



STATE OF VERMONT

HOUSE OF REPRESENTATIVES

January 2, 2017

Stephan Morse, Chair
Vermont State Board of Education
219 North Main Street, Suite 402
Barre, VT 05641

TRANSMITTED VIA EMAIL

RE: Compliance with Executive Code of Ethics

Dear Chairman Morse:

We are writing to ask the State Board of Education (SBE) to review the activities of board member Dr. William Mathis and to determine whether Dr. Mathis has been, and continues to be, in compliance with the Executive Code of Ethics (promulgated via Executive Order 09-11).

Executive Code of Ethics

As you know, the Executive Code of Ethicsⁱ applies to members of any public body appointed by the Governor (EO 09-11: I.A), including independent boards (EO 09-11: I.F). The Code of Ethics dictates that appointees must conduct the affairs of their office in such a manner as to instill public trust and confidence (EO 09-11: II). Among other things, this includes requirements that appointees avoid any action that might result in undermining their independence or impartiality (EO 09-11: II.A(1)), or which might adversely affect the confidence of the public in the integrity of state government (EO 09-11: II.A(7)).

The Code of Ethics further requires that appointees should not take any action in any particular matter in which they have either a conflict of interest or the appearance of a conflict of interest, until such time as the conflict is resolved (EO 09-11: III.A(3)). The Code also prohibits an appointee from soliciting or receiving any payment from any private interest which conducts activities that are regulated by the appointee's public body (EO 09-11: III.A(3)).

Inflammatory Rhetoric Prompts Questions

Dr. Mathis has been a vocal critic of school choice, and has made a number of inflammatory statements about independent schools and school choice over the past year. For example, in a commentary that was published in several Vermont newspapers last October, Dr. Mathis spoke of how independent schools “chow-down at the public trough”.ⁱⁱ At the November 15, 2016 SBE meeting, Dr. Mathis introduced a draft “Discussion Document” as the basis of the SBE’s legislative agenda, which included a highly charged – and patently false – statement about how school choice is a “subsidy” that allows “affluent parents to send their children to expensive schools in foreign countries and in other states” but “not equally available to less affluent parents...”ⁱⁱⁱ

The strong rhetoric and aggressive manner in which Dr. Mathis has characterized school choice and independent schools raise questions about whether Dr. Mathis can truly set aside his professional obligations and render his service as a member of the SBE in a manner that is independent of, and impartial to, those professional obligations.

Outside Interests of Dr. Mathis

Dr. Mathis is the Managing Director of the National Education Policy Center (NEPC), an organization that is housed within the University of Colorado, Boulder. Based on a review of biographies and job titles on the NEPC website, it appears that Dr. Mathis is among the most senior members of staff – if not the most senior member of staff – at the NEPC. The NEPC regularly publishes policy briefings and other advocacy documents – many of which are authored by Dr. Mathis – that are critical of school choice, school voucher programs, charter schools, programs that increase access to independent schools, and educational programs that generally do not fit the mold of traditional public education.

Much of the work of the NEPC involves publishing critical reviews that attack or seek to undermine education research published by academics and think tanks, particularly when the findings and conclusions put school choice programs in a favorable light. Tactics of the NEPC include the production of videos on YouTube that attack the work of respected organizations, including one video that attacked the Bill & Melinda Gates Foundation and the Progressive Policy Institute, calling out their work as being among the “most notable nonsense, confusion, and disinformation that we reviewed...”^{iv}

One could reasonably presume that Dr. Mathis is remunerated for his work with the NEPC, but if it has not already done so, the SBE should determine whether this is actually the case. If Dr. Mathis is being paid for these activities, the SBE should next determine whether this outside interest compromises Dr. Mathis’s ability to act with impartiality and independence

as a member of the SBE, particularly on matters that are within the scope of his advocacy work at the NEPC – a key question that goes to the heart of compliance with the Code of Ethics. In doing so, the SBE should also consider sources of NEPC funding and take steps to understand what role Dr. Mathis may have (or may have had) during his SBE tenure in soliciting funding, directly or indirectly, for the NEPC, from any third-party interests whose activities are regulated by the SBE. Even if Dr. Mathis is not being compensated for these outside activities, questions should still be asked and answered, so that there is full disclosure.

NEPC Funding Sources

Understanding the sources of funding of Dr. Mathis’s organization, and the policy objectives of these funding organizations, is directly relevant to several Code of Ethics compliance questions, including, but not limited to, compliance with EO 09-11: III.A(3). To that point, a review of material in the public domain demonstrates that many of the videos, policy briefings and other advocacy materials produced by the NEPC are bought and paid for by organizations that have a direct and material interest in policy considerations before the SBE.

