

**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against:

American Federation of State, County
and Municipal Employees, AFL-CIO

Respondent.

PDC Case 54145

STIPULATION AS TO
FACTS, VIOLATIONS AND
PENALTY

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Peter Lavallee, and Respondent American Federation of State, County and Municipal Employees, AFL-CIO, through Danielle Franco-Malone, legal counsel submit this Stipulation as to Facts, Violations and Penalty in this matter. This Stipulation is proposed prior to an investigation being initiated in this matter, pursuant to RCW 42.17A.755 and WAC 390-37-062.

The parties agree that the Commission has the option of accepting, modifying or rejecting the proposed Stipulation. If the Commission accepts the Stipulation or modifies the Stipulation with the agreement of the parties, the Commission shall enter an order in conformity with the terms of the Stipulation. If the Commission rejects the Stipulation, Commission Staff may consider whether an investigation should be initiated, or the matter may appropriately be resolved in another manner.

JURISDICTION

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17A, the state campaign finance and disclosure laws; RCW 34.05, the Administrative Procedure Act; and WAC 390.

FACTS

1. American Federation of State, County and Municipal Employees, AFL-CIO is a nationwide services employee union with 3,400 local unions, 58 councils and affiliates in 46 states, and approximately 1.4 million members in the United States according to its website.

2. American Federation of State, County and Municipal Employees, AFL-CIO Special Account is a separate segregated account registered with the Internal Revenue Service as a 527 organization.
3. RCW 42.17.A.250 requires political committees registered and reporting in another state or in the District of Columbia, to file a monthly Out-of-State Committee Contribution Report (C-5 report) by the 10th of the month, following any month in which the committee made contributions or other expenditures of more than \$50 to support or oppose a Washington State candidate or political committee.

Initial late filed C-5 Reports submitted by AFSCME:

4. On August 14, 2019, American Federation of State, County and Municipal Employees, AFL-CIO (AFSCME) filed a C-5 report for August of 2015, disclosing a \$25,000 contribution made on August 26, 2015, to AFSCME Washington Council 2 in Everett, Washington, and listing the purpose as “Grant to an affiliate”. The C-5 report was required to have been filed by the Committee no later than September 10, 2015, and the \$25,000 contribution was disclosed 1,434 days late.
5. On August 14, 2019, AFSCME filed a C-5 report for October of 2015, disclosing a \$25,000 contribution made on October 16, 2015, to AFSCME Washington Council 2 in Everett, Washington, and listing the purpose as “Grant to an affiliate”. The C-5 report was required to have been filed by the Committee no later than November 10, 2015, and the \$25,000 contribution was disclosed 1,373 days late.
6. On August 14, 2019, AFSCME filed a C-5 report for September of 2016, disclosing a \$200,000 contribution made on September 9, 2016, to AFSCME Washington Council 28 in Olympia, Washington and listing the purpose as “Grant to an affiliate”. The C-5 report was required to have been filed by the Committee no later than October 10, 2016, and the \$200,000 contribution was disclosed 1,038 days late.

Amended C-5 Reports late filed by AFSCME:

7. On November 6, 2014, AFSCME timely filed a C-5 report for October of 2014 disclosing a \$40,000 contribution made to Real Representation in the 35th PAC, a single-year political committee registered with the PDC, on October 10, 2014.

On August 14, 2019, AFSCME filed an Amended C-5 report for October of 2014 disclosing contributions received from AFSCME International between January 1 through October 31, 2014, totaling \$29,368,240.

8. On August 5, 2015, AFSCME timely filed a C-5 report for July of 2015 disclosing a \$100,000 contribution made to the Washington State Democrats on July 29, 2015. On August 14, 2019, AFSCME filed an Amended C-5 report for July of 2015 disclosing contributions received from AFSCME International between January 1 through July 28, 2015, totaling \$1,345,757.
9. On January 11, 2016, AFSCME timely filed a C-5 report for December of 2015 disclosing two \$100,000 contributions made to the Washington State Democrats on December 4 and December 16, 2015 respectively. On August 14, 2019, AFSCME filed an Amended C-5 report for December of 2015 disclosing contributions received from AFSCME International between January 1 through December 31, 2015, totaling \$7,485,733.
10. On September 7, 2018, AFSCME timely filed a C-5 report for August of 2018 disclosing a \$200,000 contribution made on August 28, 2018, to New Directions PAC, a continuing political committee registered with the PDC. On August 14, 2019, AFSCME filed an Amended C-5 report for August of 2018 disclosing contributions received from AFSCME International between January 1 through August 31, 2018, totaling \$14,232,354.

