Nancy Kiser
Linda Dalton
ML# 58454

JEANNE A. BROWN

~ Attorney-At-Law ~

RECEIVED
CENTRAL OFFICE

'02 JAN 31 AM 10:57

ATTORNEY GENERAL
OF WASHINGTON

January 31, 2002

Honorable Christine Gregoire
Attorney General Washington State
P. O. Box 40100
1125 Washington Street, S. E.
Olympia, WA 98504-0100

Certified Mail, Return Receipt

RECEIVED
JAN 3 1 2002
Public Disclosure Commission

County Prosecutors (See attached list.)

Re: NOTICE OF VIOLATION of Washington State Public Disclosure Act (RCW 42.17) by the National Education Association pursuant to RCW 42.17.400(4)

Dear Ms. Gregoire and County Prosecutors,

I represent the Evergreen Freedom Foundation (EFF) and certain public school employees, including Lowell Johnson, Carrie Riplinger, Susan Kobes and David Williams. EFF works to advance individual liberty, free enterprise and responsible government. Given these policy interests, EFF has a record of protecting free and fair elections through the vigorous enforcement of the campaign finance laws and protecting the paychecks of teachers from the collection and use of their funds for political purposes without their consent.

The purpose of this letter is to inform you on behalf of my clients, pursuant to RCW 42.17.400(4), that there is reason to believe that since 1992, the National Education Association (NEA) has been, is and will continue to violate the Public Disclosure Act (PDA), RCW 42.17.

1. Violations of RCW 42.17.040 et. seq. and RCW 42.17.680(3). The NEA's Ballot Measure/Legislative Crisis and Media Campaign Fund ("Ballot/Media Fund"), constitutes an unregistered political committee. Failure to register as a political committee violates RCW 42.17.040, et. seq.. Moreover, the Ballot/Media Fund consists in part of dues and fees automatically deducted from Washington State public school employee's wages. This diversion of employee wages to the aforementioned unregistered political committee has been and is being made without authorization in violation of RCW 42.17.680(3).

PO BOX 552 • OLYMPIA, WA • 98507
Phone: 360-956-3482 • Fax: 360-352-1874

2. Violations of RCW 42.17.760. The NEA collects and commingles agency fees into its general fund. Additionally it collects and commingles agency fees into the "Ballot/Media Fund." The NEA makes contributions and expenditures to influence elections, support political committees and ballot measures from these commingled General and "Ballot/Media" Funds. These political expenditures are made in Washington and other states without obtaining affirmative authorizations. Thus the NEA is making political expenditures in violation of RCW 42.17.760 from both its General Fund as well as the "Ballot/Media Fund."

I. FACTUAL BACKGROUND

Through its affiliate the Washington Education Association (WEA), the NEA collects union dues and agency fees from Washington public school employees. For the 2001-02 school year, the NEA will collect $126 from each of the approximately 73,000 Washington public school employees who are represented by its local affiliates. This amount includes the special assessment discussed below.

On July 5, 2000 the NEA Representative Assembly passed bylaw amendment 2-7n entitled "Special dues increase to assist affiliates with ballot measures/legislative crises and to fund national and state media campaigns." This is the above referenced "Ballot/Media Fund." The dues increase became effective on September 1, 2000 and expires in 2005. The NEA uses the "Ballot/Media Fund" as follows: sixty (60) percent of the monies to support or oppose state ballot measures and the remaining forty (40) percent for state-based media campaigns. See Exhibit A.

The NEA publicly admits the purpose of the fund is to influence state ballot propositions and may be using the fund to influence state legislative races. See Exhibit B and C.

NEA members have been notified of the political purposes of the Ballot/Media Fund through the NEA's newsletter, web site and other publications disseminated to members. NEA members elected representatives to the 2000 Representative Assembly who created the fund. Therefore, members and non-members know or should know the Fund will be used to influence elections, including elections in Washington state. See, Exhibit D, *NEA Today Online*, Sept. 2000 (http://www.nea.org/neatoday/0009/neara.html) and Exhibit E, *Washington Times*, July 7, 2000, NEA Raising Dues to Combat Vouchers.

The NEA and WEA entered into an "Agreement" (Exhibit F) whereby the parties attempt to avoid the prohibitions of RCW 42.17 by claiming the dues increase withheld from Washington public school employees will not be used in Washington state to support or oppose ballot measures, only media campaigns. The "Agreement" is a sham and has been ignored by the parties. The Election/Media Fund was used to influence Washington state ballot measures. According to NEA's internal documents, monies from the fund have been utilized in Washington state to support state ballot propositions. In one year alone, NEA spent $500,000

from the fund in Washington state to support statewide ballot measures. See, Exhibit G, *Memorandum Report to Delegates to the 2001 NEA Representative Assembly on the Ballot Measure/Legislative Crisis Fund*, May 2001. See also, Exhibit H (1), (2), (3), Various PDC Reports.

To claim that agency fees collected in Washington state are not used to support ballot measure campaigns in and outside of Washington is equally misleading. All monies collected nationwide for the Ballot/Media Fund, including monies from Washington agency fee payers, are dedicated for the aforementioned purposes of the fund. Therefore, every Washington state dollar used "exclusively" for media purposes, frees up an additional 60 cents collected in other states to spend on ballot measures in Washington and other states.

In an action prosecuted by your office for violations of RCW 42.17.760, (PDC v. Washington Education Association, No. 00-2-01837-9.), the Honorable Gary Tabor agreed with your office and rejected a similar "stack-the-money" argument advanced by the WEA.. The court held that despite the existence of allegedly sufficient reserves to offset the agency fees collected from non-members, any distinction these fees were used for non-political purposes and the reserves for political purposes prohibited by the statute, was "forever obscured when the funds collected are 'commingled' into the general fund." See, Exhibit I, Findings of Fact and Conclusions of Law, page 4.

The NEA likewise commingles all monies collected through the special assessment by depositing them in the same fund: "The membership dues that are received by NEA pursuant to Bylaw 2-7n. will not be placed in the NEA's general treasury, but will be placed instead in a *specially-established segregated fund*." (Exhibit F, emphasis supplied).

II. NEA VIOLATION OF RCW 42.17.040 and 42.17.680(3)

The Election/Media Fund constitutes a political committee as defined by the PDA:

> "[A]ny person (except a candidate or an individual dealing with his or her own funds or property) having the expectation of receiving contributions or making expenditures in support of, or opposition to, any candidate or any ballot proposition."

RCW 42.17.020(33).

The NEA established the fund for the express purpose of affecting state ballot propositions, including Washington state. As demonstrated above the facts indicate that the NEA has in fact contributed at least $500,000 to affect the outcome of ballot propositions in Washington state in a single year (Exhibits G and H above). Attorney General Letter Opinion No. 114 issued within months of the enactment of the statute (Initiative 276, 1972), interprets the statutory definition of political committee as follows:

> "If . . . either as a part of their regular dues or in addition thereto the members of such an organization [labor union] are called upon to make payments to it which are thus segregated and used for those purposes under circumstances whereby the contributors know (or should know, if reasonably observant) of that practice, then those payments will in our judgment be 'contributions' within the meaning of that statutory definition and the organization, hence, will be a political committee as therein defined."

AGLO 1973 No. 114, p. 5.

Clearly, Washington members and non-members are compelled to make payments to the NEA's "segregated" Ballot/Media Fund. When the NEA members and non-members in Washington state make these payments, they know or should know the purpose of the accurately-named "Ballot Measure/Legislative Crisis Fund." NEA should be compelled to register the fund as a political committee, pay a substantial fine for its willful violation of the PDA, pay punitive damages and return the dues and fees withheld without member's consent.

III. NEA VIOLATION OF RCW 42.17.760.

A. NEA Special Assessment for Ballot/Media Fund.

In the 2001 "Hudson notice" sent exclusively to agency fee payers, the recipients are informed that an "agency fee ... equal to the amount of dues paid by Association members" is collected (Exhibit J, *2001 Hudson Notice Packet*). There is no mention of a reduction for the special $5 assessment. Moreover, there is no mention that non-members must first affirmatively authorize the special assessment before it will be withheld. Rather, unless the agency fee payer objects, she will have to pay the equivalent of union dues. Judge Tabor has expressly ruled the failure to object does not satisfy the affirmative authorization requirement of RCW 42.17.760. The NEA's collection and use of the $5 dues increase infringes upon the First Amendment rights of agency fee payers and undermines the public's interest in fair and free elections and violates RCW 42.17.760.

B. NEA General Agency Fees.

The NEA also uses the agency fees of Washington non-members that it deposits into its general account to influence elections and support political committees in violation of RCW 42.17.760. For example, it is now a matter of public record that in 1996, the NEA contributed $410,000 from its general fund to the WEA's campaign to defeat Initiatives 173 and 177.

We note that the NEA concedes in the Hudson notice (Exhibit J) that 43% of its budget is spent on politics and other non-chargeable activities. By comparison its affiliate, the WEA, concedes it spent 24% on politics and other non-chargeable activities and it agreed to refund to agency fee payers 8% of the agency fee as the portion it spends "to influence elections and support political committees." Certainly, a same or higher portion of NEA's non-chargeable activities is to influence elections and support political committees.

Most significantly the NEA recently returned $10.08 of the $126 it collected from Washington state agency fee payers for the 2001-02 year (See Exhibit K). Although not a party to the PDC's successful lawsuit against the WEA in which WEA was ordered to return 8% of fees to non-members, the NEA returned 8% to agency fee payers, all but conceding it used their funds for the political purposes prohibited by RCW 42.17.760. However, the NEA has made no effort to properly account for the agency fees it collected in this and previous years in violation of RCW 42.17.760, nor has it returned the funds it unlawfully collected since 1992.

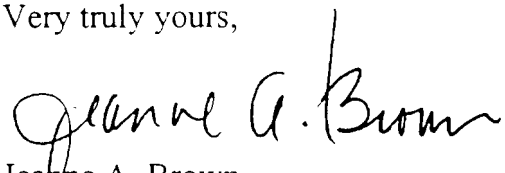
The NEA spends far more on non-chargeable activities than the WEA thus application of the 8% number to the NEA bears no relationship to its actual political expenditures as a proportion of its overall expenditures. Clearly, the return of $10 does not excuse the NEA from its legal obligation to obtain the affirmative authorization of Washington agency fee payers prior to using their wages to influence elections and support political committees. There is no evidence suggesting that the NEA tracks it's political expenditures separately in order to adequately account for them. Nor that it will do so in the future.

