



Michigan Department of State  
Campaign Finance Complaint Form

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

RECEIVED/FILED  
MICHIGAN DEPT OF STATE

2022 MAR 15 PM 2:07

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 Paul Foust		Daytime Telephone Number 269-370-2185	
Mailing Address 8561 East D Avenue			
City Richland	State MI	Zip 49083	
Email (optional)			

Section 2. Alleged Violator			
Name Gull Lake Community Schools			
Mailing Address 10100 East D Avenue			
City Richland	State MI	Zip 49083	
Email (optional)			

Section 3. Allegations (Use additional sheets if more space is needed.)
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Section(s) of the MCFA alleged to be violated: 57, 34, + 47

Explain how those sections were violated:

Please see attached statement.

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

one Postal mailer that was sent to area residents  
by GLCS on 3/11/22.

**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

Paul Foust  
Signature of Complainant

03-12-2022

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:*

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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

## Alleged Violations by Gull Lake Community Schools

Section 57 of the MCFA - Use of Public Funds to Support/Oppose a Ballot Question:

On 3/10/22, I received a mailer in my mailbox that was "asking" me to support the renewal of the GLCS sinking fund millage. The mailer does not state who paid for the mailing, but the return address is listed as the GLCS Administration Building (10100 E. D Ave., Richland, MI 49083). Therefore, I can only conclude that the school district paid for the printing & mailing of the non-MCFA complaint mailer.

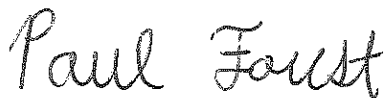
Section 34 of the MCFA - Creation of a Ballot Question Committee

Since the source of the aforementioned document appears to be the GLCS school system, they are clearly arguing in support of the forthcoming ballot question. Groups or Organizations that work to support or oppose ballot questions must create a Ballot Question Committee. GLCS is arguing in favor of a ballot question without creating the needed corresponding B.Q.C. A FOIA request at the Kalamazoo County Clerks office has verified that no group has created a B.Q.C. supporting the May 3, 2022 GLCS ballot question.

Section 47 of the MCFA - The "Paid for by" Requirement

On 3/10/22, I received a mailer in my mailbox that was "asking" me to support the renewal of the GLCS sinking fund millage. This mailer is clearly arguing in favor of a ballot question, but does not state the "Paid for by [name and address of the person who paid for the item]" requirement listed in MCL 169.247(1). Again, the return address printed was for the GLCS Administration Building, so it appears that GLCS is taking credit for this illegal mailer.

I state, for the record, that these statements are true to the best of my knowledge.



Paul Foust, Designated Record Keeper  
Citizens to Stop Gull Lake Schools Committee  
P.O. Box 112  
Richland, MI 49083

May 3, 2022

Election



# Sinking Fund Renewal

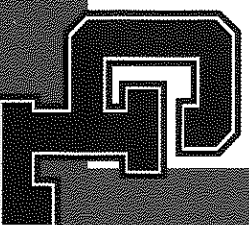
The 2014 Sinking Fund will expire in December of 2022. We are asking the GLCS community to consider RENEWING the current sinking fund for 9 years.

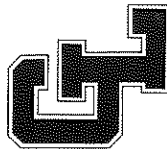
This is a RENEWAL and will not increase your tax rate from the current rate.

**What is a Sinking Fund?** A sinking fund is an account into which a local school district can place voter-approved local millage revenue to pay for improvements, repairs and/or replacements.

**What can a Sinking Fund pay for?** The funds can be used for energy improvements, safety & security enhancements, parking lot/driveway repairs, and maintenance/improvements to existing facilities.

Gull Lake Community Schools | [gullakecs.org](http://gullakecs.org)





Gull Lake Community Schools  
10100 East D Ave.  
Richland, MI 49083

NON-PROFIT  
U.S. POSTAGE  
**PAID**  
Kalamazoo, MI  
Permit No. 313

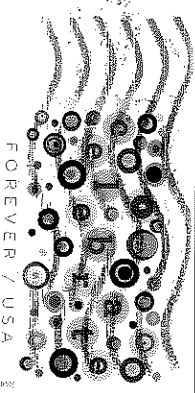
\*\*\*\*\*ECRWSS\*\*\*\*\*  
POSTAL CUSTOMER



Mr. Paul Foust  
8561 E. D Ave.  
Richland, MI 49083

GRAND RAPIDS MI 493

11 MAR 2003 PM 4



FOREVER / USA

Michigan Dept. of State  
Bureau of Elections  
430 W. Allegan St.  
Lansing, MI 48918



