



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 14, 2018

Danny Massey, Superintendent **VIA CMRRR 7008 3230 0003 0489 9042**
Brazosport Independent School District
301 West Brazoswood Drive
Clute, TX 77351

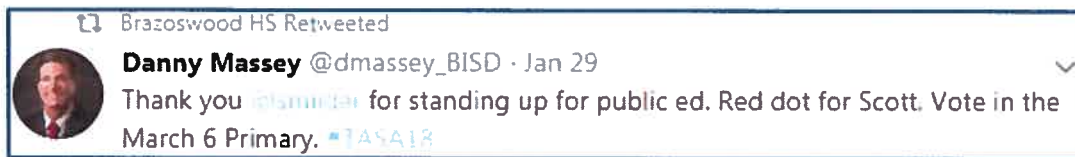
Mason Howard, President **VIA CMRRR 7008 3230 0003 0489 9059**
Board of Trustees
Brazosport Independent School District
301 West Brazoswood Drive
Clute, TX 77351

ALSO VIA REGULAR MAIL AND E-MAIL

RE: Request to Cease and Desist Unlawful Electioneering

Superintendent Massey and President Howard:

It has come to our attention that the Brazosport Independent School District recently published statements and resolutions advocating for the election of candidates who hold particular political views of the Texas Legislature. As of February 13, 2018, Brazosport ISD published partisan materials on its internet websites advocating for and against the election of particular candidates and measures. *See, e.g.,* Brazoswood High School Twitter Page, *available at* <https://twitter.com/BWoodBucs> ("Thank you [candidate] for standing for public ed. Red dot for [candidate]. Vote in the March 6 Primary. [Included with picture of candidate and Superintendent]"); *see also* Enclosures (advocating for and against various candidates and measures).



In addition, Superintendent Massey has repeatedly posted endorsements of particular candidates to his official school page. *See* Superintendent's Twitter Page, *available at* https://twitter.com/dmassey_BISD (referring visitors to brazosportisd.net). Brazosport ISD sends messages such as: "Our students deserve @kktassin in the Texas Senate[,] " @Smilder is the best choice for Lt[.] Gov[ernor]," and "Milder is a candidate w/a conservative ideology over Lt[.] Gov[ernor] Patrick, a rank partisan." *Id.* Brazosport ISD calls for the election of particular candidates. *See, e.g. id.* ("This woman [Kristin Tassin, pictured] is my choice if I could vote for her. She has stood up to LG [sic] Patrick . . . We need her in our Tx [sic] Legislators [sic] for all students!"). Brazosport ISD further encourages district staff and stakeholders to engage in a "block vote" against certain candidates and for others, publicizing campaigns by partisan organizations and directing the public to partisan websites.

Id. Brazosport ISD posts such updates during normal school business hours. This evidence reveals that these communications were made on behalf of the School District as a government entity, acting in its official capacity, and using resources that belong to the taxpayers of Texas.

As you know, Texas law empowers local school districts to register students to vote, promote civic engagement, and allow high school students to serve as early voting clerks. *See, e.g.*, Tex. Elec. Code § 13.046; Tex. Educ. Code § 25.087. By creating such a statute, the Legislature recognized the vital role educators play in the functioning of a democracy.

However, like all other governmental authorities, Brazosport ISD has limits on its participation in the political process and the use of taxpayer resources meant for the education of Texas's youth. Like all state authorities, school districts "may not use state or local funds or other resources to electioneer for or against any candidate, measure, or political party." Tex. Educ. Code § 11.069; *see generally* Tex. Att'y Gen. Op. No. KP-0177 (2018). Furthermore, school districts and their employees "may not knowingly authorize the spending of public funds for political advertising," which includes "a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure" that appears on an Internet website, among other things. Tex. Elec. Code §§ 255.003(a), 251.001(16). The Texas Legislature chose to undergird the importance of governmental entities, like Brazosport ISD, not engaging in unlawful electioneering; it not only prohibits such actions, but classifies violations as a Class A misdemeanor. Tex. Elec. Code § 255.003(c).

As mentioned above, your district promulgated and published numerous communications directed for or against candidates and measures. *See* Enclosures. By advocating for change in political representation, Brazosport ISD produced "a communication . . . opposing a candidate for nomination or election to a public office or office of a political party." This communication violates Texas law. *See* Tex. Elec. Code §§ 255.003(a), 251.001(16).