By collecting and using Washington agency fees for its Election/Media Fund and other political activity funded through its general treasury, NEA violates RCW 42.17.760 and should be ordered to stop collecting agency fees until it obtains non-members' affirmative authorization. The NEA should be ordered to account for its political expenditures since 1992 and return to agency fee payers funds it wrongfully collected. Finally, the NEA should be ordered to pay penalties for its willful violation of the statute.

We request that you immediately commence an action in the courts to address these violations and protect the paychecks of public school employees. If you do not do so, the Evergreen Freedom Foundation and interested public school employees will seek appropriate legal and equitable relief pursuant to RCW 42.17.400(4) My clients reserve the right to seek appropriate legal and equitable relief under the common law and other applicable state and federal statutory law.

I look forward to meeting with you to discuss this matter and to provide further assistance at your request.

Very truly yours,



Jeanne A. Brown
Attorney at Law

Encl./dc

Cc: Clients

EXHIBIT LIST

EXHIBIT A

Text of NEA Bylaw 2–7.n.

EXHIBIT B

RA Today, Wednesday July 5, 2000.

EXHIBIT C

Proposed Amendments to the Constitution Bylaws and Standing Rules, RA Online, July 7, 2000 (http://www.nea.org/ra/ra00/amndmnts.html).

EXHIBIT D

NEA Today Online, September 2000 (http://www.nea.org/neatoday/0009/neara.html).

EXHIBIT E

NEA Raising Dues to Combat Vouchers, Washington Times, July 7, 2000.

EXHIBIT E

Agreement, Between the National Education Association and the Washington Education Association.

EXHIBIT G

Memorandum, Report to Delegates (from the 2001 NEA Representative Assembly on the Ballot Measure/Legislative Crisis Fund), May 2001.

EXHIBIT H

PDC Reports

- H (1) C3 form submitted by the NEA, dated July 21, 2000 reflecting a $50,000 contribution from the NEA to Citizens for Quality Educators.
- H (2) C3 form submitted by the NEA, dated September 29, 2000 reflecting a $450,000 contribution from the NEA to Citizens for Quality Educators.
- H (3) L3 form submitted by the NEA, dated February 28, 2001 reflecting over $500,000 in 2000 reported political contributions from the NEA to Washington State.

EXHIBIT I

State Public Disclosure Commission v. Washington Education Association, July 31, 2001 Findings of Fact and Conclusions of Law, Thurston County Cause No. 00-2-01837-9.

EXHIBIT J

NEA Political Contributions/Expenditures from General Fund

- J (1) Selected references from 1997 Hudson Packet regarding NEA political expenditures.
- J (2) Selected references from 1998 Hudson Packet regarding NEA political expenditures.
- J (3) Selected references from 1999 Hudson Packet regarding NEA political expenditures.
- J (4) Selected references from 2000 Hudson Packet regarding NEA political expenditures.
- J (5) Selected references from 2001 Hudson Packet regarding NEA political expenditures.

EXHIBIT K

Check Stub, January 15, 2002, Rebate of Illegally Obtained Agency Fees, WEA, NEA, Uniserv and Local (WEA refund mandated by the Attorney General's previous RCW 42.17.760 litigation).

Exhibit F

AGREEMENT BETWEEN THE NATIONAL EDUCATION ASSOCIATION AND THE WASHINGTON EDUCATION ASSOCIATION

The 2000 Representative Assembly of the National Education Association ("NEA") adopted Bylaw 2-7.n., which increases the membership dues of NEA Active and Student members for a five-year period, beginning with NEA's 2000-01 membership year and continuing through NEA's 2004-05 membership year. A copy of Bylaw 2-7.n. is attached hereto as Attachment A.

The membership dues that are received by NEA pursuant to Bylaw 2-7.n. will not be placed in NEA's general treasury, but will be placed instead in a specially-established segregated fund ("Fund"). This Fund will have three separate components -- one designed to assist NEA state affiliates in dealing with ballot measures, a second designed to assist NEA state affiliates in dealing with legislative crises, and a third designed to pay for national and state media campaigns to advance the cause of public education and publicize the role of NEA and its affiliates in improving the quality of public education.

Bylaw 2-7.n. includes the following proviso:

> Where necessary to avoid legal problems under state law, the Association and a state affiliate may, at the request of the state affiliate, enter into a written agreement providing that the money collected from members of that state affiliate shall not be used to deal with ballot measures, but shall be used only to deal with legislative crises and/or to fund the national media campaign.

In response to a request by the Washington Education Association ("WEA") pursuant to the foregoing proviso, NEA and WEA agree as follows:

1. The membership dues that are collected from NEA members in Washington pursuant to Bylaw 2-7.n. will be transmitted to NEA by WEA separately from other NEA membership dues.

2. Forty percent (40%) of the membership dues that are collected from NEA members in Washington pursuant to Bylaw 2-7.n. will be allocated to the media campaign component of the Fund, and the remaining sixty percent (60%) will be allocated to the legislative crises component of the Fund. No portion of said dues will be allocated to the component of the Fund that is used to assist NEA state affiliates in dealing with ballot measures.

This Agreement shall become effective as of the beginning of NEA's 2000-01 membership year, and shall remain in effect through the end of NEA's 2004-05 membership year.

NATIONAL EDUCATION ASSOCIATION

Bob Chase

By: Bob Chase, President

Dated: Aug 2, 2000

WASHINGTON EDUCATION ASSOCIATION

Lee Ann Prielipp

By: Lee Ann Prielipp, President

Dated: Aug. 7, 2000

Exhibit G

nea
NATIONAL EDUCATION ASSOCIATION

Robert F. Chase, President
Reg Weaver, Vice President
Dennis Van Roekel, Secretary-Treasurer

John I. Wilson, Executive Director

1201 16th Street, N.W.
Washington, D.C. 20036-3290

Executive Office

May 2001

Memorandum

TO: Delegates to the 2001 NEA Representative Assembly

FROM: Bob Chase Bob

RE: NEA Ballot Measure/Legislative Crisis Fund

Attached is the first annual report on the Ballot Measure/Legislative Crisis Fund, as required by the guidelines adopted by the NEA Board of Directors in September 2000.

The 2000 RA approved a special dues increase to support the NEA Ballot Measure/Legislative Crisis Fund. The purpose of the Fund is to assist state affiliates in combating the increasing number of attacks on public education. Sixty percent of the dues increase is allocated to the Ballot Measure/Legislative Crisis Fund and 40 percent to the NEA Media Campaign Fund for a national media campaign to publicize the role of the Association and its affiliates in improving the quality of public education.

The report gives a summary of Fund activity for the year and the allocation of resources to state affiliates. The Association's position in each case is provided.

Attachment

Exhibit G

NEA BALLOT MEASURE/LEGISLATIVE CRISIS FUND ANNUAL REPORT

May 2001

SUMMARY

The NEA Ballot Measure/Legislative Crisis Fund provided $9.39 million in assistance to 15 state affiliates for ballot measure and legislative crisis campaigns during the 2000-01 fiscal year. The budget for 2000-01 provided a total of $9.4 million, including $5.1 million from the special dues increase approved by the 2000 Representative Assembly, $2 million from the 1999-2000 NEA budget surplus, and $2.15 million from the 2000-02 NEA budget. The allocation of over $9 million to ballot initiative and legislative crisis campaigns leaves a balance of $10,342.

Overall, the Association achieved significant ballot measure and legislative victories with the overwhelming defeat of voucher proposals in both Michigan and California, the passage of a cost-of-living increase for education employees in Washington, and the defeat of paycheck protection and private school tax credit legislation in Montana.

FUND GUIDELINES

In September 2000, the NEA Board of Directors adopted guidelines for the Ballot Measure/Legislative Crisis Fund, setting out a process for review and evaluation of affiliate requests for assistance. The guidelines also established a Fund Oversight Committee with responsibility for recommending action on affiliate applications for assistance. The Oversight Committee includes the NEA Vice President and Secretary-Treasurer, President of the National Council of State Education Associations, and the NEA Directors of Communications and Government Relations.

ALLOCATION OF FUND RESOURCES

BALLOT MEASURES

Arizona

$550,000 to the Arizona Education Association:

- Proposition 203: English for the Children – **PASSED (65% - 35%)**
  The initiative, **opposed by the Association**, requires that all public school instruction be conducted in English.

- Proposition 301: Sales Tax for Education – **PASSED (54% - 46%)**
  The initiative, **supported by the Association**, raises the state sales tax by 0.6% (to 5.6%). Revenues generated will be dedicated to education, including additional money for school safety programs, education employee salary increases, and class size reduction.

- Ballot Measure 98: Use of Public Resources for Political Purposes – **FAILED (46% - 54%)**
  The measure, **opposed by the Association**, would have amended the state constitution to prohibit the use of public funds to collect political funds. The measure not only would have taken away public employee's right to choose when and how to participate in the political process, but would also have affected charities and other organizations that use payroll deduction.

South Dakota

$5,000 to the South Dakota Education Association:

- Amendment E: Investing Public Revenues – **PASSED (56% - 44%)**
  The amendment, **supported by the Association**, allows the Department of Schools and Public Lands to invest funds in the same manner as retirement funds. The measure will increase returns by $10 million, all of which will benefit schools.

Washington

$450,000 to the Washington Education Association:

- Initiative #728: Class Size – **PASSED (69% - 31%)**
  The initiative, **supported by the Association**, directs that certain existing state revenue – including lottery revenue, lottery proceeds, existing property taxes, and budget reserves – be used to help school districts reduce class sizes, extend learning programs, expand teacher training, and construct facilities.

- Initiative #732: Cost of Living Increase – **PASSED (59% - 41%)**
  The initiative, **supported by the Association**, provides annual cost-of-living salary adjustments to school district employees, academic employees of community and technical college districts, and certain employees of technical colleges. The measure was qualified for the ballot by the Washington Education Association.