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

July 18, 2022

Gull Lake Community Schools  
10100 East D Avenue  
Richland, MI 49083

Re: *Foust v. Gull Lake Community Schools*  
Campaign Finance Complaint No. 2022-03-3-57

Dear Gull Lake Community Schools:

The Department of State (Department) has received a formal complaint filed against you by Paul Foust alleging that you violated the Michigan Campaign Finance Act (MCFA or Act). Specifically, the complaint alleges that you sent a postal mailer to residents in the Gull Lake Community Schools district, asking them to “consider RENEWING the current sinking fund.” (emphasis in original) In doing so, the complaint alleges that you violated the provisions in the MCFA that prohibit the use of public funds to support or oppose a ballot question and that require the creation of a ballot question committee. Additionally, the complaint alleges that you failed to include a “paid for by” statement in the mailer. A copy of the complaint is included with this notice.

Section 57 of the MCFA prohibits a public body or a person acting for a public body from using or authorizing the use of funds or other public resources to make a contribution or expenditure. MCL 169.257. Section 34 requires a ballot question committee to file specified campaign statements. MCL 169.234. A ballot question committee is defined in section 2 of the Act as “a committee acting in support of, or in opposition to, the qualification, passage, or defeat of a ballot question but that does not receive contributions or make expenditures or contributions for the purpose of influencing or attempting to influence the actions of the voters for or against the nomination or election of a candidate.” MCL 169.202. The MCFA and corresponding administrative rules require a person who produces printed material that relates to an election include the phrase “Paid for by [name and address of the person who paid for the item].” MCL 169.247(1), R 169.36(2).

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. 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.* An explanation of the process is included in the enclosed guidebook.

**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. Materials may be emailed to [BOERegulatory@michigan.gov](mailto:BOERegulatory@michigan.gov) or mailed to the Michigan Department of State, Bureau of Elections, Richard H. Austin Building, 1<sup>st</sup> 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 answer will be provided to Mr. Foust, who will have an opportunity to submit a rebuttal statement to the Department. After reviewing 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 penalty provided in section 33(11) of the Act.

If you have any questions concerning this matter, you may contact the Regulatory section of the Bureau of Elections at [BOERegulatory@michigan.gov](mailto:BOERegulatory@michigan.gov).

Sincerely,

Regulatory Section  
Bureau of Elections  
Michigan Department of State

c: Paul Foust



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**From:** Danelle Wheeler <[dwheeler@gulllakecs.org](mailto:dwheeler@gulllakecs.org)>  
**Sent:** Wednesday, August 3, 2022 1:06 PM  
**To:** MDOS-BOERegulatory  
**Subject:** Foust v Gull Lake Community Schools, Campaign Finance Complaint No. 2022-03-3-57  
**Attachments:** Foust v Gull Lake Community Schools Campaign Finance Complaint No 2022-03-3-57.pdf

**CAUTION: This is an External email. Please send suspicious emails to [abuse@michigan.gov](mailto:abuse@michigan.gov)**

Attached is Gull Lake Community Schools response to Campaign Finance Complaint No. 2022-03-3-57. Please acknowledge receipt of this email. Thank you!

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Danelle L. Wheeler  
Gull Lake Community Schools  
Administrative Assistant  
[dwheeler@gulllakecs.org](mailto:dwheeler@gulllakecs.org)  
PH: 269.548.3406 FAX: 269.548.3401

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The information contained in this message may be privileged, confidential and protected from disclosure. If the reader of this message is not the intended recipient, an employee of GLCS or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this in error, please notify us immediately by replying to the message and by deleting it from your computer.

Thank you.



## Community Schools

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August 3, 2022

**Via Email:** [BOERegulatory@michigan.gov](mailto:BOERegulatory@michigan.gov)

Regulatory Section  
Michigan Department of State, Bureau of Elections  
Richard H. Austin Building, 1<sup>st</sup> Floor  
430 West Allegan Street  
Lansing, Michigan 48918

**Re: *Foust v Gull Lake Community Schools, Campaign Finance Complaint No. 2022-03-3-57***

The Gull Lake Community Schools received a complaint, dated July 18, 2022, from Mr. Paul Foust alleging that the District violated the Michigan Campaign Finance Act (MCFA). The complaint claims that the District violated three sections of the MCFA: (1) the prohibition on a public body using public funds or resources to make a contribution or expenditure, MCL 169.257; (2) the requirement that a ballot question committee file specified campaign statements, MCL 169.234; and (3) the requirement that printed materials related to an election include a “paid for by” disclaimer, MCL 169.247(1). This letter acts as a written response to the complaint.