According to its website, the NEPC has received direct and indirect funding from the National Education Association (NEA), the American Federation of Teachers (AFT), and the Great Lakes Center for Educational Research and Practice^v. It is well known that the NEA and AFT are among the biggest opponents of school choice in the nation; the NEA website is rife with statements of opposition to school choice (what they often call vouchers).^{vi}

A review of public documents, including 990 filings with the IRS and LM-2 filings with the US Department of Labor, appear to show that the NEA and AFT collectively transferred nearly half a million dollars into Dr. Mathis’s organization between 2015 and August 2016 (full year data for 2016 not yet available)^{vii}:

Contributor	Disbursement Date	Amount
NEA – National HQ	6/25/2015	\$75,000
NEA – National HQ	8/6/2015	\$75,000
AFT – National HQ	8/14/2015	\$25,000
NEA – National HQ	12/18/2015	\$100,000
NEA – National HQ	3/24/2016	\$75,000
NEA – National HQ	8/10/2016	\$75,000

Less is known about Great Lakes Center for Educational Research and Practice (hereinafter referred to as “Great Lakes”), but from a review of public documents, including 990 returns filed with the IRS, and a review of

its website, it appears that Great Lakes is nothing more than a stalking horse controlled by leaders of the NEA and its regional affiliates in seven states. Every member of the Great Lakes board of trustees is affiliated with the NEA^{viii}, and the organization appears to be predominately funded by the NEA and these regional affiliates. Many of the trustees have publicly condemned school choice, including the chairwoman, who unsuccessfully sued the State of Indiana over its school choice program^{ix}.

LM-2 filings with the US Department of Labor indicate that the National Headquarters of the NEA and four state affiliates of the NEA transferred \$290,000 into Great Lakes in 2015 alone:

Contributor	Disbursement Date	Amount
NEA – National HQ	4/2/2015	\$100,000
NEA – National HQ	8/12/2015	\$50,000
NEA – Illinois	9/29/2015	\$10,000
NEA – Michigan	9/22/2015	\$10,000
NEA – Ohio	10/2/2015	\$10,000
NEA – Minnesota	10/9/2015	\$10,000
NEA – National HQ	12/18/2015	\$100,000
NEA – National HQ	7/7/2016	\$50,000

For comparison, according to its 990 filing, Great Lakes reported total revenues of \$370,721 for all of FY 2015^x.

It is clear, from information on the websites of both the NEPC and Great Lakes, that Great Lakes is a significant contributor to the NEPC. Unfortunately, while the flow of money from the NEA and its affiliates into Great Lakes is well documented, it is difficult to determine exactly how much is ultimately funneled into the NEPC via Great Lakes.

NEPC Advocacy & Intersection with Mathis SBE Actions

Much of the work conducted by the NEPC – including materials authored by Dr. Mathis – have direct bearing on public policy matters before the SBE, including the SBE’s proposed amendments to Rule Series 2200 and the SBE’s recently adopted legislative agenda (authored by Dr. Mathis).

What is particularly disturbing is that much of this work has been underwritten by organizations – namely the NEA, AFT, and related entities – that use these materials to advocate for their own public policy objectives, many of which are directly related to matters within the SBE’s jurisdiction. These organizations, directly and indirectly (e.g. through affiliated political action committees) spend millions of dollars to advance their political agenda

at a state and national level, which includes vigorous opposition to school choice and alternatives to tradition public schools.

Since November of 2015, there have been at least two specific instances where Dr. Mathis took action as a member of the SBE that advanced positions developed by the NEPC through its policy briefings – briefings that were underwritten by Great Lakes. First, Dr. Mathis introduced a resolution that called for amendments to Rule Series 2200 (approval of independent schools), and second, he drafted, introduced, and advocated for a legislative agenda that the SBE adopted on December 20, 2016 – an agenda that advances several principles that the NEPC has advocated for, with funding from the NEA.

Mathis Action on Rule 2200 Series Amendments

At the November 17, 2015 SBE meeting, Dr. Mathis introduced a resolution that directed the Agency of Education (AOE) to develop proposed amendments to Rule Series 2200. Included within that resolution was a request for a rule that would require, “...independent school financial data and budgets be submitted annually in a common statewide electronic format, that GAAP procedures be employed, and that independent auditors be periodically employed.” This request was remarkably similar to a recommendation that Dr. Mathis authored in an advocacy paper titled “Public Funding of School Choice” that the NEPC published in December of 2012, which was underwritten by Great Lakes^{xi}.

