



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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October 14, 2020

Delivered electronically to Dan Sullivan at dansullivan906@protonmail.com

Subject: Complaint regarding Centralia School District and Central School District Officials,
PDC Case 66039

Dear Mr. Sullivan:

Public Disclosure Commission (PDC) staff has completed its investigation of your complaint received March 2, 2020. Your complaint made the following allegations:

Alleged Violations of RCW 42.17A.555

1. Ed Petersen, Communications & Public Relations Coordinator for Centralia School District (CSD or District), has been working daily for two months generating content, taking campaign photographs, writing and posting Facebook posts, creating blog entries, designing at least one patron mailing, preparing several district parent mailings, producing a video, creating visual images, designing and distributing literature, setting up a community meeting, sending a dozen email alerts about the levy election, preparing and deploying district robo-calls about the levy election, setting up and marketing a student mock election, and communications with reporters on behalf of a ballot measure's passage. (Exhibits 1-4 to complaint)
2. Mr. Petersen, who is also a member of Citizens for Centralia Schools, was responsible for the preparation of the District's mailer, and a nearly identical mailer (Exhibit 5 to complaint) was printed by the campaign, using the same printer and mailhouse.
3. Mr. Petersen sent a mailing to all households in the area, and coordinated the mailing with the campaign, sending it within 14 days of the election.
4. Since November 2019, District officials reportedly sent several mailings to families about the levy, using students as couriers.
5. Since November 2019, District officials reportedly sent several email messages to families using the school district's family directory.

Alleged Violations of RCW 42.17A.495; WAC 390-17-100; and WAC 390-17-110

6. Centralia School District collected political donations and transferred them to Citizens for Centralia Schools as payroll deductions without written authorization, and without notifying employees having funds withheld of their right to revoke, and without maintaining records of such authorization.

Alleged Violation of RCW 41.06.250

7. Centralia School District solicited funds for Citizens for Centralia Schools in violation of RCW 41.06.250. A payroll deduction solicitation was delivered to all employees' district-controlled internal mailboxes during the week of February 24, 2020.

The Public Disclosure Commission (PDC) does not have jurisdiction over RCW 41.06.250. However, the alleged solicitation of funds by the District on behalf of Citizens for Centralia Schools was reviewed considering RCW 42.17A.555, which prohibits the use of public facilities to promote or oppose a ballot proposition.

RCW 42.17A.555 states, in part: "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. However, this does not apply to the following activities: ... (3) Activities which are part of the normal and regular conduct of the office or agency."

WAC 390-05-271(2) states that RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

WAC 390-05-273 defines the "normal and regular conduct" of a public office or agency as "conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner."

RCW 42.17A.495 states, No employer may withhold wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The written authorization form must include a statement that reads, "No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (i) the failure to contribute to, (ii) the failure in any way to support or oppose, or (iii) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee," or include a statement that informs the employee of the prohibition against employer and labor organization discrimination described in RCW 42.17A.495. The implementing rule for withholding authorizations for payroll deductions is WAC 390-17-100.

RCW 42.17A.495 requires each person or entity who withholds contributions to maintain open for public inspection for a period of no less than three years, during normal business hours, documents and books of accounts that include a copy of each employee's request, the amounts and dates funds were actually withheld, and the amounts and dates funds were transferred to a political committee. RCW 42.17A.495 also requires employers, at least annually by June 30, to notify the employee of the prohibition against discrimination, and the employee's right to revoke the request to have funds withheld for political contributions. The implementing rule for the annual employee notification is WAC 390-17-110.

PDC staff reviewed your complaint, and responses provided on behalf of Centralia School District and its officials by a District employee and by the District's legal counsel.

As a result of the investigation, staff found the following:

Alleged Use of Public Facilities to Promote Levy Campaign (RCW 42.17A.555)

Allegation 1 (Complaint Section 1A)

Alleged use of time as an employee by Ed Petersen, Communications & Public Relations Coordinator, to generate content, take campaign photographs, write and post Facebook posts, create blog entries, design a patron mailing, prepare district parent mailings, produce a video, create visual images, design and distribute literature, set up a community meeting, send a dozen email alerts about the levy election, prepare and deploy district robo-calls about the levy election, set up and market a student mock election, and communicate with reporters on behalf of the ballot measure's passage.

