

Letter from MSEA sent to campaigns of Whistler, Battaglia, and Miller  
October 17, 2022

RE: Apple and Teacher Recommended®

I am in receipt of pictures of campaign literature used by those supporting your campaign utilizing an apple with your name in it in combination with the phrase, "BMW is proud to be supported by our Teachers and School Staff!" Please be advised that this use of both the apple and phrase referencing support of teachers and school staff to advertise your endorsement to the public is deceptively similar to the official Apple Ballot utilized by the Maryland State Education Association (MSEA); and therefore, the use by those endorsing your candidacy is illegal and must be removed immediately. Since 2009, the Montgomery County Education Association (hereafter "MCEA") is the registrant of both the apple and the use of the phrase "Teacher Recommended" in connection with political advocacy.

Enclosed is the Certificate of Registration with the USPTO for the words "Teacher Recommended" in connection with political endorsements. Both have been in continuous use before and since the registration by MCEA; and since 2009, both have clearly been marked as a "registered service mark of MCEA." The MSEA has a license agreement for the use of the Apple Ballot and the phrase "Teacher Recommended," which is reserved for our endorsed candidates. You, however, are not an endorsed candidate, and therefore, neither you nor those endorsing your candidacy are permitted to use an apple in combination with the phrase "Teacher Recommended" or any variation of those words. As such, the current use of the apple on social media is deceptively similar to MCEA's supplemental service mark and is prohibited by law.

Over the years, MCEA and MSEA as well as its affiliates have established a vested right in this service mark in connection with political advocacy building a reputation for making education friendly endorsements. This has taken a considerable amount of time and revenue to establish both the apple and "teacher recommended" in the minds of citizens as a source of reliable and thoughtful endorsements supporting public education. Accordingly, others are prohibited from utilizing it or any deceptively similar mark. As indicated on the registration, both marks are used in connection with political advocacy services, and specifically, for endorsing candidates for political office. Inasmuch, the use of the marks or anything similar thereto by anyone other than MCEA or MSEA and its affiliates, such as a political candidate or non-affiliated union, results in clear infringement because of the obvious confusion and deception that will result.

Accordingly, any effort on the part of any non-affiliated association, union, or candidate to copy or imitate the apple and the phrase "Teacher Recommended" constitutes a willful attempt to confuse or deceive Maryland citizens regarding the recommendations of MSEA/CCEA, specifically, and teachers and school staff, generally. Rest assured, MCEA/MSEA will pursue all available legal remedies to protect its registered service mark.

We request that you and your campaign take immediate action to ensure removal of all social media posts utilizing the apple and language indicating that you are supported by teachers and

school staff. If you have any questions, please contact me or Kristy Anderson, General Counsel to MSEA, as well as counsel for CCEA.

Respectfully,

Sean Johnson  
Executive Director

c: Kristy K. Anderson  
Celeste Jordan