The proposed amendments to the rules, which had been requested on a motion of Dr. Mathis, appear to be well aligned with the objectives of one of the groups that has helped fund Dr. Mathis’s organization. In a November 17, 2016 Caledonian Record article about the SBE proposed amendments to Rule Series 2200, a well healed lobbyist for the local affiliate of one of these groups was quoted as saying, “*However this issue is ultimately addressed, we firmly believe that schools receiving public money should be held to the same standards and transparency required of public schools.*”

Mathis Action on SBE Legislative Agenda

At the November 15, 2016 SBE meeting, Dr. Mathis introduced a draft “Discussion Paper”, intended to express the board’s legislative agenda. This was further discussed at the December 20, 2016 SBE meeting.

While this document was introduced under Item G of the December 20, 2016 SBE agenda, as a report of the Legislative Policy Committee, there are no meeting agenda or minutes that are available to the public for this committee. In response to a request for meeting agenda and minutes for the SBE Legislative Policy Committee, the Chair of the SBE confirmed on

December 15, 2016 that “...Legislative Committee has not met. All discussions have been held with the full board.”^{xii} Thus, the work of this “committee” appears to be the product of Dr. Mathis as an individual board member.

Several principles within the Dr. Mathis’s draft legislative agenda can be traced back to advocacy work of the NEPC, including the following two examples, which are statements in the draft “Discussion Paper” presented to the SBE at its December 20, 2016 meeting:

1. “Fiscal reporting needs to be regularized so as to provide common definitions across and within public and independent schools”

As discussed above, this principle was advanced in an advocacy paper, authored by Dr. Mathis, published by the NEPC, and funded, in part, by Great Lakes.

2. “Tuitioning causes significant cost duplication and research evidence shows it is segregative.”

Dr. Mathis co-authored an advocacy paper, titled “Do Choice Policies Segregate Schools”, which was published by the NEPC in March of 2016, with funding provided, in part, by Great Lakes^{xiii}. This advocacy paper included strikingly similar statements as the one put forward in the draft “Discussion Paper”, under the heading of “Tuitioning”, that Dr. Mathis put before the SBE at its November^{xiv} and December 2016 meetings.

At the November 15, 2016 SBE meeting, members of the board expressed concern about the language within the “Tuitioning” section of the “Discussion Paper” and requested substantial updates^{xv}. Dr. Mathis agreed to update this section, yet at December 20, 2016 SBE meeting, Dr. Mathis, put forward nearly identical language in the “Tuitioning” section of his “Discussion Paper”^{xvi} – i.e. he attempted to secure adoption of something that the full board had previously objected to.

At the December 20, 2016 meeting, AOE Secretary Rebecca Holcombe raised concerns about this section, and pointed out that Dr. Mathis was “singling out independent schools.”^{xvii} The SBE ultimately voted to remove the “Tuitioning” section of the policy document at the December 20, 2016 meeting.

Conclusion

Over the past year, Dr. Mathis has made a number of hostile comments about independent schools and school choice. These statements, coupled with his work at the NEPC and his actions as a member of the SBE, give rise to

serious questions about the ability of Dr. Mathis to conduct himself in an impartial and independent manner when considering policy matters before the SBE – particularly those matters concerning school choice and publicly funded access to independent schools. Likewise, there are serious questions about how Dr. Mathis can effectively separate his professional obligations with the NEPC and those organizations that fund the NEPC from his work on the SBE. More broadly, these circumstances raise questions about the ability of Dr. Mathis to conduct the affairs of his office in such a manner as to instill public trust and confidence.

The foregoing information highlights a fact pattern that warrants additional review by the SBE to determine whether Dr. Mathis has been and continues to be in compliance with the Executive Code of Ethics. As noted earlier, the SBE should begin by ascertaining whether Dr. Mathis is remunerated for his work with the NEPC. The questions are far more serious if Dr. Mathis is paid by the NEPC, but the extent of Dr. Mathis's involvement and the nature of these activities still warrant full public disclosure, even if he is not paid. To that end, the SBE should seek answers to the following questions:

1. Has Dr. Mathis reviewed and signed an acknowledgement of the Executive Code of Ethics?
2. How much has Dr. Mathis been compensated by the NEPC during his tenure on the SBE?
3. To what extent is the NEPC dependent on financial support from the NEA, AFT, and other entities controlled by those organizations?
4. During his tenure on the SBE, has Dr. Mathis been compensated for any work with the NEPC that was underwritten by the NEA, AFT, Great Lakes, and/or related entities, where the subject matter was within the scope of the SBE's regulatory authority?
5. As the Managing Director of the NEPC, what role has Dr. Mathis played – either directly or indirectly – in soliciting funding from the NEA, AFT, and Great Lakes?
 - a. Given the fact that the NEA and AFT are membership organizations, and the professional activities of those members are regulated by the SBE, has Dr. Mathis been in compliance with EO 09-11: III.A(3)?
6. Have Dr. Mathis's activities with the NEPC compromised his ability to be impartial and independent with his work on the SBE, including, but not limited to, action with Rule Series 2200 and development of the SBE's legislative agenda?
7. Have Dr. Mathis's activities undermined public trust and confidence in his service as a member of the SBE?
8. Do the circumstances involving Dr. Mathis jeopardize confidence of the public in the integrity of state government?

