



Michigan Department of State
Campaign Finance Complaint Form

BUREAU OF ELECTIONS • RICHARD H. AUSTIN BUILDING - 1st Floor
430 W. ALLEGAN STREET • LANSING, MICHIGAN 48918

This complaint form may be used to file a complaint alleging that someone violated the Michigan Campaign Finance Act (MCFA). For instructions on how to complete this form, see the Campaign Finance Complaint Guidebook & Procedures document. All spaces are required unless otherwise indicated.

Section 1. Complainant		
Your Name <i>Joseph R Thompson</i>		Daytime Telephone Number <i>906 420 1338</i>
Mailing Address <i>602 Montana Avenue</i>		
City <i>Gladstone</i>	State <i>MI</i>	Zip <i>49837</i>
Email (optional) <i>W8JRT@live.com</i>		

Section 2. Alleged Violator		
Name <i>Superintendent Dr. Jay Kulbertis and the Gladstone Board of Education</i>		
Mailing Address <i>400 South 10th Street</i>		
City <i>Gladstone</i>	State <i>MI</i>	Zip <i>49837</i>
Email (optional)		

Section 3. Allegations (Use additional sheets if more space is needed.)

Section(s) of the MCFA alleged to be violated: *169.257(1) and 169.247*

Explain how those sections were violated:

MCFA 169.257(1) forbids the use of school (public) funds to advocate for a ballot issue. The letter also does not state the funding source used to pay for this. This expenditure/contribution meets the definition in 169.204(1) and 169.206(1).

Evidence included with the submission of the complaint that supports the allegations:

Copy of letter sent to people on School's mailing list.

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

Signature of Complainant

Date

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

If, after a reasonable inquiry under the circumstances, you are unable to certify that certain factual contentions are supported by evidence as indicated above, you may 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

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.

Section 6. Submission

Once completed, mail or hand deliver the complaint form with your evidence to the address below. The complaint is considered filed upon receipt by the Bureau of Elections.

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

Gladstone Area Schools

Administration Office
906-428-2417

High School
906-428-9200

Library
906-428-4224

400 South Tenth Street
Gladstone, Michigan 49837
FAX (906) 789-8457



"Together We Make a Difference"

Middle School
906-428-2295

Cameron Elementary
906-428-2314

Jones Elementary
906-428-3660

Election Day is Tuesday, November 2, 2021.

The Gladstone Schools has an item on the ballot, seeking approval of a renewal on an existing non-homestead operating millage.

The proposed renewal is not a new tax and not a tax increase. The Non-Homestead Operating millage has been in place since 1995 as part of Michigan's school funding program under Proposal A. With a renewal, non-homestead properties will continue to pay their current millage rate of 18 mills.

The Non-Homestead Operating millage does not apply to primary residences and, or other exempt such as qualified agricultural property. For non-homestead property owners (commercial, business, rental properties, etc.), this millage request is to maintain current tax levels, not to increase them.

Currently, Gladstone Schools has a non-homestead millage that will expire at the end of 2022. Under Proposal A, districts receive a foundation allowance, which is a per-pupil funding amount that is determined by the State of Michigan each year. The State of Michigan assumes all districts levy the maximum of 18 mills in local revenue. Gladstone Schools is asking for a renewal of the additional mills as a protection against a Headlee rollback. Being authorized above 18 mills is solely for protection against a Headlee rollback.

The current millage comprises about \$1.3 million of the district's operating budget. These funds can be used to pay for classroom supplies, classroom resources, staffing, and other items needed to operate the district's buildings.

As always, we appreciate your continued support!

Sincerely,

Jay Kulbertis

Dr. Jay Kulbertis, Superintendent
Gladstone Area Schools

Equal Opportunity Employer

The Gladstone Area School District does not discriminate on the basis of race, color, national origin, sex, age or disability.



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

April 7, 2022

Dr. Jay Kulbertis & Gladstone Board of Education
400 South 10th St.
Gladstone, MI 49837

Re: *Thompson v. Kulbertis*
Campaign Finance Complaint No. 2021 – 11 -66 -71

Dear Dr. Kulbertis & Gladstone Board of Education,

The Department of State (Department) has received a formal complaint filed against you by Joseph R. Thompson. The complaint alleges that you violated the Michigan Campaign Finance Act (MCFA or ACT) by sending mailers supporting the homestead operating millage that appeared on the November 2021 ballot.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words “contribution” and “expenditure” are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). If not an individual, a person who knowingly violates this section is guilty of a misdemeanor punishable by a fine up to \$20,000 or a fine equal to the amount of the improper expenditure – whichever is greater. MCL 169.257(4). A public body is, however, allowed produce or disseminate factual information concerning issues relevant to the function of the public body. MCL 169.257(1)(b).

