STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 22, 2014

Gerald D. Hill, Superintendent
West Bloomfield School District
5810 Commerce Road
West Bloomfield, Michigan 48324

Dear Dr. Hill:

The Department of State (Department) received a formal complaint filed by Jeffrey Hansche against the West Bloomfield School District (District), alleging that the District violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq*. The investigation and resolution of this complaint is governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq*. Copies of the complaint and supporting documentation are enclosed with this letter.

In Michigan, it is unlawful for a public body or individual acting on its behalf to use or authorize the use of "funds, personnel, office space . . . property . . . vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(3).

Mr. Hansche alleges that the District improperly used public funds by using taxpayer resources to publish and distribute letters that purportedly urged voters to support a ballot question.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. Hansche, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]" MCL 169.215(10). Note that the Department's enforcement powers include the possibility of entering a conciliation agreement, conducting an

administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(3) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 241-0395.

Sincerely,

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Jeffrey Hansche

Michigan Department of State
Campaign Finance Complaint Form

Reset Form

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.201 *et seq.*).

Please print or type all information.

I allege that the MCFA was violated as follows:

2011 APR 12 P 1:30
BUREAU OF ELECTIONS
RECEIVED/FILED

Section 1. Complainant

Your Name		Daytime Telephone Number
Jeffrey A. Hansche		(248) 363-4104
Mailing Address		
9555 Commerce Road, Suite C		
City	State	Zip
Commerce	MI	48382

Section 2. Alleged Violator

Name		
West Bloomfield School District		
Mailing Address		
5810 Commerce Road		
City	State	Zip
West Bloomfield	MI	48324

Section 3. Alleged Violations (Use additional sheet if more space is needed.)

Section(s) of the MCFA violated: MCL 169.257(1), MCL 169.204(1)

Explain how those sections were violated:

See attached

Evidence that supports those allegations (attach copies of pertinent documents and other information):

See attached

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X _____ April 11, 2014

Signature of Complainant — Date

Section 5. Certification without Evidence (Supplemental to Section 4)

Section 15(6) of the MCFA (MCL 169.215) requires that the signed certification found in section 4 of this form be included in every complaint. However, if, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence, you may also make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

_____

_____

_____

_____

_____

_____

X _____ April 11, 2014

Signature of Complainant — Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to $1,000.00 and some or all of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

Mail or deliver the completed complaint form and evidence to the following address:

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

Revised 06/03/2011

ATTACHMENT TO MICHIGAN DEPARTMENT OF STATE CAMPAIGN FINANCE COMPLAINT FORM

Attached is a two-sided document which was delivered to my home by the United States mail and is postmarked February 19, 2014. There was an election scheduled and held on February 25, 2014 for the West Bloomfield School District to renew school operating millages.

The document (Exhibit A) was triple folded and stamped. The exterior when received had a one ounce first class stamp on it, a label with my name and home address on it and a return address stamped on it indicating Scotch Elementary School, 5959 Commerce Road, West Bloomfield, Michigan. This is a school in the West Bloomfield School District. On the opposite side of Exhibit A you see that it is the letterhead of Scotch Elementary School indicated in four different areas and contains the logo of the West Bloomfield School District in three areas. That same logo appears on Exhibit B which is a legal mailing made by the school district.

Exhibit A in numbered paragraph 2 states "Please remember to vote on February 25th for the school millage renewal." That language is a solicitation for a yes vote on the millage renewal.