As you are aware, school districts across the state regularly provide information regarding proposals for bond and millage elections related to maintaining education resources for their communities. The Gull Lake Community Schools makes a practice of providing facts and details related to any District-related ballot proposal so that voters can make an informed decision on each potential project. Our District provides this information in the interest of full transparency. We take great care to avoid engaging in any form of advocacy either for or against a proposal, only providing neutral and objectively verifiable information to our community members. To ensure compliance with the MCFA, prior to sending out election-related materials, we deliberate internally and seek assistance from external experts.

***Allegation 1: Using Public Funds to Support a Ballot Proposal***

Mr. Foust’s Complaint Form and supporting materials claim, “On 3/10/22, I received a mailer in my mailbox that was ‘asking’ me to support the renewal of the GLCS sinking fund millage.” Nowhere on the mailer did the District ask for support of the millage renewal. Instead, the mailer asks voters in a factual and objectively neutral way to “consider RENEWING” the sinking fund millage, i.e., to “consider” the renewal question. Webster’s dictionary defines “consider” as a transitive verb meaning “to think about carefully” or “to think of especially with regard to taking some action.” The District’s mailer encouraged voters to think carefully about the millage renewal proposal – exactly the issue on the ballot. The mailer language did not encourage voters to “support” the millage or ask voters to vote in favor of the proposal at the election. In short, the phrase “consider RENEWING” does not constitute express or implied advocacy.



## Community Schools

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The MCFA defines a “contribution” as an expenditure “made for the purpose of influencing . . . the qualification, passage, or defeat of a ballot question.” MCL 169.204(1). Relying on the Supreme Court decision, *Buckley v Valeo*, 424 US 1 (1976), the Secretary of State (SOS) defines the term “influencing” by using the “express advocacy” standard. Previously, the SOS has found the following terms to be “express advocacy”:

- “Vote For” or “Vote Against”
- “Elect” or “Defeat”
- “Support the Continuation of”
- “Support” or “Oppose”
- “Vote Yes” or “Vote No”

The phrases found to be “express advocacy” clearly indicate a preference for supporting or opposing a ballot question. The District’s use of “consider RENEWING” did not indicate support of or opposition to the ballot question—it only informed voters that such a question would be on the ballot and suggested that voters consider it. Because the District did not intend to influence the ballot question, the District did not violate Section 57 of the MCFA.

### ***Allegation 2: Failure to Create a Ballot Question Committee***

Mr. Foust’s complaint also claims, “Since the source of the aforementioned document appears to be the GLCS school system, they are clearly arguing in support of the forthcoming ballot question.” The MCFA defines a “ballot question committee” as a “committee acting in support of, or in opposition to, the qualification, passage, or defeat of a ballot question . . .” MCL 169.202(3). As clarified above, the District’s mailers did not support or oppose the ballot question; instead, the mailer merely encouraged voters to consider renewing the millage. This is not express or implied advocacy, and because the District was not supporting or opposing a ballot question, the District was not required to form such a committee.

### ***Allegation 3: Failure to Include a “Paid for By” Disclaimer***

Mr. Foust also complains that the mailer did not include a “paid for by” disclaimer. The MCFA only requires a public body to include the “paid for by” disclaimer within certain time periods before a ***primary*** election or ***general*** election. The May 2022 election was neither a primary nor a general election, and the mailer was not sent within the time periods for which the MCFA requires “paid for by” disclaimers. Consequently, the “paid for by” disclaimer was not required by the MCFA (see MCL 169.247(5)(a)).

As a fellow public servant and member of our community, we would have expected Mr. Foust to contact the District about any concerns regarding our mailers. We are disheartened that he, instead, took the drastic



## Community Schools

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action of filing a complaint against the District. Mr. Foust's complaint raises concerns about the District's use of tax dollars to support a ballot question; yet, by filing this frivolous complaint, the District must now expend its limited time, effort, and resources to defend itself.

We respectfully ask your office to find no violation of the MCFA and to close this complaint. Additionally, we ask that you provide relief for the expenses incurred by the District in responding to this complaint. MCL 169.215(8).

Respectfully,

A handwritten signature in black ink, reading 'Raphael Rittenhouse', is written in a cursive style.