Accordingly, we ask you to withdraw the above noted communications, as well as any like communications, and cease from making any further communications designed to support or oppose certain political candidates, or which may otherwise run afoul of Texas law. We request that we hear from you, in writing, no later than the end of business on Friday, February 16, 2018.

Sincerely,



Cleve W. Doty
Assistant Attorney General
Administrative Law Division
Cleve.Doty@oag.texas.gov

Enclosures

cc: Scott Schwertner, Board of Trustees
George R. Sullivan, Board of Trustees
Jerry Adkins, Board of Trustees



Danny Massey

@dmassey_BISD

Tweets
7,288

Following
822

Followers
1,599

Likes
26.3K

Lists
1

 Danny Massey Retweeted



Rita Pintavalle @ritapintavalle · Feb 7

The Law Dog knows best! Our students deserve @kktassin in the Texas Senate
[#blockvote](#) [#teachervoices](#)

Jim Walsh @JWalshtxlawdawg

Here's a good candidate... [twitter.com/kktassin/statu...](https://twitter.com/kktassin/status...)



1



1



4

 Danny Massey Retweeted



Rita Pintavalle @ritapintavalle · Feb 7

Educators and everyone, @smilder is the strongest choice for Lt Gov if you care about our children, education and the future [#blockvote](#) [#yourvotecounts](#)

Scott Milder @smilder

Thank you, @dallasnews, for your endorsement and for recognizing that our current Lieutenant Governor is falling short of effective governance.
twitter.com/DMNOpinion/sta...



9



14



Brazoswood HS

@BwoodBucs

Tweets
2,125

Following
41

Followers
1,215

Likes
532

DUAL CREDIT & AP INFORMATION



4



5



Brazoswood HS Retweeted



Danny Massey @dmassey_BISD · Jan 29

Thank you @smilder for standing up for public ed. Red dot for Scott. Vote in the March 6 Primary. #TASA18



20



80



Tweets 7,288 Following 822 Followers 1,599 Likes 26.3K Lists 1

Follow

Danny Massey

@dmassey_BISD

Brazosport ISD Superintendent

brazosportisd.net

Joined July 2009

1,122 Photos and videos



Tweets Tweets & replies Media

Danny Massey Retweeted



Tara Fulton @tmfulton1 · 13h

#PolkPLC



Solution Tree @SolutionTree

Use our PLC map to find schools and districts near you that have built successful professional learning community: allthingsplc.info/plc-locator/us #atPLC

Retweet 2 Like 2

Danny Massey Retweeted



Carol Stanford @CarolStanford60 · 19h

Read 20/20 books are ready for every child and pet at Brazoswoods Veterinary Clinic! #BISDpride



New to Twitter?

Sign up now to get your own personalized timeline!

Sign up

You may also like

Brazosport ISD @BrazosportISD

Brazoswood HS @BwoodBucs

Brazosport High @AlwaysExporter

BISD Ed Foundation @BISDFoundation

Danny Massey Retweeted



Kristi Hassett @hassettfive · Feb 5

.@dallasnews editorial board recommends @smilder for Lt Gov.

Difference between an ideologue & a partisan can be measured in how they approach issues and policy...Milder is a candidate w/a conservative ideology over Lt Gov Patrick, a rank partisan. #txlege



We recommend Scott Milder in the Republican primary for Lieuten...

The difference between an ideologue and a partisan can be measured in how they approach issues and policy. To that end, we recommend Scott M...

dallasnews.com



 Danny Massey Retweeted



Rita Pintavalle @ritapintavalle · Jan 28

Thank you [@kktassin](#) for believing in public education and being the leader our state needs. Supporters need to vote in the Primary [@karlakann](#) [#voteinthepriamary](#)



 2

 7

 16



Danny Massey

@dmassey_BISD

Follow



There are 700,000 public ed employees. We must come together and Vote! #BlockVote #TASA18



10:06 AM - 28 Jan 2018

65 Retweets 105 Likes



1



65



105

 Danny Massey Retweeted



Scott Milder @smilder · Jan 27

I'm proud to have the endorsement of Mike Moses, former Commissioner of Education. I will work hard to restore leadership in the Texas Senate and bipartisan efforts to support and improve public education. ow.ly/UYXO30i2mGr #blockvote #RetireDanPatrick #txlege

"For those who are truly serious about wanting a change in the way our state is governed, and the way public schools are treated, it is imperative to support Scott's candidacy."

