A. Bittle
Director of Legal Affairs