Mr. Thompson alleges that the school district sent a letter to the district’s “mailing list,” and that the letter was an improper contribution. Specifically, the letter specifically reminds recipients that “Election Day is Tuesday, November 2, 2021” and states that “as always, we appreciate your continued support.” As understood by the Department, the thrust of Mr. Thompson’s complaint is that these statements, combined with the explanation in the letter of the ways in which the millage would ensure school funding, may be interpreted as urging readers to support the school district by voting in favor of the millage on Election Day.

The purpose of this letter is to inform you of the Department’s examination of these matters and of 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. The investigation and resolution of this complaint are governed by section 15 of the Act

and the corresponding administrative rules, R 169.51 *et seq.* An explanation of the investigation process is enclosed with this letter and a copy is available on the Department's [website](#).

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, 420 West Allegan Street, Lansing, Michigan 48918. Materials should also be sent via email to BOERegulatory@Michigan.gov given the ongoing pandemic. 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 answers will be provided to Mr. Thompson who will have an opportunity to submit a rebuttal statement to the Department. After reviewing all 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).

Sincerely,



Adam Fracassi, Regulatory Manager
Bureau of Elections

Remlinger, Brian (MDOS-Contractor)

From: Jay Kulbertis <jkulbert@gladstone.k12.mi.us>
Sent: Thursday, April 14, 2022 9:18 AM
To: MDOS-BOERegulatory
Subject: 2021-11-66-71

CAUTION: This is an External email. Please send suspicious emails to abuse@michigan.gov

Mr. Fracassi-

Thank you for bringing this to my attention, and for the opportunity to respond.

As you can see from the document that was provided, every effort was made to provide factual information, and to refrain from advocacy. While we did remind readers of the date of the election, we certainly did request a "yes" or even say "Please vote." Rather, we did our best to provide a 'public service announcement' so that folks could be informed about the contents of the ballot.

I must correct the misstatement that this was sent to a 'mailing list,' as it was merely posted on the district's Facebook page. Additionally, regarding the statement voicing appreciation for 'continued support,' I have included this type of statement in public announcements ranging from COVID Updates to School Threat notifications, so it would not be accurate to interpret this as insinuating a favorable vote.

In summary, no funds were collected or spent, and no advocating statements were made in this information piece posted on Facebook.

Sincerely,
Jay

--

Dr. Jay Kulbertis, Superintendent

Gladstone Area Schools
400 S. 10th Street
Gladstone, MI 49837
(906) 789-8459

Rapid River Public Schools
10070 Highway US 2
Rapid River, MI 49878
(906) 474-6411

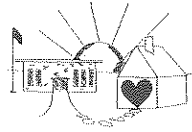
Gladstone Area Schools

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"Together We Make a Difference"

Middle School
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Cameron Elementary
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Jones Elementary
906-428-3660

RECEIVED/FILED
MICHIGAN DEPT OF STATE
2022 APR 18 PM 1:58
ELECTIONS/GREAT SEAL

April 14, 2022

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Sincerely,

Dr. Jay Kulbertis, Superintendent
Gladstone Area Schools

Equal Opportunity Employer

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Currently, Gladstone Schools has a non-homestead millage that will expire at the end of 2022. Under Proposal A, districts receive a foundation allowance, which is a per-pupil funding amount that is determined by the State of Michigan each year. The State of Michigan assumes all districts levy the maximum of 18 mills in local revenue. Gladstone Schools is asking for a renewal of the additional mills as a protection against a Headlee rollback. ~~Being authorized above 18 mills is solely for~~ protection against a Headlee rollback.

The current millage comprises about \$1.3 million of the district's operating budget. These funds can be used to pay for classroom supplies, classroom resources, staffing, and other items needed to operate the district's buildings.

As always, we appreciate your continued support!

Sincerely,

Jay Kulbertis

Dr. Jay Kulbertis, Superintendent
Gladstone Area Schools

Equal Opportunity Employer

The Gladstone Area School District does not discriminate on the basis of race, color, national origin, sex, age or disability.

General Demographics

Clifton, Bryanna Lynn  12 10362 UPVA**Name (Last, First Middle)**

Clifton

*, Bryanna

Lynn

Suffix:**Home Address**

Street, Apt/Suite

5184W US Highway 2

City, State, Zip

Manistique

Michigan (MI)

49854

Geocode

[Validate](#)**Mailing Address - Copy From Home Address**

Street, Apt/Suite

5184W US Highway 2

City, State, Zip

Manistique

Michigan (MI)

49854

Geocode

[Validate](#)**Home phone**

906-450-2294

Age

17 years 10 months

Aggregate days of membership (YTD)

142

Area/Neighborhood**DOB**

05/13/2004

Federal Ethnicity and Race

Ethnicity

☐ Yes ☒ No

Is the student Hispanic or Latino?