The body of Exhibit A indicates that the writer is Sydney, a Fourth grade student at Scotch Elementary School. Some adult clearly put Sydney up to this. The rubber stamp used to stamp the return address on Exhibit A obviously was the property of Scotch Elementary School, a school in West Bloomfield School District. The stamp is a normal first class stamp and thus costs money, the amount depending on when you bought it. Lastly, the letterhead is clearly the official letterhead of Scotch Elementary School, a school in West Bloomfield School District. All of these indicate an illegal contribution under MCL 169.257(1) and MCL 169.204(1). JAH 4-11-14

Scotch Elementary School
5959 Commerce Road
West Bloomfield, MI

Jeffrey Hansche
6933 Alden Dr.
West Bloomfield, MI 48324

JAH 4-11-14

Scotch Elementary School

Dear Scotch School Neighbor,

My name is Sydney. I am a 4th grade student at Scotch Elementary School. I want to thank you for being part of our Scotch School community. I also want to invite you to our important events.

1) Pleas join us for the 25th anniversary of Scotch School on May 17th, 2014.

2) Please remember to vote on February 25th for the school millage renewal.

We Look forward to celebrating with you

your Neighbor,

Sydney

THINK TANK
SCOTCH ELEMENTARY SCHOOL

Scotch Elemtary School
5959 Commerce
West Bloomfield, MI 48324

Celebrating 25 Years

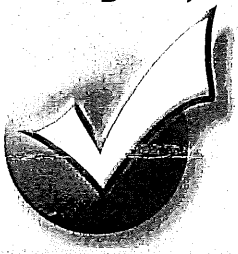
JAB 4/1/14

West Bloomfield School District
5810 Commerce Rd
West Bloomfield MI 48324

METROPLEX MI 480
07 FEB 2014 PM 1 L

VOTE

Tuesday, February 25, 2014



School Ballot Proposal:
OPERATING MILLAGE *RENEWAL*

JEFFREY HANSCHE
6933 ALDEN DR
WEST BLOOMFIELD, MI 48324

STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

May 12, 2014

Jeffrey Hansche
9555 Commerce Road, Suite C
Commerce, Michigan 48383

Dear Mr. Hansche:

The Department of State received a response to the complaint you filed against the West Bloomfield School District, which concerns an alleged violation of the Michigan Campaign Finance Act (MCFA), 1976 P.A. 388, MCL 169.201 *et seq*. A copy of the response is provided as an enclosure with this letter.

If you elect to file a rebuttal statement, you are required to send it within 10 business days of the date of this letter to the Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

Lori A. Bourbonais

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Gerald Hill

WEST BLOOMFIELD
SCHOOL DISTRICT
GERALD D. HILL, PH.D.
SUPERINTENDENT

May 5, 2014

Ms. Lori A. Bourbonais
Department of State
Bureau of Elections
Richard H. Austin Building
1st Floor
430 West Allegan Street
Lansing, Michigan 48918

Re: West Bloomfield School District: Michigan Campaign Finance Act Complaint

Dear Ms. Bourbonais:

This letter shall serve as a written response to the attached letter from the Department of State regarding the formal complaint filed by Mr. Jeffrey Hansche against the West Bloomfield School District (the "School District") alleging a violation of the Michigan Campaign Finance Act (the "Act").

It is the School District's position that the intent of the student letter, which is the subject of the complaint, was merely to inform voters of the School District's Special School Election held on February 25, 2014, at which an Operating Millage Renewal Proposal was on the ballot. The student letter was part of a class project on community involvement. In this regard the basic message was provided by the instructor as part of the project, but each student was free to write their own letter. The student letter is a reminder to the voters "to vote on February 25th". The letter does not request a "yes" or "no" vote on the Proposal. The second clause of the message (i.e., "for the school millage renewal") modifies the election date and is only describing the nature of the School District's ballot proposal to be voted on at the February 25th election date.

Based on the above, the School District's position is that the student letter was not intended to influence the passage or defeat of the Operating Millage Renewal Proposal. The letter was informational in nature and thus meets the exception provided under Section 57(1)(b) of the Act (MCL §169.257(1)(b)).

If you have any questions or require further information, please feel free to contact me at your convenience.

