

Response of Ron Simmons to PDC Complaint No. 56939.

The above referenced complaint was submitted to the PDC without any supportive facts and simply consists of unfounded general accusations and conclusions based on the documents submitted with the complaint.

As my Declaration set forth below demonstrates, any actions I have taken in support or opposition to any candidate for public office were taken on my own time, in my capacity as a taxpayer and citizen of Snohomish County Fire Protection District No. 4 in a manner consistent with my first amendment rights. I have not used any public resources to support or oppose any candidate for commissioner of Snohomish County Fire Protection District No. 4 and my interdepartmental communications with my staff were necessary communications, consistent with my duties as a Fire Chief and were designed to keep the District and its employees compliant with PDC rules and to maintain a safe productive work force.

In the transmittal email, the PDC states that I have been accused of violating RCW 42.17A.555 based on an "Alleged violation of RCW 42.17A.555 for misuse of public facilities, distribution of political messages through official public office communication systems."

I deny this allegation and believe my conduct is in full compliance with RCW 42.17A.555 which states as follows:

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the **use of any of the facilities** of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. **Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency.** (emphasis added)

The complaint does not provide any evidence that I used any public facilities in violation of RCW 42.17A.555.

The complaint is based on two basic factual allegations.

1. "Chief Simmons has used the status of his office to endorse several candidates on his Facebook page, which clearly identifies him as "Fire Chief at Snohomish County Fire District #4." His profile's privacy settings are set such that any member of the public can view both the Chief's office as well as his endorsement of several candidates.

The Complainant provided screenshots of several postings on my personal Facebook page. Complainant claims that public knowledge that I am the Fire Chief constitutes an impermissible use of "the status of the Chief's public office to lend support to candidates." (page three of undated letter from Evan Merritt to Peter Lavelle)

Initially, for the record, these postings were made on my personal Facebook page while off duty, using my personal electronic equipment. (Declaration of Ron Simmons). Accordingly, these posts did not involve the use of any public facilities as defined in RCW 42.17A.555.

The complainant alleges that my status as the Fire Chief somehow precludes me from exercising my first amendment rights to express my opinions on political issues that are important to me. However, RCW 42.17A.555 does not define “employment status” as a “facility.”

In contrast, the PDC Guidelines and the PDC’s adopted regulations specifically identify that one’s status as an employee does not preclude a public employee from exercising their first amendment rights in a manner that does not involve the use of a public facility.

WAC 390-05-271 (1) provides that “RCW 42.17A.555 does not restrict the right of any individual to express their own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.” The postings were expressions of my personal views, did not in any way state or imply that I was speaking on behalf of Snohomish County Fire Protection District No. 4 and, as identified above, did not involve the use of any public facilities.

The PDC Guidelines further emphasize that public employees retain their first amendment rights.

“Public employees do not forfeit their rights to engage in political activity because of their employment.” (PDC Guidelines May 2013 version, Page 4) Agency Administrators “May engage in campaign activities on their own time, during non-work hours and without using public resources.” (PDC Guidelines May 2013 version, Page 7) Management Staff “May fully participate in campaign activities.... During non-work hours and without the use of public resources.” (PDC Guidelines May 2013 version, Page 10) Agency Employees “May engage in campaign activities on their own time, during non-work hours and without using public resources.” (PDC Guidelines May 2013 version, Page 12).

Based on the authorities submitted, this basis for the complaint, as a matter of law, fails to allege any violation of RCW 42.17A.555 and should be dismissed.

2. “...Chief Simmons has used District email to send messages to his subordinates to discourage support for my candidacy, which constitutes a further violation of RCW 42.17A.555.”

This allegation is based on three separate emails one dated June 28, two dated July 22, 2019 and one Memorandum Dated August 9, 2019. I acknowledge that I authored each of these communications while on duty and using public resources in my role as Fire Chief. However, each of the documents were created solely to address workplace issues and to enforce district policies and were not used “directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.”

In contrast, each of the communications were designed to provide direction to employees in a manner consistent with the requirements of my job duties and in a manner that is recognized by the PDC guidelines as appropriate communications for supervisory personnel.

As the Fire Chief of Snohomish County Fire Protection District No. 4, my job duties specifically include the following duties:

Develop, recommend and implement policies, procedures, goals and objectives affecting the overall operation of the Fire District.

Ensure positive public relations by developing and maintaining effective working relationships with the community, other jurisdictions, regulatory agencies and the general public

Facilitate, monitor and/or administer enforcement of Fire District policies and procedures to include the execution of discipline.

Provide a clear and consistent flow of information throughout the organization.

Promote good personal and interpersonal relationships between all employees members

Planning, developing and managing the goals, objectives and direction of the Fire District.

Maintain and enforce the rules, regulations, and requirements of the Fire District. To include internal and external customer relations and professional delivery of all service the Fire District provides.

6/28/19 Email.