LEGISLATIVE ASSISTANCE

Idaho

$10,000 to the Idaho Education Association:

- HB 311: Income Tax Credit for Private and Parochial School Students – **PASSED (36 - 32 vote)**
  The legislation, **opposed by the Association**, allows for income tax credits for corporations and individual taxpayers to cover the costs of private and religious school tuition.

EXHIBIT 1
Page 14 of 15

- HB 362: Repeal of State Codes – **FAILED (15 - 1 vote)**
  The legislation, **opposed by the Association**, would have undermined teachers' due process rights during the contract renewal process by eliminating such rights as fair hearings.

Nevada

$100,000 to the Nevada State Education Association:

- Increased Education Funding – **FOUND UNCONSTITUTIONAL**
  The Legislation, **supported by the Association,** would have provided for a 4 percent net profit business tax earmarked for K-12 education funding. The state Supreme Court found the initiative unconstitutional as drafted.

North Dakota

$116,500 to the North Dakota Education Association:

- Increased Teacher Compensation – **PASSED**
  The legislation, **supported by the Association,** provides for an increase in teacher salaries of $3,500 over two years.

Washington

$50,000 to the Washington Education Association:

- Full Funding of Pro-Education Ballot Measures – **PENDING**
  The legislation, **supported by the Association,** would provide for full funding of the cost-of-living and class size reduction ballot measures approved by the electorate in 2000.

Wyoming

$60,000 to the Wyoming Education Association:

- Increased K-12 Funding – **PASSED**
  The legislation, **supported by the Association,** increases K-12 funding by $85 million. Funds will be applied toward increased teacher salaries and recruitment and retention programs.

FUND REPORTING

Pursuant to the Fund guidelines, quarterly reports were presented to the NEA Executive Committee and NEA Board of Directors throughout the 2000-01 period.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

EMPLOYER OF LOBBYIST MONTHLY POLITICAL CONTRIBUTION REPORT

L-3c
6/90

PDC OFFICE USE
NOV 10 1998

Employer's Name (Use Complete Company, Association, Union or Entity Name)
National Education Association

Mailing Address
1201 16TH Street, N.W.

City: Washington
State: DC
ZIP: 20036

Reporting Period (Month/Year During Which Contribution(s) Occurred)
October 1998

Who Must File Report: Employers of lobbyists registered in Washington State making one or more contributions, including in-kind contributions, during one calendar month totaling more than $100 to a candidate for state or local office, an elected state or local official, an officer or employee of any public agency, or a political committee. *Employer contributions made through and reported by a registered lobbyist or an employer-affiliated PAC are not reportable on an L-3c*

What Must Be Reported: Contributions, including a loan, gift, deposit, subscription, forgiveness of indebtedness, donation, advance, pledge, payment, or transfer of anything of value, including personal and professional services for less than full consideration. Contributions to campaign accounts and public office fund accounts are reportable.

When Is The Report Filed: Within 15 days after the last day of each calendar month during which reportable contributions were made. Reports are considered filed as of the post mark or hand-delivery date to PDC.

Itemize contributions that alone, or together with other contributions to the same recipient, total over $100 during the calendar month specified above. If space provided is insufficient, use additional L-3c forms or 8½" x 11" white paper.

DATE OF CONTRIBUTION	NAME AND ADDRESS OF RECIPIENT	DESCRIPTION OF CONTRIBUTION*	AMOUNT OR VALUE*
10/8/98	Paycheck Protection P.O. Box 19207 Seattle, WA 98109	Monetary	$15,000.00
10/8/98	No On Initiative 200 P.O. Box 567 Seattle, WA 98111	Monetary	$15,000.00

*See reverse for details.

Certification: I certify that the information contained herein is true and complete to the best of my knowledge.

Name and title of person authorized to sign on employer's behalf (type or print)
Gerard Polchinski, Senior Professional Associate

Signature: Gerard Polchinski

Date: 11/10/98

PDC Form L-3c (6/90)-F

EXHIBIT 2
Page 1 of 8

PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

L2
11/95

PDC OFFICE USE

AUG 18 2000

Lobbyist Monthly Expense Report

(as required by Chapter 397, 1995 Session Laws)

1. Lobbyist Name
SEIBERT, James S.

Mailing Address
33434 8th Avenue South

City: Federal Way | State: WA | Zip + 4: 98003

New Address? ☐ Yes ☒ No

2. This report is for the period July (Month) 2000 (Year)

This report corrects or amends the report for _____ (Month) _____ (Year)

Business Telephone (253) 941-6700

ALL COMPLETE THIS PART			COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER		
Include all reportable expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period			Amount attributed to each employer		
Expense Category	TOTAL AMOUNT THIS MONTH All employers plus own expense (Columns a + b + c + d and attached pages)	Amounts paid from lobbyist's own funds, not reimbursed or attributed to an employer. Column A	Employer No. 1 Column B	Employer No. 2 Column C	Employer No. Column D
3. COMPENSATION earned from employer for lobbying this period (salary, wages, retainer)	$ 0.00		$ 0.00	$ 0.00	$
4. PERSONAL EXPENSES for travel, food and refreshments	0.00	$	0.00	0.00	
5. ENTERTAINMENT, GRATUITIES, TRAVEL, SEMINARS for state officials, employees, their families (See #15)	0.00		0.00	0.00	
6. CONTRIBUTIONS to elected officials, candidates and political committees (See #16)	273.05		273.05	50,000.00	
7. ADVERTISING, PRINTING, INFORMATIONAL LITERATURE	0.00		0.00	0.00	
8. POLITICAL ADS, PUBLIC RELATIONS, POLLING, TELEMARKETING, ETC. (See #17)	0.00		0.00	0.00	
9. OTHER EXPENSES AND SERVICES (See #18)	0.00		0.00	0.00	
10. TOTAL COMPENSATION AND EXPENSES INCURRED THIS MONTH	$ 273.05	$	$ 273.05	$ 50,000.00	$

(Attach additional page(s) if you lobby for more than three employers.)

11. EMPLOYERS' NAMES

No. 1 (B) Washington Education Association

No. 2. (C) National Education Association

No. ___ (D)

12. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.

Subject Matter, Issue or Bill No.	Legislative Committee or State Agency Considering Matter	Employer Represented
Education Related Legislation		

☐ Continued on attached pages

13. Of the time spent lobbying, what percentage was devoted to lobbying: the Legislature _____% State Agencies _____%.

14. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)

Date registration ends: Employer's name:

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION

I certify that this report is true and complete to the best of my knowledge.

LOBBYIST SIGNATURE: James S. Seibert

DATE: 8/15/00

CONTINUE ON NEXT PAGE

L2 AUG 18 2000

Lobbyist Name: SEIBERT, James S.

Reporting Period: July (Month) 2000 (Year)

15. Itemize all of the following expenditures that were incurred by lobbyist or lobbyist employer(s) for legislators, state officials, state employees and members of their immediate families. **Show the actual amount incurred for each individual or the amount fairly attributed to each.**
- Entertainment expenditures exceeding $25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, or for other forms of entertainment.
- Travel, lodging and subsistence expenses in connection with a speech, presentation, appearance, trade mission, seminar or educational program.
- Enrollment and course fees in connection with a seminar or educational program.

Lobbyists must provide an elected official with a copy of the L-2 or Memo Report if the lobbyist reports: 1) spending on one occasion over $50 for food or beverages for the official and/or his or her family member(s); or 2) providing travel, lodging, subsistence expenses or enrollment or course fees for the official and, if permitted, the official's family.

Date	Names of all Persons Entertained or Provided Travel, etc.	Description, Place, etc.	Sponsoring Employer	Amount
	N/A			$
N/A	Total expenses itemized on attached Memo Reports →			

☐ Continued on attached pages.

16. If a monetary or in-kind contribution exceeding $25 was given or transmitted by the lobbyist to any of the following, itemize the contribution below or on a Memo Report: local and state candidates or elected officials; local and state officers or employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding $25 was given to the following, itemize the contribution below: a caucus political committee; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Contribution	Source of Contribution	Amount
July	Washington Education Association Political Action Committee	In-Kind Contribution from WEA	$ 273.05
7/14/00	Citizens for Quality Educators	Contribution from NEA	50,000.00
N/A	Total contributions itemized on attached Memo Reports →		

If contributions were made directly by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

☐ Continued on attached pages. PAC Name:

17. Expenditures for: a) political advertising supporting or opposing a state or local candidate or ballot measure; or b) public relations, telemarketing, polling or similar activities that directly or indirectly are lobbying-related must be itemized by amount, vendor or person receiving payment, and a brief description of the activity. Itemize each expenditure on an attached page that also shows lobbyist name and report date. Put the aggregate total of these expenditures on line 8.

18. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in item 7).

Date	Recipient's Name and Address	Employer for Whom Expense was Incurred	Amount
	N/A		$

☐ Continued on attached page.

PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

L2
11/95

PDC OFFICE USE

OCT 16 2000

Lobbyist Monthly Expense Report

(as required by Chapter 397, 1995 Session Laws)

1. Lobbyist Name
SEIBERT, James S.

Mailing Address
33434 8th Avenue South

City: Federal Way | State: WA | Zip + 4: 98003

New Address? ☐ Yes ☒ No

2. This report is for the period September (Month) 2000 (Year)

This report corrects or amends the report for _____ (Month) _____ (Year)

Business Telephone (253) 941-6700

ALL COMPLETE THIS PART			COMPLETE IF YOU HAVE MORE THAN ONE EMPLOYER		
Include all reportable expenditures by lobbyist and lobbyist's employer for or on behalf of the lobbyist incurred during the reporting period			Amount attributed to each employer		
Expense Category	TOTAL AMOUNT THIS MONTH All employers plus own expense (Columns a + b + c + d and attached pages)	Amounts paid from lobbyist's own funds, not reimbursed or attributed to an employer. Column A	Employer No. 1 Column B	Employer No. 2 Column C	Employer No. Column D
3. COMPENSATION earned from employer for lobbying this period (salary, wages, retainer)	$ 0.00		$ 0.00	$ 0.00	$
4. PERSONAL EXPENSES for travel, food and refreshments	0.00	$	0.00	0.00	
5. ENTERTAINMENT, GRATUITIES, TRAVEL, SEMINARS for state officials, employees, their families (See #15)	0.00		0.00	0.00	
6. CONTRIBUTIONS to elected officials, candidates and political committees (See #16)	1,058.57	250.00	1,058.57	450,000.00	
7. ADVERTISING, PRINTING, INFORMATIONAL LITERATURE	0.00		0.00	0.00	
8. POLITICAL ADS, PUBLIC RELATIONS, POLLING, TELEMARKETING, ETC. (See #17)	0.00		0.00	0.00	
9. OTHER EXPENSES AND SERVICES (See #18)	0.00		0.00	0.00	
10. TOTAL COMPENSATION AND EXPENSES INCURRED THIS MONTH	$ 1,058.57	$ 250.00	$ 1,058.57	$ 450,000.00	$

(Attach additional page(s) if you lobby for more than three employers.)