West Bloomfield School District

By: Gerald D. Hill
Dr. Gerald D. Hill
Its: Superintendent

5810 COMMERCE ROAD, WEST BLOOMFIELD, MICHIGAN 48324 TELEPHONE (248) 865-6485 FAX (248) 865-6481
E-MAIL: hillg@wbsd.org

B7.11
Brd Pckt

2014 APR 25 AM 9:40

STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 22, 2014

Gerald D. Hill, Superintendent
West Bloomfield School District
5810 Commerce Road
West Bloomfield, Michigan 48324

Dear Dr. Hill:

The Department of State (Department) received a formal complaint filed by Jeffrey Hansche against the West Bloomfield School District (District), alleging that the District violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq*. The investigation and resolution of this complaint is governed by section 15 of the Act and the corresponding administrative rules, R 169.51 *et seq*. Copies of the complaint and supporting documentation are enclosed with this letter.

In Michigan, it is unlawful for a public body or individual acting on its behalf to use or authorize the use of "funds, personnel, office space . . . property . . . vehicles, equipment, supplies, or other public resources to make a contribution or expenditure [.]" MCL 169.257(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(3).

Mr. Hansche alleges that the District improperly used public funds by using taxpayer resources to publish and distribute letters that purportedly urged voters to support a ballot question.

The purpose of this letter is to inform you of the Department's examination of these matters and your right to respond to the allegations before the Department proceeds further. It is important to understand that the Department is neither making this complaint nor accepting the allegations as true.

If you wish to file a written response to this complaint, you are required to do so within 15 business days of the date of this letter. Your response may include any written statement or additional documentary evidence you wish to submit. All materials must be sent to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918. If you fail to submit a response, the Department will render a decision based on the evidence furnished by the complainant.

A copy of your reply will be provided to Mr. Hansche, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all of the statements and materials provided by the parties, the Department will determine whether "there may be reason to believe that a violation of [the MCFA] has occurred [.]" MCL 169.215(10). Note that the Department's enforcement powers include the possibility of entering a conciliation agreement, conducting an

administrative hearing, or referring this matter to the Attorney General for enforcement of the criminal penalty provided in section 57(3) of the Act.

If you have any questions concerning this matter, you may contact me at (517) 241-0395.

Sincerely,

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Jeffrey Hansche

Michigan Department of State
Campaign Finance Complaint Form

Reset Form

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (the MCFA, 1976 PA 388, as amended; MCL 169.201 *et seq.*).

Please print or type all information.

I allege that the MCFA was violated as follows:

2014 APR 14 P 12:10

SECRETARY OF STATE
LANSING, MICHIGAN

Section 1. Complainant		
Your Name: Jeffrey A. Hansche		Daytime Telephone Number: (248) 363-4104
Mailing Address: 9555 Commerce Road, Suite C		
City: Commerce	State: MI	Zip: 48382

Section 2. Alleged Violator		
Name: West Bloomfield School District		
Mailing Address: 5810 Commerce Road		
City: West Bloomfield	State: MI	Zip: 48324

Section 3. Alleged Violations (Use additional sheet if more space is needed.)

Section(s) of the MCFA violated: MCL 169.257(1), MCL 169.204(1)

Explain how those sections were violated:

See attached

Evidence that supports those allegations (attach copies of pertinent documents and other information):

See attached

Section 4. Certification (Required)

I certify that to the best of my knowledge, information, and belief, formed after a reasonable inquiry under the circumstances, each factual contention of this complaint is supported by evidence.

X _____ April 11, 2014

Signature of Complainant — Date

Section 5. Certification without Evidence (Supplemental to Section 4)

Section 15(6) of the MCFA (MCL 169.215) requires that the signed certification found in section 4 of this form be included in every complaint. However, if, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence, you may also make the following certification:

I certify that to the best of my knowledge, information, or belief, there are grounds to conclude that the following specifically identified factual contentions are likely to be supported by evidence after a reasonable opportunity for further inquiry. Those specific contentions are:

_____

_____

_____

_____

_____

_____

X _____ April 11, 2014

Signature of Complainant — Date

Section 15(8) of the MCFA provides that a person who files a complaint with a false certification is responsible for a civil violation of the MCFA. The person may be required to pay a civil fine of up to $1,000.00 and some or all of the expenses incurred by the Michigan Department of State and the alleged violator as a direct result of the filing of the complaint.