Raphael Rittenhouse  
Superintendent



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

September 8, 2022

Paul Foust  
8561 East D Avenue  
Richland, MI 49083

Re: *Foust v. Gull Lake Community Schools*  
Campaign Finance Complaint No. 2022-03-3-57

Dear Mr. Foust:

The Department of State received a response from Gull Lake Community Schools to the complaint you filed against them 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](mailto:BOERegulatory@michigan.gov) or mailed to the Department of State, Bureau of Elections, Richard H. Austin Building, 1<sup>st</sup> Floor, 430 West Allegan Street, Lansing, Michigan 48918.

Sincerely,

Regulatory Section  
Bureau of Elections  
Michigan Department of State



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

October 12, 2022

Gull Lake Community Schools  
10100 East D Avenue  
Richland, MI 49083

Re: *Foust v. Gull Lake Community Schools*  
Campaign Finance Complaint No. 2022 – 03 – 03 – 57

Dear Gull Lake Community Schools:

The Department of State (Department) has finished investigating the campaign finance complaint filed against you by Paul Foust 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 a postal mailer to residents in the Gull Lake Community Schools (GLCS) district, asking them to “consider RENEWING the current sinking fund.” (emphasis in original) In doing so, the complaint alleges that you violated the provisions in the MCFA that prohibit the use of public funds to support or oppose a ballot question and that requires the creation of a ballot question committee. Additionally, the complaint alleges that you failed to include a “paid for by” statement in the mailer.

You responded to the complaint via email on August 3, 2022. In your response, you stated the following as the impetus for the mailer:

The Gull Lake Community Schools makes a practice of providing facts and details related to any District-related ballot proposal so that voters can make an informed decision on each potential project. Our District provides this information in the interest of full transparency. We take great care to avoid engaging in any form of advocacy either for or against a proposal, only providing neutral and objectively verifiable information to our community members. To ensure compliance with the MCFA, prior to sending out election-related materials, we deliberate internally and seek assistance from external experts.

Regarding the allegation that GLCS used public funds to support a ballot proposal, you argued that, contrary to Mr. Foust’s contention that the mailer was “asking” him to support the renewal of the GLCS sinking fund, the mailer did nothing of the kind. Instead, the mailer asked voters “in a factual and objectively neutral way to ‘consider RENEWING’ the sinking fund millage, i.e. to

‘consider’ the renewal question.” In that way, you maintained, the mailer presented to voters the exact issue on the ballot. It only “informed voters that such a question would be on the ballot and suggested that voters consider it.”

Your response further stated that, because the funds expended on the mailer were not used in support of or opposition to a ballot proposal, there is no requirement to create a ballot question committee, as Mr. Foust claimed.

Finally, in response to Mr. Foust’s contention that the mailer required a “paid for by” disclaimer, you stated that the MCFA “only requires a public body to include the ‘paid for by’ disclaimer within certain time periods before a primary or general election.” Because the May 2022 was neither a primary nor a general election, you stated that the disclaimer was not required.

In a letter dated September 9, 2022, Mr. Foust was given the opportunity to provide a rebuttal; to date, no rebuttal has been received.

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).

From the outset, the Department must consider whether the mailer in question is an expenditure covered by the MCFA.<sup>1</sup> Under the Act, express advocacy is advocacy that “in express terms advocate[s] the election or defeat of a clearly identified candidate.”<sup>2</sup> 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 mailer in question disseminated factual information, rather than words of express advocacy. The mailer noted the item was on the ballot, explained the initiative’s implications, including the term of the renewal, and reminded readers of the date of Election Day, but did not expressly ask for a “yes” vote on the proposal.

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

<sup>2</sup> 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.

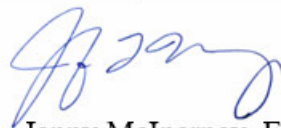
If not explicitly advocating for a vote one way or the other, express advocacy can also take the form of non-explicit statements which nevertheless are “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.” *See FEC v. Wisconsin Right to Life, Inc.*, 551 US 449, 470 (2007). Given that the mailer 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. Accordingly, the first allegation is dismissed.

Because the mailer did not constitute an expenditure in violation of section 57, there was no requirement that GLCS form a ballot question committee and the second allegation is dismissed.

Finally, because there’s no evidence the mailer was sent via mass mail within a certain time frame before the election, it is not subjected to the exception provided under section 47 of the Act.

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. 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). Because the mailer conveyed factual information and did not expressly advocate for voters to vote for or against a ballot question as defined by the Act, 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](mailto:BOERegulatory@michigan.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "Jenny McInerney", is positioned above the typed name.

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

c: Paul Foust