



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

In RE COMPLIANCE WITH
RCW 42.17A

Centralia School District No. 401
and Centralia School District
Officials

Respondents.

PDC Case 66039

Report of Investigation

I. BACKGROUND

- 1.1 Centralia School District No. 401 (Centralia School District, CSD, or District) is located in Lewis County, in and around the City of Centralia, Washington. Kristy Vetter, Executive Director of Teaching and Learning, served as Interim Superintendent from February 12, 2020 - June 30, 2020 while Superintendent Mark Davalos was on extended medical leave through the end of the 2020 School Year, at which time he retired. Mark Davalos was Superintendent during the time covered by the complaint, and authorized the activities of District officials concerning the February 11, 2020 Proposition 1 ballot measure. Centralia School District welcomed Dr. Lisa Grant as its new Superintendent, effective July 1, 2020.
- 1.2 Eric Petersen was employed as the District's Communications & Public Relations Coordinator and Public Records Officer through June 30, 2020. Effective July 1, 2020 Mr. Petersen is no longer employed by Centralia School District. Tabitha Whiting is employed as the District's Executive Director, Human Resources. Valeria Walker and Lance Andree, attorneys with Porter Foster Rorick LLP, serve as Legal Counsel to Centralia School District and its officials.
- 1.3 The Board of Directors of Centralia School District adopted Resolution 2019-24 to place Proposition 1 on the February 11, 2020 ballot. Proposition 1 authorized the District to levy excess taxes in 2021 and 2022 on all taxable property, to replace a levy expiring at the end of 2020, at a rate of \$2.50 per \$1,000 of assessed valuation, to support the District's educational programs and operations not funded by the state. It was estimated Proposition 1 would result in raising funds of approximately \$6,600,000 in 2021 and \$6,700,000 in 2022. The February 11, 2020 levy was rejected by voters with 3,499 No votes (68.74%) and 1,591 Yes votes (31.26%).

- 1.4 Following defeat of the February 11, 2020 ballot proposition, the District's Board of Directors adopted Resolution 2020-09 to place a similar ballot measure on the August 4, 2020 ballot. The August 4, 2020 Proposition 1 authorizes the District to levy excess taxes in 2021 and 2022 on all taxable property, to replace a levy expiring at the end of 2020, at a rate of \$2.00 per \$1,000 of assessed valuation, to support the District's educational programs and operations not funded by the state. It is estimated the August 4, 2020 ballot measure will result in raising funds of approximately \$5,300,000 in 2021 and \$5,400,000 in 2022.
- 1.5 Staff determined it could not resolve the case within 90 days of receipt, and scheduled an Initial Hearing (Case Status Review) for May 22, 2020. With the Initial Hearing, staff began a formal investigation.

II. ALLEGATIONS IN COMPLAINT

- 2.1 On March 2, 2020, Dan Sullivan filed a complaint with the Public Disclosure Commission (PDC) alleging that officials of Centralia School District had impermissibly used District facilities to promote Proposition 1, the District's Educational Programs and Operations (EP&O) February 11, 2020 levy. (**Exhibit 1**)
- 2.2 Mr. Sullivan's complaint made the following allegations (recorded as received by the complainant):

Alleged Violations of RCW 42.17A.555

1. Ed Petersen, Communications & Public Relations Coordinator for Centralia School 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 Violation 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.
- 2.3 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.

II. FINDINGS

- 3.1 On March 27, April 2, and April 13, 2020, Ed Petersen, Communications & Public Relations Coordinator for the District, responded to questions from Tabitha Townsend, PDC Compliance Coordinator. On May 18, 2020, Mr. Petersen responded to questions from Phil Stutzman, Compliance Officer, and on June 14 and June 26, 2020, Valerie Walker, an attorney with Porter Foster Rorick LLP, responded on behalf of the District to questions from Mr. Stutzman. **(Exhibit 2, 3, 4, 5, 6, & 7)**

Alleged Use of Public Facilities to Promote Levy Campaign (RCW 42.17A.555) Allegations 1-5

Allegation 1 (Complaint Section 1A)

Alleged use of time as an employee of Centralia School District, 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.

- 3.2 As further 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.