11. EMPLOYERS' NAMES

No. 1 (B) Washington Education Association

No. 2. (C) National Education Association

No. ___ (D)

12. Subject matter of proposed legislation or other legislative activity or rulemaking the lobbyist was supporting or opposing.

Subject Matter, Issue or Bill No.	Legislative Committee or State Agency Considering Matter	Employer Represented
Education Related Legislation		

☐ Continued on attached pages

13. Of the time spent lobbying, what percentage was devoted to lobbying: the Legislature _____% State Agencies _____%.

14. TERMINATION: (COMPLETE THIS ITEM ONLY IF YOU WISH TO TERMINATE YOUR REGISTRATION)

Date registration ends: Employer's name:

I understand that an L-2 report is required for any month or portion thereof in which I am a registered lobbyist. I also understand that once I have terminated my registration, I must file a new registration prior to lobbying for that employer in the future. All registrations terminate automatically on the second Monday in January of each odd numbered year.

CERTIFICATION

I certify that this report is true and complete to the best of my knowledge.

LOBBYIST SIGNATURE: James S Seibert

DATE: 10-15-00

CONTINUE ON NEXT PAGE

L2

OCT 16 2000

Lobbyist Name: SEIBERT, James S.

Reporting Period: September (Month) 2000 (Year)

15. Itemize all of the following expenditures that were incurred by lobbyist or lobbyist employer(s) for legislators, state officials, state employees and members of their immediate families. **Show the actual amount incurred for each individual or the amount fairly attributed to each.**
- Entertainment expenditures exceeding $25 per occasion (including lobbyist's expense) for meals, beverages, tickets, passes, or for other forms of entertainment.
- Travel, lodging and subsistence expenses in connection with a speech, presentation, appearance, trade mission, seminar or educational program.
- Enrollment and course fees in connection with a seminar or educational program.

Lobbyists must provide an elected official with a copy of the L-2 or Memo Report if the lobbyist reports: 1) spending on one occasion over $50 for food or beverages for the official and/or his or her family member(s); or 2) providing travel, lodging, subsistence expenses or enrollment or course fees for the official and, if permitted, the official's family.

Date	Names of all Persons Entertained or Provided Travel, etc.	Description, Place, etc.	Sponsoring Employer	Amount
	N/A			$
N/A	Total expenses itemized on attached Memo Reports →			

☐ Continued on attached pages.

16. If a monetary or in-kind contribution exceeding $25 was given or transmitted by the lobbyist to any of the following, itemize the contribution below or on a Memo Report: local and state candidates or elected officials; local and state officers or employees; political committees supporting or opposing any candidate, elected official, officer or employee or any local or state ballot proposition. If a contribution exceeding $25 was given to the following, itemize the contribution below: a caucus political committee; a political party; or a grass roots lobbying campaign.

Date	Name of Individual or Committee Receiving Contribution	Source of Contribution	Amount
Sept	Washington Education Association Political Action Committee	In-Kind Contribution from WEA	$ 1,058.57
9/29/00	Citizens for Quality Educators	"Personal Contribution"	250.00
9/21/00	Citizens for Quality Educators	Monetary Contribution from NEA	450,000.00
N/A	Total contributions itemized on attached Memo Reports →		

If contributions were made directly by a political action committee associated, affiliated or sponsored by your employer, show name of the PAC below. (Information reported by PAC on C-4 report need not be again included in this L-2 report.)

☐ Continued on attached pages. PAC Name:

17. Expenditures for: a) political advertising supporting or opposing a state or local candidate or ballot measure; or b) public relations, telemarketing, polling or similar activities that directly or indirectly are lobbying-related must be itemized by amount, vendor or person receiving payment, and a brief description of the activity. Itemize each expenditure on an attached page that also shows lobbyist name and report date. Put the aggregate total of these expenditures on line 8.

18. Payments by the lobbyist for other lobbying expenses and services, including payments to subcontract lobbyists, expert witnesses and others retained to provide lobbying services or assistance in lobbying and payments for grass roots lobbying campaigns (except advertising/printing costs listed in Item 7).

Date	Recipient's Name and Address	Employer for Whom Expense was Incurred	Amount
	N/A		$

☐ Continued on attached page.

PUBLIC DISCLOSURE COMMISSION
711 CAPITOL WAY RM 206
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111
TOLL FREE 1-877-601-2828

Employer's Lobbying Expenses

L3
1/98

THIS SPACE FOR OFFICE USE

FEB 2 8 2001

1. Employer's Name (Use complete company, association, union or entity name.)
National Education Association

Attention (Identify person to whom inquiries about the information below should be directed; NOT the lobbyist.)
Grace Sammut

Mailing Address: 1204 16th Street North West
Telephone: (202) 822 -7035

City: Washington
State: DC
Zip + 4: 20036

THIS REPORT MUST BE FILED BY THE LAST DAY OF FEBRUARY. Include expenditures made and accrued during the previous calendar year for lobbying the Washington State Legislature and/or any state agency. Complete all sections. Use "none" or "0" when applicable.

2. Identify each of your lobbyists/lobbying firms below. **In column 1,** show the full amount of salary or fee each earned for lobbying. **In column 2,** show the full amount paid (plus obligated) for other lobbying related expenses that were made by or through the lobbyist and reported by the lobbyist on the monthly L-2 report (e.g., contributions to legislative candidates, reimbursement for entertainment expenses, etc.). Compute the subtotals across and down the columns; put the grand total of expenses incurred by or through lobbyists in the space designated.

Names of Registered Lobbyists (if payments were to lobbying firm, list firm name)	Col 1-Salary	Col 2-Other	Total Amount
James Seibert	$ 0.00	$ 500,000.00	$ 500,000.00
Roger Erskine	719.83	0.00	719.83
Total From Attached Page			
☐ Information continued on attached pages		Total Expenses By or Through Lobbyists	$ 500,729.83

DO NOT INCLUDE EXPENDITURES ALREADY ACCOUNTED FOR IN ITEM 2 ABOVE when completing Items 3 through 7 below.

3. Other expenditures made by the employer for lobbying purposes. **Show total expenditures made/accrued:**
   a. to vendors on behalf of or in support of registered lobbyists (e.g., entertainment credit card purchases); $ 0.00
   b. to or on behalf of expert witnesses or others retained to provide lobbying services who offer specialized knowledge or expertise that assists the employer's lobbying effort; 0.00
   c. for entertainment, tickets, passes, travel expenses (e.g., transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families; (Also complete Item 9.) 0.00
   d. for composing, designing, producing and distributing informational materials for use primarily to influence legislation; and 0.00
   e. for grass roots lobbying expenses, including those previously reported by employer on Form L-6, and payments for lobbying communications to clients/customers (other than to corporate stockholders and members of an organization or union). 0.00
4. Political contributions to candidates for legislative or statewide executive office, committees supporting or opposing these candidates, or committees supporting or opposing statewide ballot measures. (Also complete Item 10.)
   a. Contributions made directly by the employer, including those previously reported on PDC Form L-3c. 0.00
   b. If contributions were made by a political committee associated, affiliated or sponsored by the employer, show the PAC name below. (Information reported by the PAC on C-4 reports need not be again included as part of this L-3 report.) 0.00
   Name of PAC
5. Independent expenditures supporting or opposing a candidate for legislative or statewide executive office or a statewide ballot measure. (Also complete Item 11.) 0.00
6. Expenditures to or on behalf of legislators, state officials, their spouses and dependents for the purpose of influencing, honoring or benefiting the legislator or official. (Normal course of business payments are not reportable.) (Also complete Item 14.) 0.00
7. Other lobbying-related expenditures, whether through or on behalf of a registered lobbyist. Attach list itemizing each expense (i.e., show date, recipient, purpose and amount). Do not include payments accounted for above. 0.00

Total Lobbying Expenses (Items 2 $ 500,729.83

8. This report must be certified by the president, secretary-treasurer or similar office of lobbying employer.

Certification: I certify that this report is true, complete and correct to the best of my knowledge.

Printed Name and Title of Officer: Bob Chase President, NEA

Signature of Employer Officer: signature to follow

Date: 2/28/01

CONTINUE ON NEXT PAGE

L3 FEB 2 8 2001

Employer's Name: National Education Associaiton

Year report covers: 2000

9. Entertainment, tickets, passes, travel expenses (including transportation, meals, lodging, etc.) and enrollment or course fees provided to legislators, state officials, state employees and members of their immediate families. See instruction manual for details.

Name and Title	Cost or Value	Date and Description of Expense
N/A	$	

☐ Information continued on attached pages

10. Contributions (not reported by the lobbyist) totalling over $25 to a legislative or statewide executive office candidate, a committee formed to support or oppose one of these candidates or a committee supporting or opposing a statewide ballot measure. Do not list employer-affiliated PAC contributions.

Name of Recipient	Amount	Date (and, if In-Kind, Description)
N/A	$	

☐ Information continued on attached pages

11. Independent expenditures in support of or opposition to a) a legislative or statewide executive office candidate or b) a statewide ballot proposition. **See instruction manual for definition of "independent expenditure."**

Candidate's Name, Office Sought & Party or Ballot Proposition Number & Brief Description	Amount	Date and Description of Expense (Note if Support or Oppose)
N/A	$	

☐ Information continued on attached pages

12. Compensation of $1,500 or more during the preceding calendar year for employment or professional services paid to state elected officials, successful candidates for state office and each member of their immediate family.