Mail or deliver the completed complaint form and evidence to the following address:

Michigan Department of State
Bureau of Elections
Richard H. Austin Building – 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

ATTACHMENT TO MICHIGAN DEPARTMENT OF STATE CAMPAIGN FINANCE COMPLAINT FORM

Attached is a two-sided document which was delivered to my home by the United States mail and is postmarked February 19, 2014. There was an election scheduled and held on February 25, 2014 for the West Bloomfield School District to renew school operating millages.

The document (Exhibit A) was triple folded and stamped. The exterior when received had a one ounce first class stamp on it, a label with my name and home address on it and a return address stamped on it indicating Scotch Elementary School, 5959 Commerce Road, West Bloomfield, Michigan. This is a school in the West Bloomfield School District. On the opposite side of Exhibit A you see that it is the letterhead of Scotch Elementary School indicated in four different areas and contains the logo of the West Bloomfield School District in three areas. That same logo appears on Exhibit B which is a legal mailing made by the school district.

Exhibit A in numbered paragraph 2 states "Please remember to vote on February 25th for the school millage renewal." That language is a solicitation for a yes vote on the millage renewal.

The body of Exhibit A indicates that the writer is Sydney, a Fourth grade student at Scotch Elementary School. Some adult clearly put Sydney up to this. The rubber stamp used to stamp the return address on Exhibit A obviously was the property of Scotch Elementary School, a school in West Bloomfield School District. The stamp is a normal first class stamp and thus costs money, the amount depending on when you bought it. Lastly, the letterhead is clearly the official letterhead of Scotch Elementary School, a school in West Bloomfield School District. All of these indicate an illegal contribution under MCL 169.257(1) and MCL 169.204(1).

JAH 4-11-14

Scotch Elementary School
5959 Commerce Road
West Bloomfield, MI

Jeffrey Hansche
6933 Alden Dr.
West Bloomfield, MI 48324

Scotch Elementary School

Dear Scotch School Neighbor,

My name is Sydney. I am a 4th grade student at Scotch Elementary School. I want to thank you for being part of our Scotch School community. I also want to invite you to our important events.

1) Pleas join us for the 25th anniversary of Scotch School on May 17th, 2014.

2) Please remember to vote on February 25th for the school millage renewal.

We Look forward to celebrating with you

your Neighbor,

Sydney

THINK TANK

Scotch Elemtary School
5959 Commerce
West Bloomfield, MI 48324

Celebrating 25 Years

JMB 4/1/14

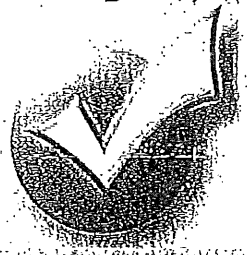
2

West Bloomfield School District
5810 Commerce Rd
West Bloomfield MI 48324

METROPLEX MI 480
07 FEB 2014 PM 1 L

VOTE

Tuesday, February 25, 2014



School Ballot Proposal:
OPERATING MILLAGE *RENEWAL*

JEFFREY HANSCHE
6933 ALDEN DR
WEST BLOOMFIELD, MI 48324

JAN 4-14

STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

May 27, 2014

Gerald D. Hill, Superintendent
West Bloomfield School District
5810 Commerce Road
West Bloomfield, Michigan 48324

Dear Superintendent Hill:

This letter concerns the complaint that was recently filed against the West Bloomfield School District by Jeffrey Hansche, which relates to purported violations of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq*. The Department of State has received a rebuttal statement from the complainant, a copy of which is enclosed with this letter.

