



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

August 2, 2017

Thomas Dumond, Board President  
Hartland Consolidated Schools  
9525 Highland Road  
Hartland, Michigan 48843

Dear Mr. Dumond:

The Department of State (Department) has completed its investigation of the complaint filed against the members of the Hartland School Board (Board Members) by Wes Nakagiri, which alleged the Board Members violated the Michigan Campaign Finance Act (MCFA or Act), 1976 PA 388, MCL 169.201 *et seq.* This letter concerns the disposition of Mr. Nakagiri's complaint.

Mr. Nakagiri filed his complaint on April 18, 2017. You filed a written response on May 8, 2017 and Charles Aberasturi filed a written response on May 10, 2017. Mr. Nakagiri did not file a rebuttal statement with the Department.

The MCFA requires a committee to file a statement of organization within 10 days after the committee is formed. MCL 169.224(1). Late fees may be incurred if the statement of organization is filed late. *Id.* Failure to file a statement of organization for more than 30 days is a misdemeanor offense. *Id.* By statutory definition, a committee is formed when "a person receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for . . . the qualification, passage, or defeat of a ballot question . . . if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year." MCL 169.203(4). A statement of organization must be filed within 10 days of reaching one of these \$500.00 thresholds.

The MCFA and corresponding administrative rules also require a person who produces printed material that relates to an election to include the phrase "Paid for by [name and address of the person who paid for the item]." MCL 169.247(1), Mich. Admin. R 169.36(2).

The Act also requires "[a] person,<sup>1</sup> other than a committee, who makes an independent expenditure, advocating the . . . qualification, passage or defeat of a ballot question, in an amount of \$100.01 or more in a calendar year" to file an independent expenditure report within 10 days of the expenditure "with the clerk of the county of residence of that person." MCL 169.251. An independent expenditure is "an expenditure by a person if the expenditure is not made at the direction of, or under the control of, another person and if the expenditure is not a contribution to a committee." MCL 169.209(2).

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<sup>1</sup> "Person" includes a "group of persons acting jointly." MCL 169.211(2).

Finally, the Act 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. Nakagiri alleged that the Board Members made expenditures exceeding the \$500.00 threshold by producing and distributing a flyer supporting the May 2, 2017 sinking fund ballot question and did not file a statement of organization. As evidence, Mr. Nakagiri provided a copy of a flyer signed by all 7 Board members, which stated that the “Hartland School Board members are reaching out to you as concerned citizens in order to provide our strong support and encouragement to vote YES on the upcoming May 2<sup>nd</sup> Sinking Fund Ballot measure.”

In your response, you stated that the total cost to produce and mail the flyers was \$246.93, and that each Board Member paid an equal share of the cost. You provided a receipt from The One Stop Shop showing an expenditure of \$41.34 for copies and a receipt from Costco showing an expenditure of \$195.00 for stamps and \$10.59 (\$9.99 plus \$.60 tax) for envelopes. In Mr. Aberasturi’s response, he stated that the Board Members mailed approximately 385 flyers.

The MCFA defines a committee as “a person receives contributions or makes expenditures for the purpose of influencing or attempting to influence the action of voters for . . . the qualification, passage, or defeat of a ballot question . . . if contributions received total \$500.00 or more in a calendar year or expenditures made total \$500.00 or more in a calendar year.”

While your answers admit that the Board Members made expenditures for a flyer urging a “yes” vote on a ballot question, the evidence does not support a reason to believe those expenditures totaled \$500.00 or more in calendar year. Based on the evidence provided, the Board Members’ expenditures appear to have totaled \$246.93. This amount fell below the threshold which would have required the Board Members to register as a committee.

The Department does note, however, that section 51 of the Act requires a person who makes an independent expenditure of \$100.01 or more to advocate for the passage of a ballot question to file an independent expenditure report. Because the Board Members made an expenditure of \$246.93 to advocate for the passage of the May 2, 2017 sinking fund ballot question, the Board Members were required to file an independent expenditure report.

**Please file an independent expenditure report with the Livingston County Clerk’s office disclosing the expenditures made by the Board Members for the flyer by August 18, 2017 and provide a copy of the report to the Department along with proof of filing.** An independent expenditure report form is enclosed for your convenience.

Mr. Nakagiri also alleged that the Board Members failed to include an identification statement on the flyer. It appeared from the flyer provided by Mr. Nakagiri with his complaint that the paid-for-by statement was omitted from the flyer. Neither you nor Mr. Aberasturi addressed this allegation in your answers.


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While the Department believes that the evidence tends to show that the flyer failed to contain a paid-for-by statement, section 15(10) of the MCFA requires the Department to “endeavor to correct the violation or prevent a further violation by using informal methods such as a conference, conciliation, or persuasion [.]”

The Department is advising the Board Members that section 47(1) and R 169.36(2) require the Board Members to print a complete and accurate identification statement on all campaign materials, consisting of the phrase “paid for by” followed by the full name and address of the person paying for the materials. Note that all printed materials that refer to an election produced in the future must include this identification statement.

Please be advised that this notice has served to remind the Board Members of their obligation under the Act to identify their printed matter, and may be used in future proceedings as evidence that tends to establish a knowing violation of the Act. A knowing violation is a misdemeanor offense and may merit referral to the Attorney General for enforcement action. MCL 169.247(6), 215(10).

Once the Department receives the independent expenditure report along with proof of filing, the Department will consider this matter closed.

Sincerely,  
  
Lori A. Bourbonais  
Bureau of Elections  
Michigan Department of State

c: Wes Nakagiri