Centralia School District Response

Ed Petersen's Response to Allegation 1 (Complaint Section 1A) (recorded as received by the respondent) (**Exhibits 2, 3, 4, & 5**)

- 3.3 The District makes informational digital media posts for every District bond and levy campaign. (Examples were provided. Ed Petersen, Communications & Public Relations Coordinator, produced the District's digital content.)
- 3.4 The District does not send levy or bond information to lists of specific people. Rather, the District mailed an informational, 6x8 postcard to the "Every Door Direct Mail" (EDDM) list maintained by the United States Postal Service (USPS), which for Proposition 1 was approximately 10,371 households. The list included every residential address and Post Office Box with a 98531 zip code, and did not target recipients by voter status, demographic, geography, or any other filter. To reduce costs, the District sent the postcard in lieu of its usual 4-page printed newsletter.
- 3.5 The District's postcard arrived in mailboxes approximately one week after ballots were mailed to voters, at a cost of \$3,455.23, paid to GotPrint.com for printing and mailing services.
- 3.6 The District normally sends out a weekly e-newsletter (CSD QuickNews) to all parents for whom it has an email address, students, and staff, as well as community members who have signed up to receive the District's weekly updates. CSD QuickNews included information about the February 11 levy.

Past Election Mailers

- 3.7 The District spent \$4,332.89 for its informational mailer concerning a school bond election in 2016-17, and \$2,067.35 for its informational mailer concerning a school levy election in 2017-18.
- 3.8 The District's four-page newsletter is normally printed two to four times annually, and is paid for out of the District's public relations Contract Services budget, which covers items like websites, printing, and the mass notification system. The District does not have a separate budget to print its newsletter. Costs vary for each printing, between \$1,500 and \$2,500, not including the cost of mailing.
- 3.9 The District has Facebook pages at www.facebook.com/centraliaschooldistrict and for each school (except Futurus High school). Any levy related posts were made to the district page, and were potentially shared from there by the school pages. The District spent less than \$400 on boosting information posts about the levy. The boosted posts were limited to people

living within 15 miles of Centralia with no demographic, age, or other filters. In addition, the District posted information about the February 11 levy on its website.

Valerie Walker's June 14, 2020 Response to Allegation 1 (Complaint Section 1A) (recorded as received on behalf of the respondent) **(Exhibit 6)**

3.10 Staff asked the District, "What information was boosted? Please provide the text of what was boosted." Ms. Walker responded:

- Three posts from the Facebook account "Centralia School District 401" were boosted. Attached to this email is a PDF file with the three posts in question.
- 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, which the PDC has already been provided via the initial complaint (page 9 of the case document "66039 Centralia School Dist Officials Complaint").
- 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, which the PDC has already been provided via the initial complaint (page 9 of the case document "66039 Centralia School Dist Officials Complaint").

3.11 Ms. Walker confirmed that the Facebook boosts paid for by the District were boosts of information previously prepared by the District, and not messages prepared by others.

Valerie Walker's June 26, 2020 Response on Behalf of Centralia School District (recorded as received on behalf of the respondent) **(Exhibit 7)**

3.12 Staff asked the District for further clarification concerning allegations in the Complaint, under Sections 1A, 1B, 1C, 1D, and 1E. Ms. Walker responded:

Allegation 1 (Complaint Section 1A)

3.13 With respect to alleged "Campaign photographs," Mr. Petersen did not take any photographs for the express purpose of levy communications. Rather, photographs were

acquired through Mr. Petersen's normal and regular work activities. Mr. Petersen regularly incorporates photographs into District communications with the public.

- 3.14 Similarly, 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.
- 3.15 Mr. Petersen did not "create[e] blog entries." The District did not maintain a separate blog on the levy and Mr. Petersen did not use "blog entries" for levy communications. The District maintains a website and Complaint Exhibit 1 reflects what appear to be screenshots or pictures of that page. Although the Complainant labels Exhibit 1 as a "website indicating a host of district outreach efforts to pass the levy," the materials reflect informational materials that fairly present facts about the levy (pages 9–14 of the case document "66039 Centralia School Dist Officials Complaint") or a way for members of the public to ask questions about the levy (page 15 of the case document "66039 Centralia School Dist Officials Complaint").
- 3.16 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 Complaint includes various overlapping allegations, and the District addresses the Complaint's specific allegations regarding mailings in Section 1B–1D and the allegations regarding emails in Section 1E.
- 3.17 As for the robo-call allegation, only one robo-call was made connected to the levy. The robo-call was made on January 23rd, 2020 and the call went out 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. Per Ed Petersen, Mark Davalos authorized the robo-call and the forum for the question and answer session. Only two community members attended the forum. The District does not have records of robo-calls from previous years because the District has changed communication systems, but to the best of Mr. Petersen's recollection, robo-calls may have been used in past elections to remind District families to vote, but not to advocate for specific propositions.
- 3.18 Turning to the mock student election, the District did not require teachers 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, and per Mr. Petersen, Mark Davalos approved this action.
- 3.19 Lastly, Mr. Petersen's role with the District necessarily involved communicating with reporters. It is unclear if there is a specific example the Complainant is referring to, but Mr. Petersen did not advocate on behalf of the levy proposition's passage during the exercise of his duties responding to press inquiries.

