



State of Washington

**PUBLIC DISCLOSURE COMMISSION**

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April 17, 2019

Delivered electronically to Andrew D. Tsoming, an attorney with Kenyon Disend, PLLC on behalf of the Seattle School District

Subject: Seattle School District Complaint Return Cover Letter, PDC Case 45913

Mr. Tsoming:

Below is a copy of an electronic letter sent to James Brewer concerning the complaint he filed with the Public Disclosure Commission (PDC) against your client, the Seattle School District. As noted below in the electronic letter to Mr. Brewer, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter.

However, PDC staff is reminding officials of the Seattle School District concerning the importance of communicating factual and objective bond and levy election information to all citizens of the district, without including potential statements of opinions, as required by PDC laws, rules and PDC Interpretation #01-03.

While including students, parents, teachers and administrators in videos and other district communications may be part of the district's normal and regular conduct throughout the school year, staff is advising you to pay closer attention to the content and the individuals featured in videos when providing election-related information. Be sure to review and follow the guidance in PDC Interpretation #01-03 and to distribute only objective and fair presentations of the facts concerning future ballot measures.

Based on this information, the PDC has dismissed the complaint in accordance with RCW 42.17A.75(1). If you have questions, you may contact me at (360) 664-8854, or by e-mail.

Sincerely,

Endorsed by:

s/ \_\_\_\_\_  
Kurt Young, Compliance Officer

s/ \_\_\_\_\_  
BG Sandahl, Deputy Director for  
Peter Lavalley, Executive Director



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April 17, 2019

Delivered electronically to James Brewer

Subject: Complaint regarding Seattle School District, PDC Case 45913

Dear Mr. Brewer:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on January 25, 2019. Your complaint alleged that officials of the Seattle School District (SSD) may have violated RCW 42.17A.555 by using school district facilities to produce and distribute information that supported two SSD levy measures, Proposition #1, the Educational Program and Operations (EP&O) levy, and Proposition #2, the Building Excellence V (BEX V) Capital levy, both of which appeared on the February 12, 2019 special election ballot.

PDC staff reviewed the allegations listed in your complaint, the statute, rules, and PDC Interpretation #01-03 Guidelines for School Districts in Election Campaigns, and the responses from Andrew D. Tsoming, an attorney with Kenyon Disend, PLLC on behalf of the Seattle School District, and the additional information he provided in response to staff's request. As a result of staff's review, we found the following:

- RCW 42.17A.555 prohibits public agencies from using or authorizing the use of public facilities, directly or indirectly, for the purpose of promoting or opposing any ballot measure.
- However, PDC statute, rules, and PDC Interpretation #01-03 allows school districts to develop an objective and fair presentation of the facts regarding agency needs and the anticipated impact of a ballot measure, and to distribute those facts in the school district's customary manner. This statutory prohibition does not apply to activities that are part of the normal and regular conduct of the school district.
- In your complaint, you alleged that a January 18, 2019 email from the Seattle School District (SSD) addressed "Dear Families" violated RCW 42.17A.555 by improperly advocating support for the two levy measures by including information in the email stating levies "are "important", "support critical day-to-day school operations", and provide "safety and security improvements."
- You were also concerned with statements that "a funding gap remains, that voter-approved levies help bridge that gap, that local levies are needed and that those levies help Seattle

Public School students succeed.” You alleged that those statements were made by SSD “to induce support for the ballot propositions and are improper, even if factually accurate.”

- The “Dear Families” email indicated that the SSD placed two measures on the February 12, 2019, special election ballot for Proposition 1 (EP & O levy), and Proposition 2 (BEX V levy), and included statements such as “these expiring local levies fund critical day-to-day school operations.” The email stated that the Washington State Legislature made changes to how K-12 education is funded resulting in “a significant portion of state dollars collected from Seattle property owners, dollars that used to be under local control, are now distributed to other districts across the state.”
- The email acknowledged the funding model addressed some issues in the SSD such as teachers’ salaries but stated “here at Seattle Public Schools a gap remains. Voter-approved levies help bridge that funding gap. Please watch this video to better understand why we need local levies for our students and how those tax dollars help Seattle Public Schools students succeed.”
- Mr. Tsoming stated that the “Dear Families” email “did not advocate either a yes or no vote...and did not extoll the ballot’s virtues or highlight its costs” for Propositions 1 and 2, and did not contain any inflammatory remarks. He stated that SSD’s email constituted “a permissible and district wide objective and fair presentation of the facts, consistent with the PDC statute, rules and interpretations.
- In response to PDC staff’s request for additional information, he also provided copies of SSD emails that were sent during the period of January 1, 2018 and February 28, 2019 and included 162 e-mails sent through its “School Messenger channel” that included eight e-mails that mentioned/referenced and provided information about the two levies, with the remaining emails providing information about curriculum, advanced learning programs, school closures, hiring, funding and budgetary issues, collective bargaining, testing, boundary changes, public meetings, traffic, admission fairs, inclement weather, and formal statements. SSD also sent 22 “Juneau’s Journal” entries via e-mail to student families that included seven entries which mentioned or provided information about the February 12, 2019 levies, while the entries also included information from the SSD Superintendent, and discussed topics such as school and community visits, SSD advisory boards, the District’s mobile phone application, town hall meetings, funding and budgetary issues, levies, citywide initiatives, grants, emergency preparedness, and staff spotlights. Juneau’s Journal are also available online to the public.
- In addition, SSD also sent 13 “School Beats” via e-mail to student families, and all 13 of the “School Beats e-mails mentioned or provided information about the February 19, 2019 levies. In addition, the editions of School Beats also provided information and announcements concerning upcoming events and dates, enrollment, curriculum, capital projects, funding, school concerts, extracurricular programs, board updates, hiring fairs, boundary line changes, conferences, summer school, staff recognition, grants, art exhibits, family surveys, and awards.
- Staff reviewed information about Proposition #1 and #2 on the [seattleschools.org](http://seattleschools.org) website, including a document entitled “School District Levies Renewal February 2019,” which was posted on December 4, 2018. The review considered the timing, tone, and tenor of the communications, whether the communication was part of the “normal and regular” conduct of the district, and whether the information presented was an objective and fair presentation of the facts. The levy information conveyed that both of the levies were renewals and provided the following information:

