

Interpretative Opinion No: 2022-001

December 1, 2022

Commissioner Amy Hall (SMD 3E02 and Commissioner Matthew Cohen (SMD 3E01)

Dear Advisory Commissioners Hall and Cohen:

This is in response to your request for an Interpretative Opinion regarding whether placing D.C. public school logos with names of schools on campaign signage violates the D.C. Campaign Finance Act of 2011, as amended.

According to your request, a candidate from Ward 3 for D.C.'s State Board of Education (Eric Goulet), placed the logos (with names) of individual Ward 3 area DCPS schools on campaign signage which you indicated generated a number of inquiries from residents concerning whether certain D.C. public schools (more specifically, their Parent Teacher Organizations) are endorsing a candidate for the Ward 3 Board of Education Seat.

When you both informally requested an opinion from the Office of Campaign Finance on whether the use of D.C. public school logos is a violation of the Campaign Finance Reform and Amendment Act, the Office of Campaign Finance indicated that the activity in question does not appear to violate the provisions of the Campaign Finance Act, because it does not fall within any of the following prohibitions on the use of government resources:

DCMR Section 3301 provides:

- “3301.1 No District of Columbia government resources shall be used to support or oppose any of the
- (a) A candidate for elected office, whether partisan or nonpartisan; or
 - (b) An initiative, referendum, or recall measure, or a charter amendment referendum.
- 3301.2 Resources of the District of Columbia government shall include, but not be limited to, the following:
- (a) The personal services of employees during their hours of work; and
 - (b) Nonpersonal services.

3301.3 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities; and
- (f) Utilities, for example, telephone, gas, and electric services.

3301.4 Notwithstanding the prohibition set forth in § 3301.3, the following public officials may, as part of their official duties, express their views on a District of Columbia election:

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;
- (d) The Attorney General;
- (e) The President of the State Board of Education; and
- (f) Each Member of the State Board of Education.”

However, upon further review, the Office of Campaign Finance decided to refer the matter to the Office of the General Counsel for the District Of Columbia Public Schools which is the agency with jurisdiction over activity related to the District's public school system.

Pursuant to the referral from OCF, the Office General Counsel for DCPS provided the following response.

"It is DCPS' position that all DCPS logos, including school logos, require written approval from DCPS prior to use. DCPS does not grant approval to use to candidates running for office under the prohibition of District logos being used to indicate endorsement, sponsorship, legal or other affiliation. If OCF receives requests to use DCPS logos in the future, those requests should be denied."

The attorney for the DCPS Office of the General Counsel confirmed that she had provided the same advice to Mr. Goulet and OCF followed up advising Mr. Goulet to comply with the advice provided by DCPS.

Accordingly, even though the use of DCPS Logos is not specifically prohibited under the Campaign Act, the activity has been prohibited by the Office of the General Counsel for the DCPS. Therefore, as has been the policy on several occasions in the past, the Office of Campaign Finance defers to the government agency with jurisdiction over the activity in question and adopts the decision of the DCPS.

The foregoing is an Interpretative Opinion of the Director of the Office of Campaign Finance. Pursuant to D.C. Official Code Section 1-1163.06, you are entitled to request an Advisory Opinion from the Board of Elections and Ethics on this transaction or activity.

Should you have any additional questions, please contact William O. San Ford, General Counsel, at (202) 671-0550.