Allegation 2 (Complaint Section 1B)

Alleged use of time, as an employee of Centralia School District, 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.

3.20 Mr. Petersen denies that any District staff time or property was used to create materials for Citizens for Centralia Schools. Mr. Petersen has a long career as a photographer and designer of print publications and materials that predates his employment with the District. To the extent that he worked with Citizens for Centralia Schools, it was during his own personal time and using his own personal property and equipment.

Allegation 3 (Complaint Section 1C)

Alleged 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.

3.21 Mr. Petersen did not coordinate a District mailing with Citizens for Centralia Schools. It is a normal and regular practice of the District to use mailed printed publications to share information with the community and to encourage participation in elections even when the District does not have a levy proposition on the ballot. The mailing that the District sent (Complaint Exhibit 4) differed from the postcard mailed by Citizens for Centralia Schools (Complaint Exhibit 5) in a variety of ways. For example, the District's mailing included three pictures with text above and below the pictures, whereas the Citizens for Centralia Schools mailing used one picture with text overlaying it. For another example, the mailing from the District was labeled with the District's name and signed by the Board President. The mailing from Citizens for Centralia Schools, however, noted that it was paid for by Citizens for Centralia Schools and did not claim to be from the District.

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.

3.22 The District sent home one flyer with students related to the February levy proposition. Sending messages through "kid mail" is a normal and regular practice of the District. The District uses this communication method to disseminate a wide variety of district information unrelated to levies.

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.

3.23 The emails included in Complaint Exhibit 2 include general information about voting (pages 18 and 20 of the case document “66039 Centralia School Dist Officials Complaint”), factual information about the District’s levy (pages 18 and 20 of the case document “66039 Centralia School Dist Officials Complaint”), and information about a forum event during which community members could discuss the District’s levy (pages 21 and 24 of the case document “66039 Centralia School Dist Officials Complaint”). Additionally, some of the emails included in Exhibit 2 were from the District’s newsletter, QuickNews, which is sent at least twice monthly during the school year (pages 21–23 of the case document “66039 Centralia School Dist Officials Complaint”). The District uses email communications and QuickNews updates to disseminate information on topics unrelated to levies as part of its normal and regular practice.

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.

Responses from Ed Petersen (Exhibit 5) and Valerie Walker (Exhibit 6)

- 3.24 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.
- 3.25 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.
- 3.26 Former Superintendent Mark Davalos approved the request to place the authorizations in the employee mailboxes. Ed Petersen, who is 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 distributes payroll deduction forms for other groups, including United Way of Lewis County.
- 3.27 Employee mailboxes are located 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. District employees have had various payroll deduction opportunities for at least 10 years.

- 3.28 The District said a similar request from a levy opposition committee would have been granted, if the material was appropriate for distribution.
- 3.29 The District said it was not familiar with the requirements of RCW 42.17A.495, WAC 390-17-100, and WAC 390-17-110 when it accepted the payroll deduction authorization forms and began sending payroll deduction contributions to Citizens for Centralia Schools.
- 3.30 The District confirmed they withheld funds through payroll deduction for 29 employees, and sent the funds to Citizens for Centralia Schools. The District confirmed it was willing to obtain a proper authorization from each employee. However, on May 31, 2020, the District stopped allowing payroll deductions for contributions to Citizens for Centralia Schools, and said they will not authorize further payroll deductions for political contributions until and unless the District receives authorization forms in compliance with RCW 42.17A.495 and WAC 390-17-100. The District said if Citizens for Centralia Schools provides an authorization form compliant with WAC 390-17-100, they will distribute it to employees.
- 3.31 The District also said if payroll deductions for political contributions are re-started, they will comply with the annual notification requirements of WAC 390-17-110.

III. SCOPE

- 4.1 PDC staff reviewed the complaint from Dan Sullivan and the responses submitted on behalf of the District by Ed Petersen, District employee, and Valerie Walker, District Legal Counsel.

IV. LAW

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.

Respectfully submitted this 14th day of October 2020.

Electronically Signed Philip E. Stutzman

Philip E. Stutzman
Compliance Officer

EXHIBIT LIST

- Exhibit 1** Complaint filed March 2, 2020 by Dan Sullivan.
- Exhibit 2** Response from Ed Petersen, March 27, 2020
- Exhibit 3** Response from Ed Petersen, April 2, 2020
- Exhibit 4** Response from Ed Petersen, April 13, 2020
- Exhibit 5** Response from Ed Petersen, May 18, 2020
- Exhibit 6** Response from Valerie Walker, June 14, 2020
- Exhibit 7** Response from Valerie Walker, June 26, 2020