Section 15(10) of the MCFA, MCL 169.215(10), requires the Department to determine within 60 business days from the receipt of the rebuttal statement whether there is a reason to believe that a violation of the Act has occurred. Mr. Hansche's complaint remains under investigation at this time. At the conclusion of the review, all parties will receive written notice of the outcome of the complaint.

Sincerely,

Lori A Bourbonais

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

c: Jeffrey Hansche

JEFFREY A. HANSCHE
ATTORNEY AT LAW

May 15, 2014

Ms. Lori A. Bourbonais
Department of State
Bureau of Elections
Richard H. Austin Building, 1st Floor
430 West Allegan Street
Lansing, Michigan 48918

Re: West Bloomfield School District: Michigan Campaign Finance Act Complaint

Dear Ms. Bourbonais:

Thank you for the three paragraph response of West Bloomfield School District to my Complaint. That response is dated May 5, 2014.

This document is my rebuttal statement.

The second paragraph of the response of May 5, 2014 concedes major points of my Complaint under MCL 169.257. That response makes it clear that this was actually a classroom project initiated and supervised by an "instructor" most certainly a paid employee of the West Bloomfield School District qualifying as "personnel" under MCL 169.257(1).

Having received a Bachelor of Arts Degree *cum laude* in English Literature, I completely disagree with Mr. Hill's reading. Although Mr. Hill is correct that the letter does not use specific language requesting a "yes" or "no" vote on the proposal, that is a red herring. The Complaint did not allege that the letter requested a "yes" or "no" vote on the proposal. The Complaint used the precise language in the letter whereas Mr. Hill goes outside of the language of the letter, sets up a straw man that the Complaint asserted there was a request for a yes or no vote and then he declares victory.

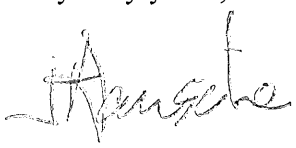
In fact, Mr. Hill is completely wrong about his reading of the letter. The only pertinent part of the letter is identified as paragraph 2. It states verbatim as follows "Please remember to vote on February 25th for the school millage renewal." There is no reference to the election other than the language in paragraph 2. Had Sydney used different language such as please remember to vote February 25th on the school millage renewal it could not be argued that the letter was seeking passage of the renewal.

9555 COMMERCE ROAD, STE. C, COMMERCE, MI 48382
PHONE: (248) 363-4104 • FAX: (248) 363-4013
E-MAIL: Jeff@hanschelaw.comcastbiz.net

However, what was written was a solicitation to vote for the "school millage renewal."

Perhaps Mr. Hill should be kept after school and made to write 100 times on the blackboard, "I will not use children to violate the Michigan Campaign Finance Act and will not lie about doing it when caught."

Very truly yours,



Jeffrey A. Hansche

JAH/dh

STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

August 15, 2014

Gerald D. Hill, Superintendent
West Bloomfield School District
5810 Commerce Road
West Bloomfield, Michigan 48324

Dear Superintendent Hill:

The Department of State (Department) has completed its initial investigation of the complaint filed against you by Jeffrey Hansche, which alleged that the West Bloomfield School District (District) violated section 57 of the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.257. This letter concerns the disposition of Mr. Hansche's complaint.

The MCFA prohibits a public body or an individual acting on its behalf from "us[ing] or authoriz[ing] the use of funds, personnel, office space, computer hardware or software, property, stationery, postage, vehicles, equipment, supplies, or other public resources to make a contribution or expenditure." MCL 169.257(1). Expenditure is a term of art which includes "a payment, donation, loan, or promise of payment of money or anything of ascertainable monetary value for goods, materials, services, or facilities in assistance of, or in opposition to . . . the qualification, passage, or defeat of a ballot question [.]" MCL 169.206(1). A knowing violation of section 57 is a misdemeanor offense. MCL 169.257(3).

