

March 4, 2015

VIA COURIER

Linda S. Wanat
Municipal Clerk
Montclair Township Council
205 Claremont Avenue
Montclair, New Jersey 07042

Dear Ms. Wanat:

Montclair Kids First (“MKF”), a coalition of Montclair parents and community members committed to ensuring that all children in Montclair receive a world-class education, files this complaint raising conflicts of interest under both the Montclair Code of Ethics (“Ethics Code”), as well as the New Jersey Local Government Ethics Law, concerning the membership of Third Ward Councilor Sean Spiller on the Montclair Board of School Estimate (“BSE”), while Spiller serves simultaneously as a paid senior official of both the New Jersey Education Association and the Wayne Education Association. Spiller’s business and personal interests trigger four separate violations of the Montclair code of ethics, even one of which requires Spiller’s disqualification from the BSE:

- As the NJEA’s Secretary-Treasurer, the organization’s third most-senior official, Spiller’s charge is to advocate for the economic interests of the NJEA’s members, including the 1100 members of the Montclair Education Association (“MEA”), the NJEA’s local affiliate. The Montclair Ethics Code requires officials to disqualify themselves from votes or action involving that official’s financial interests. Because Spiller is paid by the NJEA to fight for the economic interests of NJEA members, including those represented by MEA, and the sole responsibility of the BSE is to decide financial matters involving the economic interests of these same MEA members, Spiller plainly falls within the Ethics Code’s prohibitions.
- As the NJEA’s Secretary-Treasurer, Spiller has a close business association with the MEA, the NJEA’s affiliate. At the same time, as a BSE member, Spiller is charged with impartially making decisions about school financial matters in which the economic interests of the MEA’s members are plainly involved, given that wage-and-benefits expenses associated with the MEA’s members represent a large portion of the school budget. Because the Ethics Code prohibits officials from involving

themselves in matters in which they have a personal interest triggered by close business associations, Spiller must resign or be removed.

- Spiller is a paid official and former President of the Wayne Education Association, also an NJEA affiliate, and as such is charged with advancing the economic interests of Wayne's school employees. The Ethics Code requires removal when officials' financial interests are involved, even if that involvement is indirect. Spiller's employment as an advocate for school employees represented by an NJEA affiliate raises the public perception that, in voting on the school budget, he might be partial to the interests of the MEA, another NJEA affiliate. Because the Ethics Code seeks to mitigate conflicts, whether perceived or actual, Spiller's role as a paid advocate for an NJEA affiliate requires disqualification.
- As a paid official and former President of the WEA, Spiller has close business associations with the MEA, given the WEA's and MEA's common organizational mission as NJEA affiliates to advocate for the economic interests of their members. The WEA-MEA association is compounded by the fact Spiller also serves as a senior official of the NJEA itself. Spiller's participation on the BSE, where he makes decisions affecting the economic interests of MEA members, involves these business associations. The Ethics Code, for this additional reason, requires disqualification.

For these reasons, the Township Council must remove Spiller from the BSE, if he does not resign first. With an impending BSE vote on the FY 2016 budget later this month, the Council must act promptly to ensure the BSE's action comports with local and state law, as many of the ethical duties imposed by the local Ethics Code mirror obligations imposed by the New Jersey Local Government Ethics Law, *N.J.S.A. 40A:9-22.1 et seq.* If the Council fails to act at its next Regular Meeting on March 10 to ensure Spiller's disqualification prior to the BSE's vote on the FY 2016 budget, MKF will have no choice but to seek a court injunction. The legal rules requiring disqualification are discussed further below.

I. The Montclair Ethics Code Requires Spiller's Removal Because the BSE's Business Involves His Financial and Personal Interests as a Paid, Senior Official of the NJEA.