1. The EP & O levy would cost \$1.10 per \$1,000 of assessed value, for a total of \$1,367 for a house with an assessed value of \$700,000, and would pay for SSD staff including nurses, special education needs for 7,000 students, and day-to-day district operations.
  2. The building excellence (BEX) V capital levy, which would cost \$.90 per \$1,000 of assessed value, and total \$1,244 for a house assessed at \$700,000, would pay for replacing or modernizing eight district schools, add 1,908 new seats in district classrooms to replace the 76 portables throughout the district, improve safety and security at the schools, provide equitable classroom technology, and improve district infrastructure needs.
- Staff found that the content of SSD levy information and a video describing both levies overall to be a fair and objective presentation of the facts, were part of the normal and regular conduct for the district and were produced and distributed in accordance with PDC Interpretation #01-03 Guidelines for School Districts in Election Campaigns.
  - Staff's review also included information produced and distributed by the SSD that did not appear to be an objective and fair presentation of the facts or contained statements of opinion rather than facts about the levies. That information included the following:
    1. The "Dear Families" email provided a link to information entitled "School levies are critical." While the majority of the information was objective and factual, the use of the word "critical" in several places in the communication was a matter of opinion. The tone and tenor of the introductory information was especially problematic concerning statements made about the Seattle Times position on the two ballot measures.

Rather than stating that SSD disagreed with the Times opinion-editorial position and the reasons why, the communication stated: "*it's clear the Seattle Times editorial board is opposed to our Feb. 12 EP&O levy. We want to correct the misinformation presented by the Seattle Times editorial board*" (emphasis added).

2. There were eight videos on the SSD levy page, apparently one video for each of the eight schools slated to receive funds from the BEX V capital levy. Staff reviewed several of those videos, which were not completely objective, since the videos included students, parents, teachers, staff and administrators highlighting the deficiencies in each building, but failing to mention the costs to upgrade the facilities to address the HVAC and heating systems in schools, and the costs of doing away with the 76 portables, as well as omitting any reference to the cost of the levies themselves in some videos, presenting a one-sided impression, while urging viewers to vote on the levy.
- Staff noted that SSD had one prior PDC violation for PDC Case 11—28 at a February 28, 2011 Brief Adjudicative Proceeding for violating RCW 42.17.190 (now RCW 42.17A.635) by failing to timely file Public Agency Lobbying Reports (L-5 reports) during calendar years 2008 through 2010. SSD was assessed a \$250 penalty with \$125 suspended for that violation.

Seattle School District officials produced and distributed information about Proposition #1 and #2 for the February 12, 2019 special election, that information was communicated in the district's normal and regular manner, with the majority of the information determined overall to be a fair and objective presentation of the facts. In addition, the Seattle School District has no prior violations for violating RCW 42.17A.555 (or RCW 42.17.130, an earlier statutory citation) concerning the use of facilities dating back to 2001.

Based on the findings, and the facts listed above, PDC staff has determined in this instance, the facts do not warrant further investigation. However, concerning the information listed above, PDC staff is reminding officials of the Seattle School District concerning the importance of communicating factual and objective bond and levy election information to all citizens of the district, without including potential statements of opinions, as required by PDC laws, rules and PDC Interpretation #01-03.

While including students, parents, teachers and administrators in videos and other district communications may be part of the district's normal and regular conduct throughout the school year, staff is advising district officials to pay closer attention to the content and the individuals featured in videos when providing election-related information. Staff will be reminding the district to review and follow the guidance in PDC Interpretation #01-03, and to only distribute an objective and fair presentations of the facts concerning future ballot measures.

Based on this information, the PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at [kurt.young@pdc.wa.gov](mailto:kurt.young@pdc.wa.gov).

Sincerely,

Endorsed by:

s/ \_\_\_\_\_  
Kurt Young, Compliance Officer

s/ \_\_\_\_\_  
BG Sandahl, Deputy Director for  
Peter Lavalley, Executive Director

cc: Andrew D. Tsoming, legal counsel for Seattle School District