Race

What is the student's race?

Scheduling/Reporting Ethnicity

Caucasian (5)

Father (last, first)**Father's Day Phone****Father's Employer****Father's Home Phone****Gender**

Female (F)

Grade Level

12

Graduation Year

2022



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

June 30, 2022

Joseph R. Thompson
602 Montana Ave.
Gladstone, MI 49837

Re: *Thompson v. Kulbertis*
Campaign Finance Complaint No. 2021-11-66-71

Dear Mr. Thompson:

The Department of State received a response from Dr. Jay Kulbertis to the complaint you filed against him alleging a violation of the Michigan Campaign Finance Act, 1976 P.A. 388, MCL 169.201 *et seq.* A copy of the response is provided as an enclosure with this letter.

You may file a rebuttal statement after reviewing the enclosed response. If you elect to file a rebuttal statement, you are required to do so within 10 business days of the date of this letter. The rebuttal statement may be emailed to BOERegulatory@michigan.gov or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1st Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenny McInerney".

Jenny McInerney, Election Law Specialist
Bureau of Elections
Michigan Department of State

c: Dr. Jay Kulbertis

Dear Ms. McInerney,

Thanks for the opportunity to rebut the response from Mr. Kulbertis.

I agree the letter does contain factual information. The statement "no funds were spent" may be a true statement but school district resources were used which by act 388 is synonymous with spending funds. Both are forbidden. A person being paid a salary to manage a school district should remain neutral on ballot issues. If you look at the definition of support it is just another form of asking for a yes vote. See the definition below, exhibit A. In Act 388, there is a statement that it is the policy of this state that a public body shall remain neutral on ballot issues. See Exhibit B.

In the response letter it was stated that this was posted only on the districts face book page. It is odd that I didn't see this, as I follow all the local news in my community. I went back through their posts and could not find such a post. I was given a copy of this letter from a parent that told me they got it through "power school"; a tool used by the district to communicate with parents. This would be a targeted audience as it is in essence a school mailing list. This information was not pushed to those that would pay for the continued tax. It is a great way to drum up support for ballot initiative but unfortunately it violated the spirit and intent of Act 388 in my opinion. The district and those in positions of leadership are required to be neutral in ballot initiatives.

The bottom line is that in asking for support you are advocating for a yes vote. Any reasonable person, in reading the letter put out by Mr. Kulbertis, would come to the conclusion that the Superintendent of the school district is asking them to vote in support of the ballot initiative; a yes vote.

Very best regards,



Joe Thompson



SINCE 1828

GAMES & QUIZZES

THESAURUS

WORD OF THE DAY

F

support


Dictionary

Thesaurus

support verb



Save Word

sup·port | \ sə-ˈpōrt  \

supported; supporting; supports

Definition of *support* (Entry 1 of 2)

transitive verb

- 1** : to endure bravely or quietly : BEAR
- 2**
 - a**
 - (1)** : to promote the interests or cause of
 - (2)** : to uphold or defend as valid or right : ADVOCATE
// supports fair play
 - (3)** : to argue or vote for
// supported the motion to lower taxes
 - b**
 - (1)** : ASSIST, HELP
// bombers supported the ground troops
 - (2)** : to act with (a star actor)
 - (3)** : to bid in bridge so as to show support for
 - c** : to provide with substantiation : CORROBORATE
// support an alibi

Exhibit A.

Synonyms for *support*

Synonyms: Verb

advocate, back, champion, endorse (*also* indorse), patronize, plump (for), plunk (for) or plonk (for)

Exhibit B.

Compiler's note: Enacting section 1 of Act 31 of 2012 provides: "Enacting section 1. It is the policy of this state that a public body shall maintain strict neutrality in each election and that a public body or a person acting on behalf of a public body shall not attempt to influence the outcome of an election held in the state. If there is a perceived ambiguity in the interpretation of section 57, that section shall be construed to best effectuate the policy of strict neutrality by a public body in an election."



STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

August 29, 2022

Dr. Jay Kulbertis & Gladstone Board of Education
400 South 10th St.
Gladstone, MI 49837

Re: *Thompson v. Kulbertis*
Campaign Finance Complaint No. 2021-11-66-71

Dear Dr. Kulbertis & Gladstone Board of Education:

The Department of State (Department) has finished investigating the campaign finance complaint filed against you by Joseph R. Thompson alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). This letter concerns the disposition of that complaint.