Name	Relationship to Candidate or Elected Official if Member of Family	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
N/A			

☐ Information continued on attached pages

13. Compensation of $1,500 or more during the preceding calendar year for professional services paid to any corporation, partnership, joint venture, association or other entity in which state elected official, successful state candidate or member of their immediate family hold office, partnership, directorship or ownership interest of 10% or more.

Firm Name	Person's Name	Amount (Code)**	Description of Consideration or Services Exchanged for Compensation
N/A			

☐ Information continued on attached pages

14. Any expenditure, not otherwise reported, made directly or indirectly to a state elected official, successful candidate for state office or member of their immediate family, if made to honor, influence or benefit the person because of his or her official position.

Name	Amount	Date and Purpose
N/A	$	

☐ Information continued on attached pages

**DOLLAR CODE AMOUNT

A - $1 to $2,999
B - $3,000 to $14,999
C - $15,000 to $29,999
D - $30,000 to $74,999
E - $75,000 or more

EXHIBIT 2
Page 2 of 8

FEB 2 8 2001

	NEA	L-3 FOR 2000					
			COLUMN 1-SALARY			COLUMN 2-OTHER	
	LOBBYIST						
	JIM SEIBERT		January	$0.00		January	$0.00
			February	$0.00		February	$0.00
			March	$0.00		March	$0.00
			April	$0.00		April	$0.00
			May	$0.00		May	$0.00
			June	$0.00		June	$0.00
			July	$0.00		July	$50,000.00
			August	$0.00		August	$0.00
			September	$0.00		September	$450,000.00
			October	$0.00		October	$0.00
			November	$0.00		November	$0.00
			December	$0.00		December	$0.00
			TOTAL	$0.00		TOTAL	$500,000.00
	ROGER ERSKINE		January	$431.48		January	$0.00
			February	$287.65		February	$0.00
			March	$0.00		March	$0.00
			April	$0.00		April	$0.00
			registration terminated 4-30-2000				
			TOTAL	$719.13		TOTAL	$0.00

EXHIBIT 2

RECEIVED
FEB 1 1 2002
Public Disclosure Commission

Washington Education Association

33434 Eighth Avenue South
Federal Way, Washington 98003
253-941-6700 or 800-622-3393
Fax: 253-946-4692
www.wa.nea.org

Lee Ann Prielipp, Preside
Tom Morris, Vice Preside
James S. Seibert, Executive Directo

TO: Certificated and AHE Agency Fee Payers

FROM: James S. Seibert, Executive Director

DATE: February 7, 2001

RE: 2000-01 AGENCY FEE

State statutes, RCW 41.59.100 (certificated) and RCW 28B.52.045 (AHE) allow your Local Education Association, an affiliate of the Washington Education Association (WEA) and the National Education Association (NEA), to negotiate an agency fee provision in a collective bargaining agreement. This law states that the school or college district may deduct (and forward to the education association) from the salary of those who choose not to become Association members an agency fee equal to the amount of dues paid by Association members.

The amount of the WEA membership dues for the 2000-01 school year is $287.00 plus $12.00 dues for political education. Agency fee payers, however, do not pay the $12.00 dues devoted to political education. WEA members may choose to pay, in addition to WEA dues, $12.00 per year for contribution to the WEA Political Action Committee, WEA-PAC. These monies are used for state and local elections, supporting candidates. No agency fees go to WEA-PAC. As an agency fee payer, the WEA-PAC contribution will not be deducted from your paycheck and you will not be asked to contribute to WEA-PAC.

WEA members pay dues to WEA, a Local Association, a UniServ Council, and the National Education Association (NEA). This is because in our experience, the multi-level structure best enables the Association to provide representational services most efficiently without overlapping.

In addition to the WEA agency fee, you will also be required to pay an agency fee to the NEA, and, if they chose to collect one, to your Local Association and UniServ Council. The amount of Local dues can be ascertained by referring to Appendix A, which lists locals in alphabetical order. The amount of UniServ Council dues can be ascertained by referring to Appendix B, which lists councils in alphabetical order.

EXHIBIT 3
Page 1 of 6
Attachment 1

The amount of the NEA dues in the 2000-01 school year is $123.00; no dues go to the NEA-Fund for Children in Public Education (NEA-FCPE). NEA members may choose to pay, in addition to dues, $12.00 per year as a contribution to the political fund, NEA-FCPE. These monies are used to contribute to federal political campaigns for pro-education candidates. No agency fees are directed to NEA-FCPE; as an agency fee payer, the NEA-FCPE contribution will not be deducted from your paycheck and you will not be asked to contribute to NEA-FCPE.

The agency fee pays for many important services of benefit to you; the following is a partial list of such services.

1. The Association represents you in your relationship to your employer.

2. Association staff or leaders bargain a collective bargaining agreement on behalf of all members of your bargaining unit; that collective bargaining agreement controls your wages, hours and other terms and conditions of employment.

3. Should the school district violate the collective bargaining agreement in its treatment of you, the Association can file a grievance on your behalf.

4. If you are called in for a disciplinary interview with your supervisor or other administrator, you may request Association representation during the interview.

5. WEA negotiates with insurance companies, such as Blue Cross/Blue Shield, so that such companies will design insurance packages to meet the unique needs of school employees, and so that such packages will be marketed to school districts at the lowest possible price.

6. WEA sponsors many courses and workshops to train local leaders to protect the rights of members and agency fee payers.

This is not an exhaustive list of services you receive from WEA, your Local Association, your UniServ Council and NEA.

There are certain services available to members which you will not receive as an agency fee payer. One of these is the Educators Employment Liability Insurance Policy. This policy provides up to $1,000,000 insurance if a member is sued on the basis of employment related activities. Under certain circumstances, it also provides up to $35,000 to pay attorney's fees if a member is charged with a crime related to employment. Additionally, WEA members receive a discount on personal legal services, such as wills, probate, domestic relations, and real estate matters; agency fee payers do not receive this discount. Moreover, pursuant to the terms of the WEA Legal Defense Policy, WEA may provide an attorney to defend its members when their

employer seeks to discharge or non-renew; agency fee payers are not entitled to eligibility for legal services.

If you as an agency fee payer object to the Association spending any part of your agency fee on political or ideological activities not related to collective bargaining or contract administration and enforcement, or on services which agency fee payers do not receive, you will not be charged for these activities and services. You will, however, be charged for expenditures for activities related to bargaining, contract administration and enforcement, and improving your working conditions. A list of items we view as chargeable and items we deem nonchargeable is set forth in Appendix C.

You have three options: (1) you may pay the full amount equal to dues paid by members; (2) you may object to use of your agency fee for nonchargeable activities but accept the Association's determination of the amount of the fee that is chargeable as is set forth in this letter; or (3) you may choose to object to the use of your agency fee for nonchargeable activities and challenge the Association's calculation of the amounts that are chargeable and nonchargeable, and/or our characterization of items as chargeable or nonchargeable, before an impartial arbitrator. If the third of these options is chosen, the Association bears the burden of proving to the arbitrator that any particular expenditure was chargeable to agency fee payers.

You may object by notifying James Seibert in writing at the following address:

James Seibert, Executive Director
Washington Education Association
33434 Eighth Avenue South
Federal Way, Washington 98003

The objection must contain the following information:

1. Your name, home address, school and home telephone numbers.

2. The type of position in which you are employed (i.e., community college faculty, K-12 teacher, etc.).

3. Whether you are employed part time, full time, or as a substitute.

4. The name of the school district by which you are employed and the name of the WEA affiliate which is the collective bargaining representative for the bargaining unit in question.

5. If you wish to challenge the Association's calculation of the amounts that are chargeable and nonchargeable, or our characterization of items as chargeable or nonchargeable, your objection letter must state that you wish to "challenge".

If such written objection has not been postmarked by March 9, 2001, you will waive your ability to object.

Only a single general statement of objection and/or challenge is necessary to object to and/or challenge the WEA agency fee, the NEA agency fee, the Local agency fee and the UniServ Council agency fee.

In considering whether you wish to object to the amount of the fee, please examine the following documents:

1. Appendix D. The description of the WEA expenditure budget for the 1998-99 fiscal year.

2. Appendix E. WEA chargeable and nonchargeable expenditures by budget area for 1998-99.

3. Appendix F. The audited statement of WEA expenses in the 1998-99 fiscal year, which includes the auditor's review of the chargeable/nonchargeable calculations.

4. Appendix G. How WEA calculates its agency fee.

5. Appendix H (if applicable). If your UniServ Council is seeking to collect an agency fee: 1) A declaration from an officer or staff member of the Council, explaining the operation of the Council and its financial records, and incorporating the Council's 1998-99 year-end financial statements, including its breakdown of expenditures into chargeable and nonchargeable categories, and; 2) an independent audit of the Council's 1998-99 expenditures.

6. Appendix I (if applicable). If your Local Association is seeking to collect an agency fee, enclosed are: (1) A declaration from an officer of your Local Association, incorporating and explaining its 1998-99 financial and time keeping records, including its breakdown of expenditures into chargeable and nonchargeable categories, and; 2) If your Local has more than 850 members, an independent audit of the LEA's 1998/99 expenditures. Local Associations with more than 850 members include:

Bellevue EA
Edmonds EA
Everett EA
Evergreen EA
Federal Way EA
Highline EA
Kent EA
Lake Washington EA
Northshore EA
Puyallup EA
Seattle EA
Spokane EA
Tacoma EA
Vancouver EA

7. Appendix J. NEA cover memorandum.

8. Appendix J-1. NEA chargeable and nonchargeable audited expenditures for the 1998-99 fiscal year.

9. Appendix J-2. The audited NEA financial statement as of August 31, 1999 and 1998. This is an independent auditor's statement of expenditures made by the NEA.

If your local association is seeking to collect an agency fee, the percentage of local dues that an objector will pay differs depending on whether the association has more or less than 850 members. If your local association has more than 850 members, an objector will pay the actual percentage of local dues identified as "chargeable" in the enclosed local association declaration. If it has less than 850 members, an objector will pay WEA's chargeable percentage of local association dues as an agency fee, or the actual percent of local dues identified as chargeable in the enclosed declaration, whichever is less, unless that local association had an audit done of its 1998-99 expenditures. If an audit was performed (in which case the audit report is enclosed), an objector will pay the actual percentage of local dues identified as "chargeable" in the enclosed local association declaration.