This email was a clear exercise of my duty to inform employees of the PDC rules and the District's policy of complying with the PDC Rules. The email is also consistent with the PDC Guidelines which recognize that "Supervisory personnel have a duty to know, apply, and communicate to their staffs the difference between acceptable information activities and inappropriate promotional activities in support of local government ballot measures." (PDC Guidelines May 2013 version, Page 4).

7/22 19 Email. Election Issue 1

This email was sent in fulfillment of the above referenced job duties and was designed to advise employees "to stay out of the campaign gaming" and to address an issue I believed was inconsistent with the manner in which District employees are to conduct themselves. Although the Complainant conjectures that this was personally directed toward his campaign, there is no evidence to support this conjecture. The email does not address specific candidates, races or ballot measures, but reflects an appropriate communication to my employees addressing what I believed to be unprofessional behavior. Once again, "Supervisory personnel have a duty to know, apply, and communicate to their staffs the difference between acceptable information activities and inappropriate promotional activities in support of local government ballot measures." (PDC Guidelines May 2013 version, Page 4).

7/22/19 Election Issue 2.

This email is consistent with the 6/28/19 email, consistent with my performance of my job duties and reflects my intent to clarify for my employees the rules relating to campaign signs and a reminder to employees of how to address issues relating to campaign signs. The tone of the email is educational and informative and once again was an appropriate exercise of my supervisory authority to assist District employees how to understand and comply with the PDC rules. "Supervisory personnel have a duty to know, apply, and communicate to their staffs the difference between acceptable information activities and inappropriate promotional activities in support of local government ballot measures." (PDC Guidelines May 2013 version, Page 4).

August 9 Memorandum

This Memorandum does not "assist a campaign for public office." This memorandum was sent to all personnel to inform, educate and thank the staff. While I did reference a Commissioner race, I noted the race as a fact and did not state any preference or position regarding how to vote or who to vote for. The memorandum addressed what I believed to be a potential employee morale issue in the department and was not intended to, nor did it state, any preference for who to vote for. Once again, as a Fire Chief, in order to perform my job duties, I have to have the responsibility and flexibility to exercise my professional discretion to address issues that may cause problems in the workplace and educate employees on appropriate behavior.

Each of the documents submitted in support of factual allegation number 2 were generated in my role as Fire Chief and were necessary to my responsibility to properly perform my job duties as the Fire Chief. The facts alleged do not document any violation of RCW 42.17A.555 and the Complaint should be dismissed.

Conclusion.

RCW 42.17A.555 does not prevent a public employee from exercising their first amendment rights when the exercise of such rights does not involve the direct or indirect use of public resources, nor does it limit a supervisory employee such as a fire chief from managing, educating and informing employees of issues affecting the workplace simply because the issues may relate to an ongoing campaign or ballot measure.

I respectfully request that the PDC complaint filed by Evan Merritt be dismissed.

A handwritten signature in blue ink that reads "Ron W. Simmons". The signature is written in a cursive style and is positioned above the printed name.

Ron W. Simmons

Declaration of Ron Simmons

I Ron Simmons, declare under penalty of perjury of the laws of the State of Washington that the following statements are true and correct.

1. I am the Fire Chief for Snohomish County Fire Protection District No. 4.
2. My Job Description is attached as Exhibit A.
3. I have a personal Facebook page that I use as a private citizen.
4. I did not use any District computer or other District owned electronic device to post the identified postings on my personal Facebook Page.
5. I did not post identified postings on my personal Facebook Page while on duty or in the capacity of an employee of Snohomish County Fire Protection District No. 4
6. I did not post any of the identified postings to my personal Facebook Page while located on District premises.

Dated: SEPTEMBER 17, 2019



Ron W. Simmons

Exhibit A to Declaration of Ron Simmons

Snohomish
FIRE
Rescue

JOB DESCRIPTION

POSITION: FIRE CHIEF

QUALIFICATIONS:

- Have at least ten (10) years of progressively responsible experience in a career capacity in the fire service, of which five (5) years has been in the position of Fire Chief, Assistant Fire Chief or Deputy Fire Chief.
- Possess a valid Washington State Drivers License and have an acceptable driving record.
- Have the minimum of an Associate Degree in a related field (Bachelor Degree preferred); and/or equivalent combination of training and experience.
- Pass District required medical examinations.
- Current certification as a Washington State Emergency Medical Technician - Basic.

SUPERVISION:

- Accountable to the Board of Fire Commissioners to protect life and property, to develop and manage a fire service organization of the highest professional standards and to assure Department operations are maintained within budget limitations.

KNOWLEDGE / SKILLS / ABILITIES:

- Possess an extensive knowledge of modern principles, practices, and techniques of fire service administration, organization and management.
- Knowledge of principles and practices of policy development, budget and finance, purchasing, planning and resource management.
- Must be knowledgeable in leadership principles and practices, team development and maintenance of accountability throughout the chain of command
- Possess analytical skills in financial development, personnel management and administration
- Must be knowledgeable in program development and evaluation in fire prevention,

training, suppression, emergency medical services - determining needs, goals and objectives.