Factors in Mitigation

11. The \$81,293,134 in late reported total contributions received consisted entirely of transfers from AFSCME International into AFSCME's own segregated account.
12. Of the \$81,293,134 in total contributions received from AFSCME International during the four-year period, AFSCME disclosed spending \$790,000 in contributions to Washington State candidates and political committees, which represented .97% of funds transferred into AFSCME's segregated account. The overwhelming majority of the late-reported contributions received were not spent to influence elections in Washington State.
13. AFSCME timely disclosed \$540,000 in contributions made by AFSCME to political committees in Washington State on their initial C-5 reports.
14. The \$250,000 in late reported AFSCME contributions made were to AFSCME affiliated committees and segregated funds for AFSCME Washington Council's #2 and #28.

15. AFSCME took prompt corrective action by filing the amended reports when their noncompliance was brought to their attention.
16. AFSCME has not previously been found to have violated RCW 42.17A or WAC 390.

Other Factors

17. AFSCME acknowledged failing to timely disclose to the PDC three contributions totaling \$250,000, but noted those contributions were reported to the Internal Revenue Service (IRS) on IRS Form 8872. AFSCME indicated that its filing of IRS Forms 8872 made the contribution information available to the public through at least one forum and noted that the Freedom Foundation included the IRS Forms 8872 filed by AFSCME in the appendix to its complaint.

Factors in Aggravation

18. The public was deprived of legally required information being made available on the PDC's website reflecting the \$250,000 in contributions made to Washington State political committees or segregated accounts for the calendar and election years 2015 and 2016.
19. AFSCME has resources available to comply with the reporting requirements in accordance with RCW 42.17A and WAC 390.

STATUTORY AND RULE AUTHORITY

RCW 42.17.A.250 requires political committees registered and reporting in another state or in the District of Columbia, to file a monthly Out-of-State Committee Contribution Report (C-5 report) by the 10th of the month following any month in which the committee made contributions or other expenditures of more than \$50 to support or oppose a Washington State candidate or political committee. Political committees must also disclose on the C-5 report, any contributions received above \$25 from a person in Washington State, and contributions of more than \$2,680 received from persons or corporations residing outside of Washington State in the current calendar year.

VIOLATIONS

Based on the Stipulation of Facts set forth above, AFSCME stipulates to the following:

- 1 AFSCME violated RCW 42.17A.250 by failing to timely file Out-of-State Committee Contribution Reports (C-5 reports) disclosing \$250,000 in monetary contributions made to three political committees in Washington State during calendar years 2015 and 2016.

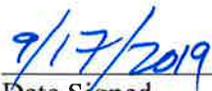
- 2 AFSCME violated RCW 42.17A.250 by failing to timely file C-5 reports disclosing contributions received from AFSCME International into AFSCME's segregated account covering the period October 1, 2014 through August 31, 2018.

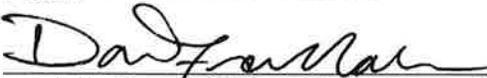
PENALTY

1. Based upon the Stipulation of Facts and Violations set forth above, AFSCME agrees to pay a total civil penalty of \$5,250, representing \$750 for each late filed C-5 report in accordance with the Stipulation Penalty Schedule found in WAC 390-37-062, of which \$2,000 of the penalty is suspended on the following conditions:
- a. AFSCME is not found to have committed any further violations of RCW 42.17A or WAC 390 within four years of the date of the final order in this matter. The suspended penalty shall not be assessed based solely upon any remediable violation, minor violation, or error classified by the Commission as appropriate to address by a technical correction.
 - b. AFSCME is in compliance with all reporting requirements.
 - c. The non-suspended portion of the penalty (\$3,250) is paid by AFSCME within 30 days of the date of the final order in this matter.

AFSCME affirms its intention to comply in good faith with the provisions of RCW 42.17A and WAC 390 in the future.


Peter Lavallee, Executive Director
Public Disclosure Commission


Date Signed


Danielle Franco-Malone, Attorney, on behalf
Of AFSCME

9-12-2019
Date Signed