We trust that the SBE will take appropriate action to address these questions, and look forward to hearing from you.

Sincerely,

Rep. Oliver K. Olsen
Rep. Adam Greshin
Rep. Laura Sibia

CC: Governor Peter Shumlin
Governor-Elect Phil Scott
Rep. Mitzi Johnson

Notes:

ⁱ Executive Code of Ethics. [ONLINE] Available at:
<http://governor.vermont.gov/sites/shumlin/files/documents/EO%2009-11%20Executive%20Code%20of%20Ethics.pdf>

ⁱⁱ William Mathis, VTDigger.org. 2016. INDEPENDENT SCHOOLS, SPECIAL EDUCATION AND THE PUBLIC COMPACT. [ONLINE] Available at:
<https://vtdigger.org/2016/10/31/william-mathis-independent-schools-special-education-public-compact/>. [Accessed 1 January 2017].

ⁱⁱⁱ William Mathis, Vt. State Board of Education. 2016. Draft Discussion Paper, Version 11/11/2016. [ONLINE] Available at:
<http://education.vermont.gov/sites/aoe/files/documents/state-board-agenda-item-111516-n.pdf>. [Accessed 1 January 2017].

^{iv} NEPC. (2012). 2011 Bunkum Awards Ceremony. [Online Video]. 30 May 2012. Available from: <https://www.youtube.com/watch?v=P-hJagz6ytM>. [Accessed: 1 January 2017].

^v National Education Policy Center. 2016. Donate to NEPC. [ONLINE] Available at: <http://nepc.colorado.edu/support>. [Accessed 1 January 2017].

^{vi} Tim Walker, NEA Today. 2016. 'School Choice' Mantra Masks the Harm of Siphoning Funds from Public Education. [ONLINE] Available at: <http://neatoday.org/2016/01/22/school-choice/>. [Accessed 1 January 2017].

National Education Association. 2016. Vouchers. [ONLINE] Available at: <http://www.nea.org/home/16378.htm>. [Accessed 1 January 2017].

^{vii} Disbursements to the University of Colorado Foundation identified in 2016 and 2015 LM-2 filings with US Department of Labor for NEA and AFT National Headquarters. [ONLINE] Available at: <https://olms.dol-esa.gov/query/getOrgQry.do>. [Accessed 1 January 2017].

^{viii} Great Lakes Center for Educational Research & Practice. 2016. About The Great Lakes Center. [ONLINE] Available at: <http://greatlakescenter.org/about.php>. [Accessed 1 January 2017].

^{ix} Teresa Meredith et al. v. Mitch Daniels, et al.

^x Great Lakes FY2015 990 Available at:
<https://projects.propublica.org/nonprofits/organizations/383555110>

^{xi} William Mathis, National Education Policy Center. 2012. Public Funding of School Choice. [ONLINE] Available at http://greatlakescenter.org/docs/Policy_Briefs/Research-Based-Options/04-Mathis_ChoiceFunding.pdf [Accessed 1 January 2017]

^{xii} Morse, S, stephan@sover.net , 2016. Comments on Rule 2200 Proposals. [E-mail] Message to O Olsen (oliver@oliverolsen.com). Sent December 15, 2016 at 10:12 AM.

^{xiii} William Mathis & Kevin Welner, National Education Policy Center. 2016. Do Choice Policies Segregate Schools? [ONLINE] Available at http://greatlakescenter.org/docs/Policy_Briefs/Research-Based-Options-2015/03-Mathis-Welner-School-Choice-Segregation.pdf [Accessed 1 January 2017].

^{xiv} William Mathis. 2016. Draft Discussion Paper, Version 11/11/2016. [ONLINE] Available at: <http://education.vermont.gov/sites/aoe/files/documents/state-board-agenda-item-111516-n.pdf>. [Accessed 1 January 2017].

^{xv} Vermont State Board of Education. (2016). SBE Meeting Video starting at 3:24:40. [Online Video]. 15 November 2016. Available from: https://youtu.be/Oz8NP0WbC_M?t=12280. [Accessed: 1 January 2017].

^{xvi} William Mathis. 2016. Draft Discussion Paper. [ONLINE] Available at: <http://education.vermont.gov/sites/aoe/files/documents/edu-state-board-agenda-item-122016-g.pdf>. [Accessed 1 January 2017].

^{xvii} Vermont State Board of Education. (2016). SBE Meeting Video starting at 1:01:10. [Online Video]. 15 November 2016. Available from: <https://youtu.be/2WV3pTWBIWg?t=3850>. [Accessed: 1 January 2017].