- Knowledge of modern emergency preparedness and response methods and practices.
- Familiarity with local and state statutes, as well as recognized national standards in all aspects of the fire service.

- Knowledge of current principles and techniques for successful employee/labor relations and volunteer program management
- Possess positive and effective communication skills, both oral and written.
- Ability to handle sensitive materials and information.
- Interpersonal skills using tact, patience and courtesy.
- Possess skills that are positive and effective in communicating with the public and media.
- Ability to work harmoniously with outside organizations, agencies and individuals.
- Ability to conduct one's personal and professional life in a manner that will not impact negatively the public's perception of the District.
- Requires ability to express ideas clearly and concisely, orally and in writing, to groups and individuals.
- Requires public relations abilities to establish and maintain effective working relationships with other agencies, with federal state and local jurisdictions, with the Board of Fire Commissioners, with employees and with the public in general.
- Ability to project an image of professionalism through appearance, cooperation, computability, punctuality and enthusiasm.

PHYSICAL REQUIREMENTS:

- Has the typical sensations of feeling, ability to see, hear, smell, and talk.
- Ability to stand, sit, climb stairs, reach and manipulate objects, tools or controls.
- Mobility and the ability to move about an emergency scene unencumbered.
- Ability to lift and/or move on a regular basis objects weighing up to 50 pounds.
- At times must work for long hours under stressful and/or tragic conditions.
- Manual dexterity and physical acuity to operate computer equipment.

ESSENTIAL FUNCTIONS / TYPICAL DUTIES:

ADMINISTRATION -

- Provide direction, leadership, oversight and facilitate participatory management of all programs of the `Fire District.
- Develop, recommend and implement policies, procedures, goals and objectives affecting

the overall operation of the Fire District.

- Coordinate recruitment, examination and certification process for filling all employee and Volunteer member positions in the Fire District work force; assure the effectiveness of District Policy as it relates to personnel issues for hiring evaluating, training, disciplining and terminating members of the work groups.
 - Delegate administrative and supervisory duties as appropriate to accomplish the mission of the Fire District.
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- Ensure positive public relations by developing and maintaining effective working relationships with the community, other jurisdictions, regulatory agencies and the general public.
 - Establish goals, prepare and coordinate preparation of the Fire District annual and long term financial plan and budget with Board approval.
 - Facilitate monitoring of financial expenditures to assure compliance with approved budget and purchasing procedures. Ensure appropriate research, investigation and approval is accomplished in order to recommend major purchases.
 - Provide on-going administration of collective bargaining agreements.
 - Assure timely investigation and resolution of employee / member job related concerns. Advise the Board of Fire Commissioners regarding labor and employee relations issues.
 - Facilitate, monitor and/or administer enforcement of Fire District policies and procedures to include the execution of discipline.
 - Prepares or facilitates a variety of reports and correspondence.
 - Provide a clear and consistent flow of information throughout the organization.
 - Promote good personal and interpersonal relationships between all employees members
 - Perform special or related assignments as developed by the Board of Commissioners.
 - Planning, developing and managing the goals, objectives and direction of the Fire District.
 - Maintain and enforce the rules, regulations, and requirements of the Fire District. To include internal and external customer relations and professional delivery of all service the Fire District provides.
 - Attends Board of Fire Commissioners meetings.
 - Acts in the position of Fire District Secretary as appointed by the Board of Fire Commissioners.
 - Manages the District finances and regularly reports to the Commissioners on finance issues.
 - In cooperation with the Board of Fire Commissioners, establishes departmental priorities and objectives and defines and delegates areas of responsibility to appropriate personnel.
 - Act as District liaison / representative with all other agencies, work groups and the public.
 - Acts as the senior District Training Officer.
 - Attends training as appropriate to

SUPERVISION -

- Directly supervise through delegation to subordinate Chief and Operations Officers, all District personnel.
- Directly supervises the Firefighter, Training Coordinator, in providing all facets of training to District personnel.

OPERATIONS -

- Respond to incidents and assumes or delegates command as deemed appropriate to the incidents; works with subordinate Officers as necessary to effectively and efficiently mitigate incidents.
- Respond, when authorized by the Board of Fire Commissioners, to major local, regional or state incidents to serve as required to aid in the protection of life and property.
- Assures that District resources are trained and in a state of readiness to respond and mitigate emergencies wherever they may be requested.
- Conducts regular meeting with subordinate Officers to review departmental programs and progress, and to assure efficient and effective operations.
- District representative in the operation of our local Emergency Operations Center and as department Incident Commander under Unified Command of major emergencies.

PUBLIC RELATIONS -

- Participate in professional, civic and service groups as a representative of the Fire District
- Insure community awareness and public education of fire prevention/safety programs throughout the Fire District.
- Cause to be made available to the public, usual and customary information concerning the operation of the District.