



August 26, 2024

Via email and First-Class Mail

Charles Broughton, Superintendent
Daviess County Public Schools
1622 Southeastern Parkway
Owensboro, KY 42303
contact@dcps.org

Re: Illegal Use of Taxpayer Resources to Lobby Against Amendment 2

Dear Superintendent Broughton:

We write on behalf of employees and taxpayers regarding your illegal use of Daviess County School District resources to advocate in opposition to Amendment 2. As a nonpartisan, nonprofit public-interest law firm dedicated to promoting government accountability and educational freedom, we have previously held districts accountable when they have used taxpayer-funded resources to illegally attempt to influence elections, particularly with respect to school-choice issues.¹ Through this letter, we are putting you on notice that your conduct has been referred to the Attorney General and District Attorney's office, and that we intend to bring swift legal action should any additional violations occur.

BACKGROUND

The media has reported that on August 6, 2024, you held a rally with “thousands of teachers and staff members,” during which you stated that Amendment 2 “will defund public schools,” threatened that there would be “fewer [employees] in this building,” and demeaned the prospect of school choice as “false and misleading.”² We have since been contacted by two of your staff members, acting as whistleblowers, who informed us that you made explicit directives to staff, stating that they “need to vote no” and prohibiting them from expressing alternative opinion on the subject. These whistleblowers have stated clearly to us that they felt threatened and coerced by your directives to them at the rally. You should note that

¹ See, e.g., *Liberty Justice Center Sends Letter Demanding Harris County DA Investigate Alleged Electioneering Scheme*, SOUTHEAST TEXAS RECORD (Apr. 1, 2024), <https://setexasrecord.com/stories/657493784-liberty-justice-center-sends-letter-demanding-harris-county-da-investigate-alleged-electioneering-scheme>.

² James Mayse, *DCPS Teachers Rally Before Opening Day of School Year*, Messenger-Inquirer (Owensboro, Ky.), Aug. 6, 2024, [DCPS teachers rally before opening day of school year \(yahoo.com\)](https://www.yahoo.com/news/dcps-teachers-rally-before-opening-day-of-school-year-170000000.html)

an Open Records Request is accompanying this letter, seeking additional documents regarding your conduct.

VIOLATIONS OF KENTUCKY LAW

Your use of District funds to promote a political position violates Kentucky law—specifically, Kentucky Revised Statute § 65.013, which states that “Local, state, and federal tax dollars shall not be used to advocate, in partial terms, for or against any public question that appears on the ballot.” This was clarified on August 13, 2024, when Attorney General Russell Coleman issued a General Advisory stating that public schools may not use school resources or time to advance political viewpoints.³ The General Advisory cites prior guidance by the Kentucky Attorney General that states that Kentucky law prohibits even a “nominal . . . expenditure of resources and time” to promote a viewpoint on a current political issue. Even the Kentucky School Boards Association (“KSBA”)—which opposes Amendment 2—acknowledges that school districts may not spend taxpayer funds to advocate for specific political positions. KSBA guidance states that “a district may not expend funds to promote a certain viewpoint on a political issue.”⁴ The KSBA cites the opinion of the Kentucky Attorney General, and states: “Legally, a district may not expend funds to promote a certain viewpoint on a political issue (OAG 74-118).”

The conduct described by our whistleblowers also violated K.R.S. § 121.310—a criminal statute prohibiting the coercion of an employees’ vote and punishable as a Class D felony (K.R.S. § 121.990(3)).⁵ For that reason, it is being referred to the District Attorney and Attorney General for further investigation.

CONCLUSION

As discussed above, we have referred these matters to the appropriate law enforcement officials. Liberty Justice Center also stands ready to pursue civil actions against the District if further violations of § 65.013 occur.

³ Attorney General Advisory (Aug. 13, 2024), <https://www.ag.ky.gov/Press%20Release%20Attachments/08.13.2024%20Amend%20%20Advisory.pdf>.

⁴ Kentucky School Boards Association, *Public Discussion of Amendment 2: Frequently Asked Questions*, available at <https://filecabinet7.eschoolview.com/1365B58C-F95F-4E75-94BB-A29D9A94F1C7/20af30d5-b8c4-4a1c-a21e-48979ae72187.pdf>.

⁵ The Kentucky Supreme Court has ruled that statute unconstitutional to the extent an employee has only “been requested” to vote a certain way. *See State Registry of Election Fin. v. Blevins*, 57 S.W.3d 289, 290 (Ky. 2001). Because it is our understanding that you explicitly “directed” your employees to vote against Amendment 2, we believe the statute is still applicable.

Sincerely,

A handwritten signature in black ink, appearing to read "Dean McGee", with a long horizontal flourish extending to the right.

Dean McGee
Educational Freedom Attorney
Liberty Justice Center
dmcgee@ljc.org