- As described in the Report of Investigation, Ed Petersen, planned and implemented the District's effort to inform the public about Proposition 1, the District's Educational Programs and Operations Levy placed on the February 11, 2020 ballot. This work included developing a jurisdiction-wide mailer, posting similar information to the District's website and Facebook page, paying to boost its own content on Facebook, communicating by email with parents who normally receive email alerts about matters unrelated to levy elections, communicating with parents through "kid mail," a method used by the District to communicate about matters unrelated to levy elections, making one robo-call to invite parents/guardians to an informational meeting about the ballot measure, organizing a student mock election for optional use in high school and middle school classes, and organizing a community meeting to explain the ballot measure.
- The District spent less than \$400 for three boosts of information about the levy on Facebook. The boosted posts were limited to people living within 15 miles of Centralia with no demographic, age, or other filters.
 - The text of the January 17 post reads: "Levies support technology! Our IT team keeps a network of more than 3,000 Chromebooks up-to-date and running to serve students. The devices have a lifespan of about 6 years, and nearly 75% of our Chromebooks will become unsupported and/or require replacement within two years." A picture of a student with a Chromebook is part of the post, with the text: "LEVIES ARE FOR LEARNING."

- The text of the January 19 post reads: “Your EP&O levy helps create pathways to career and college success after graduation. Learn more about how your levy supports learning in Centralia!” A picture of graduating students is part of the post, as is a link to the District website’s page for the February 11, 2020 levy election.
- The text of the January 20 post reads: “Centralia has one of the safest school bus fleets in Washington. The Replacement EP&O levy will help us make it even better by allowing us to implement new technology for routing efficiency. We will also be able to move toward a two-tiered bus system, where elementary aged students ride routes separate from older riders.” The text then continues with a link to the District website page for the February 11, 2020 levy election.
- With respect to alleged “Campaign photographs,” the District stated Mr. Petersen did not take any photographs for the express purpose of levy communications. The District said photographs used in its levy communications were acquired through Mr. Petersen’s normal and regular work activities, which include regularly incorporating photographs into District communications with the public.
- The District regularly uses Facebook to communicate with the District community. The “writing and posting Facebook posts” was a normal and regular part of District communications, as a review of the District’s Facebook page reflects. The District uses Facebook for a wide variety of communications, including providing updates on new District leaders, sharing local news articles related to District students, offering reminders about school breaks and events, providing news regarding District athletics, etc.
- The District stated, with respect to Mr. Petersen’s work on mailings, a video, visual images, literature, setting up a community meeting, and email alerts, these are also part of the District’s normal and regular activities.
- The District made one robo-call connected to the levy. The robo-call was made on January 23, 2020 to parents/guardians of District students. The text of the call was: “We hope you will join us this evening at 6 p.m. for a community forum regarding our upcoming replacement levy election. We will have a short introduction to the levy followed by an informal question and answer period.” There was no cost associated with this call, and only two community members attended the forum.
- The District stated teachers were not required to incorporate the mock election into their lessons. Some social studies teachers at Centralia High School and Centralia Middle School chose to do so, as did several sixth-grade teachers. Mr. Petersen produced the informational video on the levy that was provided to those students who did participate in this activity.

Allegation 2 (Complaint Section 1B)

Alleged use of time as an employee by Mr. Petersen to assist Citizens for Centralia Schools by preparing a campaign mailer for the committee that was nearly identical to the mailer he prepared for the District, using the same printer and mailhouse for both mailers.

- Mr. Petersen denied any District staff time or property was used to create materials for Citizens for Centralia Schools. The District said Mr. Petersen has a long career as a photographer and designer of print publications and materials that predates his employment with the District, and to the extent he worked with Citizens for Centralia Schools, it was during his own personal time and using his own personal property and equipment.
- No evidence was found that Mr. Petersen coordinated the District's jurisdiction-wide informational mailing with campaign activities of Citizens for Centralia Schools, even though Mr. Petersen volunteered for Citizens for Centralia Schools.

Allegation 3 (Complaint Section 1C)

Alleged that Mr. Petersen sent a mailing to all households in the area, and coordinated the mailing with the campaign, sending it within 14 days of the election. The content of one known mailing is exhibit 4. There could be others.

- No evidence was found that Mr. Petersen communicated with parents/guardians and others in a prohibited manner.

Allegation 4 (Complaint Section 1D)

Alleged use of time, as an employee of Centralia School District, by Mr. Petersen, since November 2019, to send several mailings to families about the levy, using students as couriers to carry these election-affecting messages.

- No evidence was found that Mr. Petersen impermissibly used students as couriers to deliver messages about the levy to households, or that Mr. Petersen impermissibly sent several email messages to families using the District's family directory.