The agency fee charged by the UniServ Council is the percentage of dues identified as chargeable in the enclosed council declaration.

For 2000-01, the agency fee charged by WEA is 75.7% of dues. 24.3

For 2000-01, the agency fee charged by NEA is 60% of dues.

In March of 1994, WEA presented evidence to an arbitrator to justify the application of WEA's chargeable percent to its councils and locals. At the arbitration, WEA presented evidence of the expenses of a number of local associations. The arbitrator ruled that WEA could use WEA's chargeable percent to calculate the chargeable fee of those locals because:

> *The evidence at the hearing made it clear that the Locals ..., because of their basic mission, must spend at least as much time, if not more, on representational issues. The staff and elected officers of these organizations must spend their time meeting with employer representatives to discuss issues of employee concern. They also spend a great deal of time meeting with individual employees with accusation, complaint, or grievance. And, as stated, they spend virtually no time in the most significant non-chargeable areas, being political action and public relations. I agree with the Associations (keeping in mind the Hudson admonishment that "absolute precision" is not required) that the local presumption option, which has been endorsed by some courts, is a valid alternative.*

Accordingly, that arbitrator ruled that each of the locals could use WEA's chargeable percent. Four other arbitrators have also permitted the Association to use WEA's chargeable percent to estimate the locals' agency fee in this notice. In addition, use of WEA's chargeable percentage to estimate the agency fees for objectors in locals with fewer than 850 members was approved in 1998 by the U.S. District Court (W.D. Wash) as part of a settlement of a class action lawsuit.

Please examine the enclosed material and reflect for a moment on the services that the Association provides agency fee payers. I am confident that if you do so, you will agree that the Association delivers services worth the full amount of Association dues.

Enclosures
g:af/00-01/Hudson notice/certahe1Hudson cover letter.doc

Superior Court of the State of Washington

For Thurston County

Daniel J. Berschauer, Judge
Department No. 1
Paula Casey, Judge
Department No. 2
Richard A. Strophy, Judge
Department No. 3
Wm. Thomas McPhee, Judge
Department No. 4
Richard D. Hicks, Judge
Department No. 5
Christine A. Pomeroy, Judge
Department No. 6
Gary R. Tabor, Judge
Department No. 7

Chris Wickham
Court Commissioner
709-3201
Scott C. Neilson
Court Commissioner
709-3201

John W. Sleater
Judicial Administrative Officer
786-5559
Carolyn Reed
Family & Juvenile
Court Supervisor
709-3201
Ellen Goodman
Drug Court Program
Administrator
357-2482

BUILDING NO. 2, COURTHOUSE
2000 LAKERIDGE DRIVE S.W. • OLYMPIA, WASHINGTON 98502
TELEPHONE (360) 786-5560 • FAX (360) 754-4060

July 31, 2001

David T. Wendel, AAG
P.O. Box 40126
Olympia, WA 98504-0126

Richard A. Heath
Attorney at Law
P.O. Box 723
Pullman, WA 99163

Stephen T. Reinmuth, AAG
P.O. Box 40100
Olympia, WA 98504-0100

Judith A. Lonnquist
Attorney at Law
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Seattle, WA 98101

Harriet K. Strasberg
Attorney at Law
3136 Maringo SE
Olympia, WA 98501

Michael James Gawley
Attorney at Law
2212 Queen Anne Ave. N #303
Seattle, WA 98109

Aimee S. Iverson
Attorney at Law
33434 8th Ave. S
Federal Way, WA 98003

Letter Opinion

Re: *State Public Disclosure Commission vs. Washington Education Association*

Thurston County Cause # 00-2-01837-9

RECEIVED
JUL 31 01
ATTORNEY GENERAL'S OFFICE
TORTS DIVISION
OLYMPIA

Dear Counsel:

On May 14-18th, this court presided over a trial in the above-entitled case and took the matter under advisement following closing arguments by the parties. Now, having considered the testimony presented at trial, the briefs and arguments of the parties and the applicable statutes and case authority, this court rules by way of this letter opinion.

BACKGROUND

The trial in this matter focused upon facts surrounding the collection of fees by the Washington Education Association [WEA] from non-union members called "fee payers" for a five year period [1995/1996 through 1999/2000]. These "fee payers" pay fees equal to the Union Dues paid by union members [1] unless they raise an objection. Those who object receive a refund based upon a formula that accounts for the ratio of "chargeable" to "nonchargeable" expenses.[2] The Public Disclosure Commission [PDC], plaintiff in this matter, claimed that portions of these fees were used for 'political purposes" in violation of RCW 42.17.760 [3], that civil penalties [4] and costs should be imposed by this court, and that this court should consider whether any violations that might be found were "intentional" which would allow the court to "treble" any penalties and costs.[5]

---

[1] These fees do not include the amount union members pay as "Community Outreach Project" [COP] assessments. COP funds were not a part of this lawsuit.

[2] This process is called the **Hudson** process, *see* ***Chicago Teachers Union v. Hudson***, 475 U.S. 292, 106 S.Ct. 2641 (1988) and distinguishes expenses that are "chargeable" to collective bargaining purposes from those which are not.

[3] RCW 42.17.760 **Agency shop fees as contributions.** A labor organization may not use agency shop fees paid by an individual who is not a member of the organization to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual.

[4] RCW 42.17.390 (3)

[5] RCW 42.17.400(5)

The parties had previously agreed that the WEA had committed multiple violations of RCW 42.17.760.[6] The agreement itself did not, however, specify what time period it covered. This court ruled, on March 23rd, 2001, at a pre-trial hearing, that the agreement time period would be the 1999-2000 school year and that alleged violations for the previous four years would be considered at trial. This court also ruled on summary judgment that RCW 42.17.760 is constitutional and requires an affirmative authorization from agency fee payers [as opposed to a passive failure to object] before the WEA may collect or use such fees for "political purposes".[7]

ISSUES

The court will rule on the following issues as a result of the evidence produced at trial and the positions of the parties:

1. Did the WEA use agency fees in fiscal [school] years 1995-96, 1996-97, 1997-98, and 1998-1999 for purposes forbidden in RCW 42.17.760? [8]

2. What is the appropriate amount of civil penalty to be imposed according to RCW 42.17.390(3)?

3. Were WEA's violations "intentional" and if so should penalties and costs be increased up to a treble amount as punitive damages under RCW 42.17.400(5)?

4. What other relief, if any should this court impose?

FINDINGS

I. THE WEA HAS USED AGENCY FEES IN VIOLATION OF RCW 46.17.760

The evidence produced at trial has convinced this court that the WEA did, in fact, use portions of the agency shop fees they received for "political purposes" that is, " . . . to make

[6] Trial Exhibit 1, dated September 25, 2000.

[7] This court ruled orally on May 4, 2001 and the written order was entered May 15, 2001.

[8] Violations for 1999-2000 have been admitted by the WEA.

contributions or expenditures to influence an election or to operate a political committee, . . ." as prohibited by RCW 42.17.760. While this court understands the position of the WEA to the effect that they had sufficient reserves each year to more than offset the fee payor amounts in question, and that amounts involved are quite small percentage wise [both the amounts received from agency fee payers and amounts expended for political purposes], this court disagrees with that logic. Any distinction between "collecting" an agency fee [on the revenue side] and "expending" monies for a particular purpose [on the expense side] are forever obscured when the funds collected are "commingled" into the general fund.

It is clear to this court that the WEA position was that agency fees were placed into the general fund and were spent each year as the WEA determined appropriate.[9] Moreover, the WEA has further argued that even if the agency fees could have been separated, they would come back into the general fund at the end of the year as "surplus" funds. This reasoning is erroneous. This court could cite numerous examples of the unfairness of such a position, but in the interest of time and space will note only two:

First, the logical extension of such reasoning is that the WEA would, as a result of such fees, have more money to spend than if they had not collected them. If those funds could be construed to be spent only for non-political purposes, the WEA would still, obviously, have more monies to spend from other funds for political purposes. This is a clear-cut <u>use</u> of the total funds available for the given purposes in proportion to the source of the funds. While the percentage might be small, the agency fees are nevertheless used as a part of the over-all total expenditures, some of which were for prohibited purposes.

Second, if agency fee amounts are simply held, and not spent [part of the unexpended funds which existed each year] by the end of the fiscal year, WEA's position that they then lose their character and are simple a part of the surplus that can be carried over, would obviously prompt a practice of just waiting a year and spending the money without restrictions. This flies in the face of the underlying problem that this court has previously identified - that of <u>collecting</u> fees from

[9]That is, unless a agency fee-payer affirmatively objected to the use of his or her funds for purposes other than collective bargaining. It that case a portion of the fees would be returned to the fee-payer under the **Hudson** process.

agency fee payers without first gaining their affirmative authorization to do so. There would be no incentive to do so if the court were only to consider what was spent in the year it was collected.

In short, the WEA violates RCW 42.17.760 when it collects agency fees and then spends them for prohibited purposes in ratio to the total agency fees and dues collected[10] *without affirmative authorization.* While the amount spent for "political purposes" will be a component of the formula for assessing what portion of the agency fees are to be credited or returned to the agency fee payers, that amount need not be quantified for this court to rule as its initial finding that such fees are, indeed, being spent in violation of the statute. The issue of how the amount of political expenditures can be factored into a determination of the correct proportional adjustment to agency fees is best left to the "Other Court Remedies" discussion below.

II. THIS COURT ASSESSES A CIVIL PENALTY OF $200,000 AGAINST THE WEA.

Having found that the WEA violated the law as set forth in RCW 42.17.760 by using agency fees for political purposes without affirmative authorization as set forth above, the court must next address appropriate civil penalties, if any, under RCW 42.17.390(3).[11] A fine of up to $10,000 for each violation of the statute presents a broad number of options to this court. This court holds, first of all, that a civil penalty is appropriate in the present case aside from any amount of restitution or refund owed. While the WEA, during the 5 year period at issue, has collected and has had the benefit of monies it was not entitled to under the statute, this court is not addressing what, if any monies or damages any individual or group of fee payers would be entitled to.[12] Instead, this court notes that a penalty amount is appropriate to preserve the integrity of our system and promote public confidence: those violating statutes will be held to answer.