The Montclair Ethics Code reflects the Township's commitment to ethics and transparency in government. The Ethics Code recognizes that the legitimacy of local, democratic government "depend[s] upon the public's confidence in the integrity" of its representatives, and emphasizes further that even the appearance of a conflict between private interests and public duties undermines confidence in representative government. *See Montclair Municipal Code § 3-59 (2015).* The Ethics Code, therefore, requires municipal officials to disqualify themselves from voting or acting on any matter "involving" the official's financial or personal

interests. *See* Montclair Municipal Code §3-63(a). The code defines the relevant “financial interest” requiring disqualification as any interest producing, directly or indirectly, “a monetary or other material benefit.” Montclair Municipal Code § 3-60. Similarly, the Ethics Code defines the “personal interest” requiring disqualification as any interest arising from “close business association,” among other things. *Id.* Here, Spiller’s role as a member of the BSE involves both a financial and personal interest under the Ethics Code, and thus requires disqualification.

First, Spiller’s service on the BSE plainly involves his private financial interests, as he is paid by the NJEA in his role as Secretary-Treasurer, the association’s third most-senior position, to advocate for the NJEA’s members, which includes 1100 employees of the Montclair Public Schools represented by the MEA.¹ Among the NJEA’s primary goals are to “improve the economic interests, working conditions, and job security” of its members. *See NJEA’s Mission Vision and Goals, available at* <http://www.njea.org/about/who-we-are/mission> (last visited March 3, 2015). Because Spiller is paid for his service to the NJEA, he therefore receives a financial benefit that relates to his public responsibility as a member of the BSE. The BSE’s sole function is to vote on the annual school budget, and the overwhelming majority of the school budget concerns personnel expenses paid to the members of the MEA, the NJEA’s local affiliate. Yet Spiller, in his private capacity, is paid to advocate for the same economic interests of those MEA members seeking wage-and-benefit increases from the BSE. This conflict is an undeniable violation of the Montclair Ethics Code, and Spiller therefore must be immediately removed.

Second, Spiller’s service on the BSE also involves a personal interest of Spiller’s arising from a “close business association,” and therefore independently requires removal. The NJEA and MEA are close business associates, as the MEA is NJEA’s local affiliate and thus advocates for the NJEA’s statewide interests at the local level. Because Spiller serves as a paid officer of the NJEA, responsible for advocating for the economic interests of the NJEA’s members, his participation in the business of the BSE self-evidently involves his close business association with the NJEA and MEA. Again, the BSE’s sole function is to decide matters related to the local school budget, and the majority of that budget concerns the financial interests of 1100 members of an organization with which Spiller is closely associated. The Ethics Code requires disqualification in these circumstances.

II. The Montclair Ethics Code Requires Spiller’s Removal Because the BSE’s Business Involves His Financial and Personal Interests as a Paid Official of the Wayne Education Association.

In addition to Spiller’s employment by the NJEA, he also is an employee, and recent president of, the Wayne Education Association (“WEA”), an NJEA affiliate

¹ *See* Appendix A (Spiller’s 2014 financial disclosure statement filed under state law showing his paid work for both the NJEA and WEA).

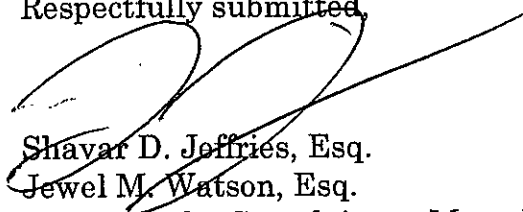
representing educational staff in Wayne Township. The WEA and MEA have indistinguishable missions—to advocate, among other things, for the economic interests of the school employees they represent. The Ethics Code requires disqualification from public action involving financial interests, whether that interest is implicated directly or indirectly. *See* Montclair Municipal Code § 3-63(a). Because Spiller is paid to represent the economic interests of a set of educational employees materially indistinguishable and closely associated with the MEA, that financial interest requires disqualification, especially in light of the Ethics Code’s concern with even the appearance of impropriety.

Likewise, Spiller’s employment with the WEA also represents the kind of “close business association” that requires disqualification. The WEA and MEA are closely associated, sharing a common interest under the NJEA umbrella to advocate for the economic interests of the school employees they represent. Spiller’s employment by the WEA thus represents the kind of business association related to his actions on the BSE that constitutes a violation of the Township’s Ethics Code, and thus requires disqualification.²

III. Conclusion

For the reasons stated above, the Montclair Ethics Code requires the Township Council to remove Spiller from the BSE, if he does not resign voluntarily. The conflicts at issue here are clear, even self-evident. The Ethics Code is explicit, too, that disqualification is the only remedy to resolve a conflict-of-interest violation. Accordingly, the Council should take the action required of it by Montclair law promptly, and in any case by its next Regular Meeting on March 10, to ensure that the vote on the FY 2016 budget is not nullified by an Ethics Code violation. If the Council does not take this action, MKF will seek a court injunction.