Allegation 5 (Complaint Section 1E)

Alleged use of time, as an employee of Centralia School District, by Mr. Petersen, since November 2019, to send several email messages to families using the school district's family directory. Exhibit 2 is one such example discussing turning in ballots and how the district will collect ballots from patrons.

- No evidence was found that Mr. Petersen impermissibly used students as couriers to deliver messages about the levy to households, or that Mr. Petersen impermissibly sent several email messages to families using the District's family directory.

Alleged Improper Withholding of Wages or Salaries for Political Contributions (RCW 42.17A.495)

Allegation 6

Alleged failure by Centralia School District to obtain proper written authorization from employees before withholding wages or salaries for political contributions to Citizens for Centralia Schools.

- Citizens for Centralia Schools provided authorization forms to the District in December 2019 and February 2020, with a request to place the forms in employee mailboxes so employees could make contributions to the committee through payroll deductions.
- The District has no policy concerning material placed in employee mailboxes, but reviews each request individually for appropriateness, and does not distribute material that would be considered profane, offensive, or discriminatory, or would otherwise violate employee or student rights.
- Former Superintendent Mark Davalos approved the request to place the authorizations in the employee mailboxes. Ed Petersen, an employee of the District who is also affiliated with Citizens for Centralia Schools, placed most of the authorizations in employee mailboxes during his lunch break over a period of several days, and secretaries at school buildings may have placed some of the authorizations in mailboxes as well. The District said it distributes payroll deduction forms for other groups including United Way of Lewis County.
- Employee mailboxes are in non-public sections of school/facility offices. All employees with a mailbox received a payroll deduction form. This included certificated staff, classified staff, and administrators. It included teachers at their respective work locations, support staff, and management staff. District employees were not given advance notice of the authorization form, nor were they provided additional information with the authorization form. The District said employees have had various payroll deduction opportunities for at least 10 years.
- The District said a similar request from a levy opposition committee would have been granted, provided the material was appropriate for distribution.
- The District said they was not familiar with the requirements of RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110 when they accepted the payroll deduction authorization forms and began sending requested contributions to Citizens for Centralia Schools.
- Centralia School District Officials accepted 29 payroll deduction authorizations for contributions to Citizens for Centralia Schools in anticipation of the District's February 11, 2020 levy election. In response to the complaint alleging authorizations did not comply with WAC 390-17-100, the District canceled all political committee authorizations effective May 31, 2020, and will not process any further payroll deductions for contributions to Citizens for Centralia Schools unless authorizations in compliance with RCW 42.17A.495 and WAC 390-17-100 are received.
- The District said if payroll deductions for political contributions are resumed, they will comply with the annual notification requirements of WAC 390-17-110.

PDC staff is reminding Centralia School District officials about the importance of keeping all District-produced material concerning ballot propositions fair and objective by refraining from using writing styles with a promotional appearance or tone (e.g. by using exclamation marks in phrases like, "Levies support technology!" or "Your EP&O levy helps create pathways to career

and college success after graduation. Learn more about how your levy supports learning in Centralia!” or by using promotional phrases such as “LEVIES ARE FOR LEARNING.”).

In addition, pursuant to WAC 390-37-060(1)(d), Centralia School District will receive a formal written warning concerning the District’s failure to obtain *proper* written requests from employees *before* withholding wages or salaries for contributions to Citizens for Centralia Schools, in accordance with RCW 42.17A.495 and WAC 390-17-100.

The formal written warning will include staff’s expectation that if Centralia School resumes payroll deductions for political contributions, the District will be fully compliant with RCW 42.17A.495 and WAC 390-17-100, and with WAC 390-17-110 concerning the required annual notification about withholding provisions. The Commission will consider the formal written warning in deciding on further Commission action if there are future violations of PDC laws or rules.

Because staff’s investigation did not find evidence that Centralia School District officials used public facilities to promote its February 11, 2010 levy election in violation of RCW 42.17A.555, I am dismissing that portion of your complaint in accordance with WAC 390-37-070.

If you have questions, you may contact Phil Stutzman, Compliance Officer, at 360-753-1111; toll-free at 877-601-2828; or by e-mail at pdc@pdc.wa.gov.

Sincerely,

Electronically Signed Peter Frey Lavallee

Peter Frey Lavallee
Executive Director

cc: Valerie Walker and Lance Andree, Porter Foster Rorick LLP, Counsel, Centralia School District and Centralia School District Officials