---

[10] Again, COP assessments or dues are not included.

[11] (3) Any person who violates any of the provisions of this chapter may be subject to a civil penalty of not more than ten thousand dollars for each such violation.

[12] The court notes that this action was filed by the Office of the Attorney General of the State of Washington under RCW 42.17.400 (1) and is on behalf of the State of Washington as distinguished from individual agency fee payers. No fee payer sought to intervene in this matter although several individuals did ask for permission to submit amicus pleadings, which this court denied.

This court accepts, in principle, the arguments submitted by the Plaintiff herein. First of all, there cannot be an absolute determination of the amounts involved[13] either those lost to fee payers or gained by the WEA [costs avoided by not complying with the affirmative authorization requirement]. Secondly, the total number or even the identity of individuals involved cannot be determined since there were constant changes over the five-year period; nevertheless a penalty could be assessed as to each individual found to have been an agency fee payer if the court desired. Plaintiff proposed that the court consider a total of 8,000 individuals, [although the actual figure appears to be almost double that [14]], and that a penalty of $25 be assessed for each of those individuals for a total of $200,000. This court accepts that proposal as being fair to both sides under the present facts.[15]

III. THIS COURT FINDS AN INTENTIONAL VIOLATION BY THE WEA IN FAILING TO FOLLOW THE LAW AND DOUBLES THE AMOUNT OF DAMAGES AS A PUNITIVE SANCTION. THE COURT CHOOSES NOT TO DOUBLE COSTS.

This issue has been the most difficult trial issue for this court. I have listened carefully to the testimony of the witnesses and concede that there was ambivalence and a lack of official direction as to the correct interpretation of the "affirmative authorization" language by leaders for both the WEA and the PDC. On the other hand, it is clear to this court that much of that indecision on the part of the WEA was a desire to not have to get involved in a laborious process to secure such affirmative authorizations if they didn't have to. Despite a clear communication

[13] *See State v. WWJ Corp.* 138 Wn.2d 595, 980 P.2d 1257 (1999).

[14] Exhibit 1 acknowledges that there were 4,194 agency fee payers in 1999/2000. The WEA argues that this number was over inclusive, so the Plaintiff has reduced that number to 8,200 per year; a total of 16,000 over five years. Plaintiff then cuts that figure in half [8,000] and asks for a penalty of $25 for each. That results in the requested $200,000 figure.

[15] Even if the court were to accept Ms. Lonnquist's argument that the WEA stipulated to only 4 violations for the fiscal year 1999 [4 times each year that moneys were not segregated], 4 violations in each of 5 years would constitute 20 violations; if assessed at $10,000 each that would still total$200,000.

from the Washington State Labor Council in 1997, [16] the WEA chose to take the easy road. This court will also observe that even when it became completely apparent that this obvious requirement had been ignored and the WEA stipulated to "multiple violations" in September of 2000 [17] the WEA could still not bring itself to acknowledge the obvious state of affairs and attempt to mitigate and negotiate the outcome of this dispute.

The PDC clearly did not move decisively to enforce this statute either; that is unfortunate. The PDC acted only when spurred to do so by citizen complaints. Any excuses that the PDC doesn't have to make regulations to explain statute compliance procedures serve no real purpose at this trial other than to further polarize the parties. The parties here are going to be required to work together in the future to accomplish what needs to be done in this case; this court would hope that previous communication problems will not be repeated. The fact remains however, a violation of statute is still a violation; for example a person who is speeding down a roadway does not have the right to speed just because a police officer does not make a traffic stop when the opportunity arises. The WEA argument that if the PDC had told them what was expected, they would have immediately complied, is not compelling to this court. The WEA clearly understood the PDC position leading to this trial and certainly did not immediately agree.

RCW 42.17.400(5) gives this court the discretion to treble the amount of judgment as punitive damages.[18] For the reasons discussed above, I find that the WEA "intentionally" chose not to comply with the clear language of the statute; this court imposes a punitive sanction of $400,000 [double the $200,000 civil penalty assessed above]. The court will also award the Plaintiff an appropriate amount of costs of investigation and trial, including attorney's fees [to be determined upon further information from the plaintiff and further hearings, if required]. I will not, however double [or treble] these costs and fees for the reasons discussed above. The punitive

[16] Exhibit 94 at trial.

[17] Exhibit 1

[18] (5) In any action brought under this section, the court may award to the state all costs of investigation and trial, including a reasonable attorney's fee to be fixed by the court. If the violation is found to have been intentional, the amount of the judgment, which shall for this purpose include the costs, may be trebled as punitive damages. . . .

civil penalty is to punish the illegal actions of the WEA and is not intended as a reward or bonus to the PDC.

IV. THIS COURT DIRECTS THE WEA TO DEVELOP PROCEDURES TO IMPLEMENT THE AFFIRMATIVE AUTHORIZATION REQUIREMENTS OF RCW 42.17.760

This court must not only concern itself with the past violations of the statute but must also insure that the statute is followed in the future. During the course of trial and argument, it has been suggested by the WEA that this is an extremely difficult task and that other issues make compliance nearly impossible. The WEA argues that they cannot determine, in advance, the amounts that they will spend in a given year so that agency fee payers will not be charged the proportional amount. The PDC argues that amounts determined to be "nonchargeable" under the **Hudson** analysis don't account for other amounts that are "political". The PDC has stated that it is not seeking to have the WEA seek repeated affirmative authorizations and does not ask for a separate political fund to be set up. This court has already ruled that an affirmative authorization does not necessarily have to be in writing. These issues, and others, do appear to be substantial in number and in substance. This court does not suggest that it has a sufficient understanding of either of the parties positions to fashion a remedy of its own at this point. On the other hand, this court is convinced that a procedure can be developed to assure compliance with the statute. Consequently, the court will give the WEA a period of 90 days from today's date to report back to the court with a proposal to assure compliance.

The PDC, in the court's opinion, must also bear some responsibility in this task. It must provide the WEA assistance and feedback as the procedures are contemplated. This court expects that the parties will discuss and negotiate, and that consensus will be reached on as many details as possible. If the parties cannot agree, each side should provide suggested solutions for this court's consideration in arriving at a final procedure.

At the time of trial, the parties agreed to bifurcate the trial as to certain issues concerning specific expenditures or dollar amounts. This court is not prepared to rule at this time as to the nature of certain contested expenditures which may or may not be "political". Likewise, as

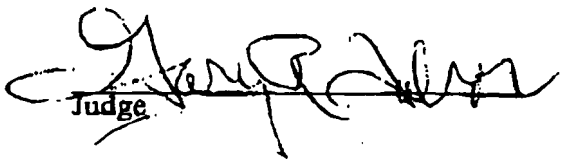
previously noted, this court declines to rule on issues involving repayment or restitution amounts owed to individual fee payers.

There are no other issues, so far as the court is aware, that are ripe for this court's decision today.

CONCLUSION

This court today holds that the WEA has violated RCW 46.17.760 by using agency shop fees without affirmative authorization. The Court assesses a civil penalty of $200,000 against the WEA, finds that the violation was intentional, and doubles the penalty to $400,000 as a punitive sanction. The court also orders that appropriate costs for investigation and trial and attorney's fees be paid by the respondent; these amounts are not doubled and shall be specifically determined after further information and argument, if necessary. Finally, this court directs the WEA to develop, within 90 days, a plan to comply with the affirmative authorization requirements of the statute in the future. Because the Petitioner is the prevailing party, the PDC is directed to prepare and present an order for filing that reflects this court's decision as set forth in this letter opinion.

Sincerely,



Judge

FILED
DEC - 8 2001
SUPERIOR COURT
BETTY J. GOULD
THURSTON COUNTY CLERK

The Honorable Gary R. Tabor

STATE OF WASHINGTON

THURSTON COUNTY SUPERIOR COURT

State of Washington ex rel. Public Disclosure Commission, Plaintiff, v. Washington Education Association, Defendant.	NO. 00-2-01837-9 PERMANENT INJUNCTION

The above cause having come on regularly for trial on the 14th day of May, 2001, before the court sitting without a jury, plaintiff having been represented by Christine O. Gregoire, Attorney General, D. Thomas Wendel, Assistant Attorney General, and Richard Heath, Special Assistant Attorney General, and defendant having been represented by Judith Lonnquist, Harriet Strasberg, Michael J. Gawley, and Aimee Iverson, and evidence both oral and documentary having been introduced, the case argued, and the Court having entered a Letter Opinion on July

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30, 2001 concluding that defendant violated RCW 42.17.760 and that an injunction should be entered, and the Court having considered further arguments and pleadings of the parties, now, therefore,

IT IS HEREBY ORDERED that defendant Washington Education Association shall implement the following measures to comply with RCW 42.17.760 immediately and within 30 days of the date of this Order complete the following activities, unless a different date or time period is otherwise specified for a specific activity in the terms of this Order below:

1. For each fiscal year from the present, WEA shall identify, record, and quantify all expenditures and contributions to influence an election or operate a political committee (§ 760 expenses), which shall include all political advertising expenditures, as well as direct and in-kind contributions, internal political communications, and independent expenditures. § 760 expenses do not include expenditures made by WEA from its Community Outreach Program, which does not utilize agency shop fees. Activities to accomplish this shall include the following:

a) Revise Weekly Activity Reports (WAR Reports) to include the Category Description items enumerated 91 and 93, as shown on Exhibit 1 hereto, in the activities reported on WAR Reports, and instruct and require employees who keep WAR reports to report time on activities encompassed in Categories 91 and 93 and provide supervisory review of WAR reports within a reasonable time following their completion;

b) For those employees who do not keep WAR Reports and who engage in activities that meet the description of § 760 expenses, WEA shall instruct and require those employees to keep Political Activity Reports (PAR Reports) and to report time on such activities in their

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PAR Reports, whether or not those activities are reportable to the PDC.

c) Record for each advertising expense for political purposes or to influence an election, a general description of the content, the identity of the candidate or ballot proposition to which the advertising relates, if any, and take such other measures as are necessary to identify and quantify political advertising expenses;

d) Record expenses and salaries associated with internal communications to enable identification and quantification of all expenses of any internal communications to support or oppose ballot propositions or candidates or otherwise are made to operate a political committee or influence an election;

e) Record all direct and in-kind contributions to political committees or to influence elections;

f) For each WEA fiscal year, generate a written analysis of WEA's § 760 expenses, which produces both the total dollars that were used for these purposes and the percentage of WEA's total expenditures that were used for these purposes;

g) Obtain a certification of an independent audit that satisfies generally accepted accounting and auditing standards of each fiscal year's analysis of all of WEA's § 760 expenses;