The Act also requires the Department to "endeavor to correct the violation or prevent a further violation by using informal methods [,]" if it finds that there may be reason to believe that a violation has occurred, and if the Department is unable to correct or prevent additional violations, it must ask the Attorney General to prosecute if a crime has been committed. MCL 169.215(10)(a). The objective of an informal resolution is "to correct the violation or prevent a further violation [.]" *Id.*

Mr. Hansche filed his complaint on April 16, 2014. You filed an answer on May 5, 2014, and Mr. Hansche filed a rebuttal statement on May 21, 2014.

Mr. Hansche alleged that the District improperly used public resources to publish and distribute letters that urged voters to support a ballot question.

As evidence, Mr. Hansche provided a copy of a letter on Scotch Elementary School (an elementary school in the District) letterhead addressed to "Scotch School Neighbor [.]" The letter states, "Please remember to vote on February 25th for the school millage renewal." It appears that this letter was folded and mailed, and that on the outside was a first-class stamp and the Scotch Elementary School address listed as the return address. Mr. Hansche contends that the above-quoted language constitutes a "solicitation for a yes vote on the millage renewal."

In response, you stated that the letter was "part of a class project on community involvement." You further stated that the "basic message was provided by the instructor . . . but each student was free to write their own letter." You also assert that "[t]he letter does not request a 'yes' or 'no' vote on the Proposal [,]" and "the School District's position is that the student letter was not intended to influence the passage or defeat of the Operating Millage Renewal Proposal." Finally, you contend that the letter was "informational in nature" and therefore falls under the exception provided in section 57(1)(b) of the Act, which exempts "the production or dissemination of factual information concerning issues relevant to the function of the public body" from the prohibition on expending public funds contained in section 57 of the Act. MCL 169.257(1)(b).

The Department applies the "express advocacy test" to communications to determine if they are subject to the Act. *Interpretive Statement to David Murley* (Oct. 31, 2005).[1] The MCFA provides that a communication that "does not support or oppose a ballot question or candidate by name or clear inference" is not subject to the requirements and limitations of the MCFA. MCL 206(2)(b). A communication that expressly supports or opposes a candidate contains words such as "vote for," vote against," "support," "defeat," or equivalent words or phrases.[2]

The letter sent on Scotch Elementary letterhead, composed using classroom time and under the direction of a Scotch Elementary educator, mailed using Scotch Elementary resources does, indeed, contain words of express advocacy. The letter states, "Please remember to vote on February 25th for the school millage renewal." While there are intervening words (the date of the election), the message to the reader is to please "vote for" the millage renewal.

When considering a communication funded by a public body, once the Department determines that a communication contains express advocacy and, therefore, falls under the umbrella of the MCFA, we must then determine whether one of the narrow exceptions to section 57 applies. Here, you argue that the letter was informational in nature and that the exception contained in section 57(1)(b) removes the letter from the ambit of the MCFA.

Section 57(1) states that the subsection does not apply to:

> (b) The production or dissemination of factual information concerning issues relevant to the function of the public body.

MCL 169.257(1)(b). However, while the Michigan Attorney General has stated that "school districts . . . may expend public funds to inform their electors in a fair and object manner of the facts surrounding an upcoming ballot proposal or proposals to be voted upon by the school

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[1] http://www.mi.gov/documents/2005_-_Interpretive_Statement_142179_7.pdf.

[2] The United States Supreme Court, in *Buckley v Valeo*, 424 US 1 (1976), held that the term "expenditure" included only funds used for "communications that expressly advocate the election or defeat of a clearly identified candidate." The Court explained that express advocacy includes communications that contain "express words of advocacy of election or defeat, such as 'vote for,' 'elect,' 'support,' 'cast your ballot for,' 'Smith for Congress,' 'vote against,' 'defeat,' 'reject [.]'" *Id.* at 44, n 52.

district . . . electors [,]"[3] the Department has stated that the information "may be produced and disseminated using public resources, as long as the information is limited to facts and does not include express advocacy."[4] The Department finds that this exception does not apply to the letter in question, because not only does it include express advocacy, no other factual information about the millage is included.