The complaint alleged that you sent mailers supporting the homestead operating millage that appeared on the November 2021 ballot to the district's "mailing list," and that the letter was an improper contribution. The letter reminded recipients that "Election Day is Tuesday, November 2, 2021" and stated that "as always, we appreciate your continued support." As understood by the Department, the thrust of Mr. Thompson's complaint is that these statements, combined with the explanation in the letter of the ways in which the millage would ensure school funding, may be interpreted as urging readers to support the school district by voting in favor of the millage on Election Day.

You responded to the complaint. In your response, you claimed that the advertisement was intended only to provide factual information, and that you made every effort to refrain from advocacy. You argued that, although you provided the date of the election, you did not explicitly request a "yes" vote. Furthermore, you noted that the statement "as always, we appreciate your continued support" has been included in public announcements ranging from COVID updates to school threat notifications, meaning it would be inaccurate to interpret it as asking for a favorable vote. Finally, you stated that the letter was only posted on Facebook, not sent to a mailing list.

Mr. Thompson provided a rebuttal statement. In that statement, Mr. Thompson stated that no such post was made on Facebook. Rather, Mr. Thompson was told the letter was distributed through "power school," a tool the district uses to communicate with parents. As such, Mr. Thompson argues that the letter was sent to the equivalent of a mailing list. Finally, Mr. Thompson argues that any reasonable person would interpret the letter as asking for their support on the ballot initiative.

In Michigan, it is unlawful for a public body or an individual acting on its behalf to use or authorize the use of equipment, supplies, personnel, funds, or other public resources to make a contribution or expenditure. MCL 169.257(1). The words “contribution” and “expenditure” are terms of art that are generally defined to include a payment or transfer of anything of ascertainable monetary value made for the purpose of influencing or made in assistance of the qualification, passage, or defeat of a ballot question. MCL 169.204(1), 169.206(1). If not an individual, a person who knowingly violates this section is guilty of a misdemeanor punishable by a fine up to \$20,000 or a fine equal to the amount of the improper expenditure – whichever is greater. MCL 169.257(4). A public body is, however, allowed to produce or disseminate factual information concerning issues relevant to the function of the public body. MCL 169.257(1)(b).

The Department has reviewed the evidence submitted in this matter and finds that insufficient evidence has been presented to support a finding of a potential violation of the MCFA. From the outset, the Department must consider whether the letter in question is an expenditure covered by the MCFA.¹ Under the Act, express advocacy is advocacy that “in express terms advocate[s] the election or defeat of a clearly identified candidate.”² MCL 169.206(2)(j). The definition is intended “to restrict the application of this act to communications containing express words of advocacy of election or defeat, such as ‘vote for,’ ‘elect,’ ‘support,’ ‘cast your ballot for,’ ‘Smith for governor,’ ‘vote against,’ ‘defeat,’ or ‘reject.’” *See id.*

The letter in question disseminated factual information, rather than words of express advocacy. The letter noted the item was on the ballot, explained the initiative’s implications, and reminded readers of the date of Election Day, but did not expressly ask for a “yes” vote on the proposal. Further, the inclusion of the statement “as always, we appreciate your continued support,” cannot accurately be interpreted as asking for a favorable vote given its inclusion in other, purely factual letters.³

If not explicitly advocating for a vote one way or the other, express advocacy can also take the form of non-explicit statements which nevertheless are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *See FEC v. Wisconsin Right to Life, Inc.*, 551 US 449, 470 (2007). Given that the letter can be reasonably interpreted as providing purely factual information, it cannot be considered the functional equivalent of express advocacy that *Wisconsin Right to Life* contemplates.

¹ The Department is required to “apply the express advocacy test to communications financed by public bodies.” *Interpretive Statement to David Murley*, October 31, 2005.

² Although the language of the MCFA and the cases discussed in the following paragraphs use language about candidates, the same rules apply to ballot questions.

³ Although you did not provide examples of these letters, Mr. Thompson did not refute this contention in his rebuttal, and therefore the Department accepts it as true for the purposes of evaluating this complaint.

Because a public body is allowed to produce or disseminate factual information concerning issues relevant to the function of the public body, MCL 169.257(1)(b), the Department cannot conclude that a potential violation has occurred. Additionally, because the letter did not expressly advocate for voters to vote in favor of the ballot question as defined by the Act, the method of distribution is immaterial, as public resources can be used to broadcast factual information.

Because the violation of the MCFA alleged in the complaint has not been substantiated by sufficient evidence, the Department dismisses the complaint and will take no further enforcement action. If you have any questions concerning this matter, you may contact me at BOERegulatory@michigan.gov.

Sincerely,



Adam Fracassi
Regulatory Manager
Regulatory Section
Bureau of Elections
Michigan Department of State