



Andrew Bermudez, Chairman
Dexter Town Council
23 Main Street
Dexter, Maine 04930

August 14, 2025

Re: Proposed Ordinance—Eligibility for School Board; Conflict of Interest

Dear Mr. Bermudez,

We write on behalf of the Maine Education Initiative, an organization dedicated to ensuring transparency and accountability in Maine public schools to restore public trust and academic excellence. We write to urge the Town of Dexter not to adopt the proposed ordinance Section 2-33, entitled “Eligibility for School Board Candidacy; Conflict of Interest.” This proposed ordinance would seek to bar certain citizens of Dexter who are involved with homeschool co-ops or private schools from exercising their First Amendment rights to freedom of expression and association without a compelling justification. Doing so is likely to result in liability for the Town for the following reasons.

First, it is clear that if enacted, the proposed ordinance would infringe on the rights of candidates to seek office and the rights of voters to support these candidates. As the Law Court has held, the act of running for school board is unquestionably a First Amendment activity that implicates both a citizen’s ability to express their ideas through candidacy, and the rights of voters to express support for the candidates of their choice.¹ While the ability to run for school board or public office is not an absolute right, “an interest in candidacy, and expression of political views without interference from state officials who wish to discourage that interest and expression, lies at the core of values protected by the First Amendment.”² As such, “restricting candidacy must be the least restrictive means of furthering a vital government end.”³

Here, the proposed ordinance is clearly not the least restrictive means of furthering the Town’s asserted interest in preventing conflicts of interest on the school board. The ordinance would ban anyone from running for school board if they “manage, run, direct, or hold a

¹ See *Callaghan v. City of S. Portland*, 2013 ME 78, ¶ 12, 76 A.3d 348.

² *Id.* at ¶ 13, 76 A.3d 348, quoting *Randall v. Scott*, 610 F.3d 701, 713 (11th Cir. 2010).

³ *Callaghan*, 2013 ME 78, ¶ 12, 76 A.3d 348 (cleaned up).

leadership or administrative role in a home school co-op or private school,” within town limits, including “founders, directors, or head administrators,” as well as administrators or employees of private schools. This prohibition is breathtakingly overbroad, covering individuals who have no pecuniary interest in a co-op or private school (such as volunteer directors or administrators), as well as individuals who may not even still be *associated* with such a co-op or private school (such as founders). The ban therefore appears to be based not on any traditional concerns regarding pecuniary conflicts of interest, but to rather be based on an assumption that anyone involved with a private school or homeschool co-op cannot possibly also desire the best interests of their local public schools. To speak frankly, such an assumption is baseless and narrow-minded at best.

At the same time, operating under the Town’s assumption, the proposed ordinance would also be significantly *underinclusive* – if directors, administrators, or founders of private schools or homeschool co-ops are automatically suspect, why not also parents of students who attend these entities? Why not grandparents, or anyone who has ever donated to these organizations? If mere support for a non-public educational option is all that is required to give rise to a conflict of interest, surely these people would also be covered. The ordinance appears not to be tailored to prevent true conflicts of interest, but simply to punish leaders of private schools and homeschool co-ops.

It is also disturbing that, to our knowledge, there is currently only one homeschool co-op in Dexter, and no private schools in operation. The faith-based co-op that does exist does not charge for services, and everyone involved in tutoring or administration there is an unpaid volunteer. This fact raises the specter that this ordinance is intended to target the leaders of this specific entity because of their association with this faith-based co-op. Therefore, the proposed ordinance further implicates freedom of association and freedom of religion concerns.⁴

The proposed ordinance also suffers from significant vagueness issues. Especially where “possible civil penalties” are involved (an undefined term which is itself vague), the ordinance must give people reasonable notice of what it prohibits and to whom it applies.⁵ But here, the ordinance applies to anyone who “holds a leadership role” in a homeschool co-op or private school. One can reasonably ask, does this cover teachers? Tutors? Volunteers leading extracurricular programs? Without being clear on this point, almost anyone involved in one of these organizations could face civil penalties just for running for school board. This cannot stand.

Finally, the Legislature has already provided a narrowly tailored prohibition on school board membership which focuses on preventing employment and spousal conflicts of interest in

⁴ See, e.g. *Church of Lukumi Babalu Aye v. City of Hialeah*, 508 U.S. 520, 534 (1993) (“The Free Exercise Clause [...] extends beyond facial discrimination. The Clause forbids subtle departures from neutrality and covert suppression of particular religious beliefs.”) (cleaned up).

⁵ See, e.g. *Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972) (stating that to avoid vagueness, laws must “give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly”).

order to maintain public confidence.⁶ Neither issue applies here. And even if a private school operator or employee was paid for their work, any conflict of interest between this position and their membership on Dexter’s public school board would be entirely speculative. Unlike in cases where public school employees are barred from school board membership because they could stand to directly benefit from certain board decisions (such as to increase employee salaries), it is not clear how decisions by Dexter’s public school board would directly impact the financial status of a private school or homeschool co-op.⁷ If such a case arises, there are specific mechanisms in place to allow board members to recuse themselves through disclosure and abstention from voting on such a conflict of interest.⁸

It should be clear that the “conflict of interest” justification for the proposed ordinance will fail First Amendment scrutiny and expose the Town to significant liability. We sincerely hope that the Town Council will reject this proposal and support the right of all Dexter citizens to serve their local public schools.

Very truly yours,



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Danny Hutchins, Town Councilmember
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⁶ 20-A M.R.S.A. § 1002.

⁷ See, e.g., *Casey v. Town of Yarmouth*, 514 F. Supp. 3d 306 (D. Me. 2021) (holding that town ordinance could prohibit teacher from serving on town council). In *Casey*, the plaintiff was a public employee who stood to directly gain from budgetary and other decisions made by the town council. Here, as in *Callaghan*, no such facts are present.

⁸ See *School Union No. 42 v. Bean*, 1993 Me. Super. LEXIS 179, *5.