Because the Department finds that the letter contains express advocacy, the Department believes that the evidence supports its conclusion that there may be a reason to believe that a violation of section 57 of the Act has occurred. Upon making this determination the Department is required by law to attempt to resolve the matter informally. MCL 169.215(10).

By August 29, please provide the Department with:

1. The number of educators and school staff involved in the community involvement project and the cost to the District for each educator or staff member's time to draft the suggested language, share the suggested language with students, instruct the students to write the letters, and instruct the students while the letters were being written.

2. Number of classrooms in which letters asking the reader to vote for the school millage were written.

3. Number of letters written asking the reader to vote for the school millage and the cost of the supplies used to write the letters.

4. Number of copies made of letters asking the reader to vote for the school millage and the cost to the District for each copy.

5. Educator or staff time used to make the copies and the cost to the District for that time.

6. Educator or staff time to prepare the letters for mailing and the cost to the District for that time.

7. Number of stamps and labels used to mail the letters and the cost to the District for those supplies.

The Department will use this information to facilitate an informal resolution of Mr. Hansche's complaint.

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[3] OAG, No 6531, 1987-1988 (August 8, 1988).

[4] *Murley* Interpretive Statement at 5.

Please be advised that if the Department is unable to resolve the matter through informal methods, the Department must refer the matter to the Attorney General for enforcement of the criminal penalty provided in MCL 169.257(3). MCL 169.215(10)(a).

Sincerely,

Lori A. Bourbonais

Lori A. Bourbonais
Bureau of Elections
Michigan Department of State

STATE OF MICHIGAN
RUTH JOHNSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

In the Matter of:

West Bloomfield School District
5810 Commerce Road
West Bloomfield, Michigan 48324

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CONCILIATION AGREEMENT

Pursuant MCL §169.215(10) of the Michigan Campaign Finance Act (the Act), MCL §169.201 *et seq.*, the Secretary of State and the West Bloomfield School District (Respondent) hereby enter into a conciliation agreement with respect to certain acts, omissions, methods, or practices prohibited by the Act.

The Secretary of State alleges that there may be reason to believe that the Respondent violated MCL §169.257(1) by making an improper expenditure by mailing a letter written by a student which expressly advocated for the passage of the school millage renewal.

Therefore, the Respondent, without admitting any issue of law or fact, except as stated herein, hereby voluntarily enters into this conciliation agreement and assures the Secretary of State that it will comply with the Act and the Rules promulgated to implement the Act.

The Secretary of State and the Respondent further agree that this agreement is in effect and enforceable for four years from the date it is signed by the Secretary of State or her duly authorized representative.

The Secretary of State and the Respondent further agree that this agreement, unless violated, shall constitute a complete bar to any further action by the Secretary of State with respect to the alleged violation that resulted in the execution of this agreement.

The Secretary of State and the Respondent further agree that the complaint and investigation that resulted in this agreement are disposed of and will not be the basis for further proceedings, except pursuant to this agreement.

The Secretary of State and the Respondent further agree that this agreement will not prevent the Secretary of State from taking action for violations of this agreement.

The Secretary of State and the Respondent further agree that the Respondent's performance under this agreement shall be given due consideration in any subsequent proceedings.

The Secretary of State and the Respondent further agree that this agreement, when signed, shall become a part of the permanent public records of the Department of State.

The Secretary of State and the Respondent finally agree that the signatories below are authorized to enter into and bind the parties to this agreement, and have done so by signing this agreement on the date below.

RUTH JOHNSON
SECRETARY OF STATE

Christopher M. Thomas, Director
Bureau of Elections

Date: 11-25-14

RESPONDENT

Gerald D. Hill, Ph.D.
Superintendent of Schools
West Bloomfield School District

Date: Nov. 21, 2014