

# ALERT

October 11, 2016

## “Proud to be a Teacher” Signs Found Not to be Protected Speech

By Katherine A. Gilfillan, Esq.

In 2000, the Appellate Division issued the *Green Township* decision which became the cornerstone of board policies which contend with political and labor activities by employees. Although finding portions of the Township’s policy overbroad, the Appellate Division upheld the Township’s directive to teachers to remove buttons with the insignia “NJEA SETTLE NOW” that were being worn in the presence of students while on school premises. After the *Green Township* case was published, districts across the state tailored their policies accordingly.

*Green Township* has gone untouched until recently when the Parsippany-Troy Hills Education Association challenged administration’s directive to remove signs that had been posted in the windows, hallways and doors of classrooms that read, “Proud to Be a Teacher - Parsippany-Troy Hills Education Association.” All in all, there were close to 300 signs between the district’s fourteen different schools which were posted amid hotly contested labor negotiations. The directive was based upon the provision of the Board’s policy that prohibited employees from engaging in any activity in the presence of pupils while on school property, which is intended to promote, further or assert a position(s) on labor relations issues. The Association claimed that the signs were merely a unity-building device among colleagues and that nothing in the specific language of the sign promoted a position on labor relations and therefore the signs were not in violation of the policy.

On September 29, 2016 Judge Hansbury issued a decision in *Parsippany-Troy Hills Education Association v. Parsippany-Troy Hills Board of Education*, Dkt. No: MRS-C-10-16, finding that the number of signs, coupled with the timing and reference to the Association all combined to promote or assert a position on labor relations and therefore represented a clear violation of the Board’s policy. Moreover, the Court found that, while a single sign posted by a single individual may constitute free speech, the circumstances in this matter compelled a finding that the signs did not constitute protected speech in the first instance. Addressing the instance of a singular sign, the Court made note that it was not concluding that the Board did not have the right to regulate the posting of signs within its school walls.

### Florham Park

220 Park Avenue  
Florham Park, NJ 07932  
(973) 539-1000

### Paramus

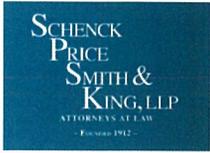
115 West Century Road  
Suite 100  
Paramus, NJ 07652  
(201) 262-1600

### Sparta

351 Sparta Avenue  
Sparta, NJ 07871  
(973) 295-3670

### New York

116 West 23rd Street  
Suite 500  
New York, NY 10011  
(212) 386-7628



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This decision provides further guidance for school districts attempting to ensure that classrooms remain free of political and labor issues so that the business of educating students remains a top priority.

SPSK represented the Board.

If you have any questions regarding this decision, please do not hesitate to contact the School Law Attorneys at SPSK.

*DISCLAIMER: This Alert is designed to keep you aware of recent developments in the law. It is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of the client.*