*- Mike Moses,
Former Commissioner of Education*



 Danny Massey Retweeted



TX School Coalition @TXSC_org · Jan 24 

We need our state leaders to step up and do what wasn't done in 2013, 2015, 2017...invest in our public schools and ease the burden on local property taxpayers (thereby reducing recapture) in order to provide Texas students the education they deserve.



Analysis: Texas' most persistent policy problem

You wouldn't be out of line wondering why Texas school finance didn't get fixed in 2017. Or 2015. Or 2013. But it's because this is a hard policy pro...

texastribune.org



🔄 Danny Massey Retweeted



bob covey @coveyplus · Jan 24

This woman is my choice if I could vote for her. She has stood up to LG Patrick and his continuing knock on public schools! We need her in our Tx Legislators for all students!



Kristin Tassin @kktassin

Thanks for having me as a guest on @CapitolTonight



2



5



13



Danny Massey

@dmassey_BISD

Follow



[@BrazosportISD](#) Board adopts resolution affirming District's efforts to create a culture of voting and increase civic engagement. Register by Feb 5 to vote in March election. [@TxEdVote](#) [@SchoolPriority](#) [@Texans4E](#) [@TeachTheVote](#) [#BISDpride](#) [#BISDstrong](#)



7:46 PM - 24 Jan 2018

4 Retweets 22 Likes



↻ 4

♡ 22

 Danny Massey Retweeted



CFISD CLC @CFISDCLC · Jan 10 

TX state legislators need to do the same. Stop wasting time, energy, \$ on pushing vouchers that constituents don't want. Imagine what could be accomplished w School Finance if we focused on public schools, not diverting public \$ to private schools. #txed

RaiseYourHandTexas @RYHTexas

Voucher proponents in Tennessee have pulled the plug this year on legislation to send taxpayer money to private schools. "We tried it all kinds of ways. But it always falls flat." ow.ly/RUW930hH5Ko #TxEd #TxLege



12



19

RESOLUTION OF THE BOARD OF TRUSTEES OF BRAZOSPORT INDEPENDENT SCHOOL DISTRICT

WHEREAS, the Texas Election Code Sections 276.001 and 276.004 protect an employee's right to vote;

WHEREAS, exercising one's right to vote is a civic duty that should be encouraged and promoted;

WHEREAS, the Board of Trustees of Brazosport ISD seeks to create a culture of voting and encourage all District employees to model responsible citizenship for the benefit of students;

WHEREAS, public education and the educated citizenry created by public education are the greatest safeguards to the State of Texas and the continuation of a free society; and the institution of public education is best protected by a robust and informed electorate;

NOW THEREFORE BE IT RESOLVED,

1. That the Board of Trustees of Brazosport ISD supports a culture of voting and seeks to encourage maximum participation by District employees and eligible students in the elections process.
2. That the Board of Trustees of Brazosport ISD authorizes the administration to take steps necessary to ensure maximum participation by District employees and eligible students in the elections process, which may include:
 - Creating District communications that inform employees and eligible students of the importance of voting;
 - Creating District communications that inform employees and eligible students about when and where they may vote;
 - Creating District communications that encourage employees to participate in voter pledge programs (such as TexasEducatorsVote.com);
 - Creating District communications that encourage employees to use third party tools to learn about candidates' positions on public education (such as TeachTheVote.org);
 - Implementing no cost incentives to promote voter participation;
 - Encouraging District and/or campus coordination with volunteer organizations, such as the PTA/PTO or retired educators groups, to encourage and facilitate the District's efforts to create a culture of voting.

PASSED AND APPROVED on this 22nd day of January, 2018

By: Mason P. Howard
Name: Mr. Mason Howard
Title: Board President

By: Scott Schwertner
Name: Mr. Scott Schwertner
Title: Board Vice President

By: George L. Sullivan
Name: Mr. George Sullivan
Title: Board Secretary

By: Jerry Adkins
Name: Mr. Jerry Adkins
Title: Board Assistant Secretary

By: Patty Sayes
Name: Mrs. Patty Sayes
Title: Board Member

By: Michael Speir
Name: Mr. Michael Speir
Title: Board Member

By: Liz Cuellar
Name: Mrs. Liz Cuellar
Title: Board Member