

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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ATTORNEY GENERAL



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August 4, 2026

Michael Berry, Superintendent
SAU 39
1 School Street
Amherst, NH 03031

Re: **CEASE AND DESIST**
SAU 39 (Amherst School District), Alleged Illegal Campaign Activity

Dear Superintendent Berry:

Our office originally received a complaint that employees of School Administrative Unit 39 ("SAU 39") may have violated RSA 659:44-a by filming and distributing an electioneering video at the Clark-Wilkins Elementary School (the "Wilkins School") and distributed mailers that did not contain required disclosure information. The video-related complaint has been investigated and previously addressed under separate cover. During the course of our investigation, our office revealed that the mailers were printed by SAU 39 employees, using SAU property, and distributed to students during the school day. Following an investigation, this Office has determined that your employees' actions constituted a violation of RSA 659:44-a and orders you to cease and desist from engaging in any further similar conduct in the future.

The warrant for the 2025 Amherst School District election included Article 12, which proposed to appropriate money to "finance the major addition, reconstruction and renovation project for the Wilkins Elementary School."

An electronic PDF of a mailer containing the phrase "YES on 12" and containing the date, time, and location of the March 2025 election was distributed to employees of the SAU 39. Our office was provided print logs that confirm that the subject flyer was printed 140 copies by at least two employees using two different school printers during the school day on Friday, March 7, 2025. An unknown number of copies of the flyer were made as well. These flyers were then distributed by SAU 39 employees by placing them in students backpacks.

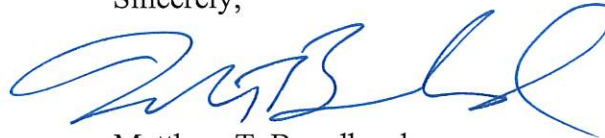
In response to this information, you acknowledged the error and explained that the PTA and the schools have a very good relationship and that the PTA often sends informational flyers about school dances and other events, to the schools in the form of a screenshot, and school staff will print them out to give to the students or post at the schools. You explained that the staff likely didn't think anything of it when they printed this material for the students to take home. In

the aftermath of the election last year, you have already taken steps to address this issue with your staff to ensure it does not happen again.

RSA 659:44-a, II, prohibits all public employees from using “government property or equipment, including, but not limited to, telephones, facsimile machines, vehicles, and computers, for electioneering.” For purposes of this section, “electioneer” means “to act in any way specifically designed to influence the vote of a voter on any question or office.” RSA 659:44-a, III. In general, an act that is “specifically designed to influence the vote of a voter on any question or office” means express advocacy or the functional equivalent of express advocacy. Put simply, express advocacy is asking someone to vote for or against a particular candidate or ballot question.

Here, the flyer in question clearly constituted advocacy in support of Article 12 and was printed using government equipment and property, i.e. computers and printers. This violated RSA 659:44-a, II, and this office therefore orders SAU 39 to cease and desist from any further violations of New Hampshire’s electioneering laws. However, because you took immediate steps with staff to correct this issue prior to the 2026 March election and this office has not received any further complaints about unlawful electioneering, this office will take no further action at this time.

Sincerely,



Matthew T. Broadhead
Associate Attorney General

CC: Representative Ross Berry
Terry Reiber
Michael Almeida