Respectfully submitted,



Shavar D. Jeffries, Esq.

Jewel M. Watson, Esq.

Attorneys for Complainant Montclair Kids First

cc: Sean Spiller, Third Ward Councilor and BSE Member
Montclair Township Council
Montclair Board of School Estimate

² It should be noted that, for the same four reasons discussed above, Spiller’s financial and personal interests would also require removal under the state’s Local Government Ethics Law, N.J.S.A. 40A:9-22.1 *et seq.*

APPENDIX A

Sean Spiller 2014 Financial Disclosure Pursuant to *N.J.S.A.* 40A:9-22.1 et seq.

State of New Jersey
 Department of Community Affairs
 Division of Local Government Services
 Local Finance Board

Local Government Ethics Law
Financial Disclosure Statement
This Financial Disclosure Statement is required annually of all local government officers in accordance with N.J.S. 40A:9-22.1 et seq., the Local Government Ethics Law.

Year of Service:
2014

Section I. Personal Information - Local Government Officer

First Name: Sean Middle: Last Name: Spiller Suffix:
 Home Address: Telephone Numbers: Home: Business:
 Spouse (includes Civil Union partner):
 First Name: Lauren Middle: Last Name: Spiller Suffix:

Entity	Agency/Board	Position Held	Term Expires *
1 Montclair Township Township - County of Essex	Township Council	Third Ward Councilor	06/30/2016
2 Montclair Township Township - County of Essex	Board of School Estimate	Member	

* = if applicable

Section II. Financial Information

Provide the following information for yourself and members of your immediate family for the prior calendar year. If none, please indicate NONE in the space provided.

A. List the name and address of each source of income, earned and unearned, which you received in excess of \$2,000. If a publicly traded security is the source of income, the security need not be reported unless you or a member of your immediate family has an interest in the business organization.

Name	Address	Self/Spouse	Dependent Name
1 Wayne Board of Education	50 Nellis Drive, Wayne, NJ 07470	Self	
2 Wayne Education Association	551 Valley Road, Wayne, NJ 07470	Self	
3 New Jersey Education Association	180 W. State Street, Trenton, NJ 08607	Self	
4 Township of Montclair	205 Claremont Avenue, Montclair, NJ 07042	Self	
5 Wayne Board of Education	50 Nellis Drive, Wayne, NJ 07470	Spouse	

B. List the name and address of each source of fees and honorariums having an aggregate amount exceeding \$250 received from any single source for personal appearances, speeches, or writing.

Name	Address	Self/Spouse	Dependent Name
1 None			

C. List the name and address of each source of gifts, reimbursements or prepaid expenses having an aggregate value exceeding \$400 from any single source,

Name	Address	Self/Spouse	Dependent Name
1 None			

D. List the name and address of all business organizations in which an interest was held.

Name	Address	Self/Spouse	Dependent Name
1 None			

E. List the address and a brief description of all real property in the State of New Jersey in which an interest was held.

Municipality/County	Block	Lot	Qual.	Address	% Own *	Self/Spouse	Dependent Name
1 Montclair (Essex)	3107	2		38 South Willow Street, Montclair, NJ 07042	100.00	Self	

* = % of Ownership

F. Optional Comments:

Section III. Certification & online filing process

I hereby certify that this Financial Disclosure Statement contains no willful misstatement of fact or omission of material fact and, constitutes a full disclosure with respect to all matters required by N.J.S.A. 40A:9-22.1 et seq., to the best of my knowledge. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to fines and possible disciplinary action.

Date: 05/22/2014

Name: Sean M. Spiller

I further certify that I intend my electronic signature on this statement to be the legally binding equivalent of my traditional handwritten signature.