2. WEA shall return to all agency fee payers who have not affirmatively authorized (as defined by the Court's ruling on Plaintiff's Motion for Summary Judgment) the use of their fees for expenditures or contributions to influence an election or operate a political committee a percentage of the annual fees charged to the fee payer, in the following manner:

a) For WEA fiscal years 2001 – 2002, and 2002 – 2003, issue a refund or rebate in an amount equal to eight percent (8 %) of the agency fee charged annually by WEA to the fee payer

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for each fiscal year, and until the refunds or rebates are made, maintain in a segregated account an amount equivalent to eight percent (8 %) of all agency fees received by the WEA; however, no refunds or rebates need be given to fee payers who are objectors or challengers under WEA's Hudson process and receive a refund of the non-chargeable portion of their fees inclusive of the portion related to WEA's political expenditures;

b) For WEA fiscal year 2001 – 2002, the refund or rebate to agency fee payers shall be mailed on or before January 15, 2002. Another mailing of rebates will be mailed on or before April 15, 2002 to capture any fee payers employed during the 2001 – 2002 fiscal year, but who were unknown to WEA before December 31, 2002;

c) For WEA fiscal year 2002 – 2003, the refund or rebate to agency fee payers shall be mailed to all known agency fee payers by November 15, 2002. Another mailing of rebates will be mailed on or before April 15, 2003 to capture any fee payers employed during the 2002 – 2003 fiscal year, but who were unknown to WEA on November 15, 2002.

d) For fiscal years 2001 – 2002 and 2002 – 2003, any refunds or rebates that cannot be conveyed to agency fee payers, because the rebates or refunds are returned to WEA undelivered, or which WEA cannot mail, or for any other reason, shall be retained until the end of the subject fiscal year by WEA in a segregated account, and if they remain unclaimed and undeliverable by August 31 of that fiscal year, the unclaimed or undeliverable funds so retained shall be distributed to the WEA Children's Fund, to the American Red Cross, or to Northwest Harvest.

e) For WEA fiscal year 2003 – 2004, and every fiscal year thereafter, WEA shall reduce the

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agency fees chargeable to agency fee payers from an amount equivalent to 100 percent of member dues by

(i) the percentage of the WEA's total expenditures that are analyzed to have been used for § 760 expenses in the second fiscal year prior, e.g. reductions in 2003 – 2004 shall be based upon WEA's analysis of 2001 – 2002 expenditures,

(ii) plus a cushion of 3 percent of the annual agency fee for the respective fiscal year, in order to take into account the annual variations that may occur in WEA's § 760 expenses, the short term agency fee payer who may not be employed long enough to benefit from averaging of long term variations, and negligible errors in either calculations or organizational expenses.

(f) Separate refunds or rebates will not be issued to fee payers who object or challenge and receive a rebate equal to the non-chargeable percentage of WEA expenditures, pursuant to federal case law and the *Leer* settlement agreement, as the § 760 expenses are already included in the overall non-chargeable percentage of agency fees rebated to fee payers who object or challenge.

3. WEA may release and deposit into its general fund 70 per cent of agency fees paid to and for WEA during fiscal year 2000 – 2001 and which have been held in escrow; the remaining 30 per cent shall be retained in escrow until a final resolution is reached in the matter of Davenport v. WEA, Thurston County Superior Court Cause No. 01-2-00519-4. If damages must be paid to plaintiffs by WEA in Davenport, then the escrowed amount may be used for those damages. If defendant is not liable to plaintiffs in Davenport for agency fees

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collected in WEA fiscal year 2000 – 2001, then this matter may be brought on by the parties for further consideration by this Court before the remaining escrowed funds are released by WEA.

IT IS HEREBY FURTHER ORDERED that:

A. This Injunction shall take effect immediately and remain in effect permanently, except that, in the event the Washington State Public Disclosure Commission promulgates and puts into effect administrative rules that impose measures in conflict with this Injunction, or any valid initiative or legislation is passed, then any provision of this Injunction that is in conflict with the administrative rules and/or statutes shall be void, but the provisions of this Injunction not in conflict shall remain in full force and effect.

B. Nothing herein shall be construed to waive or foreclose any challenge that might otherwise be made to rulings and findings made by this Court at any stage in these proceedings, and any provisions of this Injunction dependent upon such rulings and findings.

C. Compliance with this injunction and any statutes or PDC rules that may be promulgated that affect this injunction pursuant to Paragraph A, above, shall constitute compliance with RCW 42.17.760.

D. This Court shall retain jurisdiction of this matter for enforcement of this Injunction, and, in the event an action is brought to assert a violation of this Injunction, the prevailing party shall be entitled to reasonable attorney fees and costs for the challenge.

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DONE IN OPEN COURT this 3rd day of ~~November~~ Dec, 2001.

JUDGE GARY R. TABOR

Presented, without waiver of objections, by:

CHRISTINE O. GREGOIRE
Attorney General

D. THOMAS WENDEL, WSBA #15445
Assistant Attorney General
Attorneys for Plaintiff

APPROVED AS TO FORM; NOTICE OF PRESENTATION WAIVED:

Harriet Strasberg, WSBA #15890
Attorneys for Defendant

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Washington Education Association
33434 Eighth Avenue South, Federal Way, WA 98003-6397 ◆ 253-941-6700 or 800-622-3393 ◆ Fax 253-946-7232

DATE FILED PDC
FEB 2 7 2002

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MAR 1 2002
Public Disclosure Commission

February 27, 2002

Ms. Susan Harris, Assistant Director
Public Disclosure Commission
711 Capitol Way Rm. 206
PO Box 70908
Olympia, WA 98504-0908

Dear Ms. Harris:

This letter is in response to your letter of February 25, 2002 requesting a confirmation of your written summary of our telephone conversation.

WEA has rebated on behalf of the NEA, UniServ Councils and Local Associations, an amount equal to 8% of the entire amount of agency fees paid by agency fee payers for the 2001-02 fiscal year. This rebate covers agency fees paid to the NEA, UniServ Councils, Local Associations, as well as to the WEA. It is WEA's intent to continue this practice for rebating agency fees next fiscal year, and to similarly reduce the amount of agency fees collected in future years on behalf of the NEA, UniServ Councils, Local Associations and WEA.

Please do not hesitate to contact me should you have further questions.

Sincerely,

Aimee S. Iverson
Assistant General Counsel

Washington Education Association
33434 Eighth Avenue South, Federal Way, WA 98003-6397 ◆ 253-941-6700 or 800-622-3393 ◆ Fax 253-946-7232

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MAR 21 2002
Public Disclosure Commission

March 21, 2002

Suemary Trobaugh
Public Disclosure Commission
711 Capitol Way Rm. 206
PO Box 70908
Olympia, WA 98504-0908

Dear Ms. Trobaugh:

This letter is in response to your request for certain information regarding agency fees for the 2000-01 fiscal year.

All agency fees collected from agency fee payers during the 2000-01 fiscal year were kept in escrow from September 2000 until December 2001. Pursuant to the injunction issued by Judge Tabor in PDC v. WEA, No. 00-2-01837-9, 70% of agency fees collected during the 2000-01 fiscal year were released from escrow on December 17, 2001. The remaining 30% of agency fees collected during the 2000-01 fiscal year are still held in escrow.

During fiscal year 2000-01, there were 3,650 agency fee payers.

The total number of refund checks issued to objectors and challengers during fiscal year 2000-01 is 281.

Please do not hesitate to contact me should you have further questions.

Sincerely,

Aimee S. Iverson
Assistant General Counsel

Cc: Rick Wilkof
Harriet Strasberg

Washington Education Association
33434 Eighth Avenue South, Federal Way, WA 98003-6397 ◆ 253-941-6700 or 800-622-3393 ◆ Fax 253-946-7232

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Public Disclosure Commission

April 2, 2002

Suemary Trobaugh
Public Disclosure Commission
711 Capitol Way Rm. 206
PO Box 70908
Olympia, WA 98504-0908

Dear Ms. Trobaugh:

This letter is to clarify the information provided in my March 21, 2002 letter.

When 70% of the agency fees collected during the 2000-01 fiscal year were released from escrow on December 17, 2001, the monies were released to the WEA general fund. None of the monies released from escrow have been transmitted to the NEA.

Please do not hesitate to contact me should you have further questions.

Sincerely,

Aimee S. Iverson
Assistant General Counsel

Cc: Rick Wilkof
Harriet Strasberg

Office of General Counsel
Faith Hanna ◆ Eric R. Hansen ◆ Aimee Iverson ◆ Kathy O'Toole ◆ Jerry L. Painter

nea

NATIONAL EDUCATION ASSOCIATION

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Robert F. Chase, President
Reg Weaver, Vice President
Dennis Van Roekel, Secretary-Treasurer

John I. Wilson, Executive Director

1201 16th Street, N.W.
Washington, D.C. 20036-3290

MAR 15 2002

Public Disclosure Commission

March 15, 2002

Facsimile

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MAR 1 5 2002

Public Disclosure Commission

TO: Phil Stutzman
Washington Public Disclosure Commission
360-664-8853
FAX 360-753-1112

FROM: Richard B. Wilkof
National Education Association
202-822-7035
FAX 202-822-7033

Pages 24 (including this page)

COMMENTS: Attached is the submission of NEA in response to the Citizen Action Letter filed Bf Jeanne A. Brown on January 31, 2002. The originals are being sent by Federal Express for delivery on Monday morning, March 18, 2002.

Rick Wilkof

If you did not receive all pages, please call the sender as soon as possible. If this facsimile was sent to the wrong number, we would appreciate a call so we can send the fax to the correct number.

nea
NATIONAL EDUCATION ASSOCIATION

Robert F. Chase, President
Reg Weaver, Vice President
Dennis Van Roekel, Secretary-Treasurer

John I. Wilson, Executive Director

1201 16th Street, N.W.
Washington, D.C. 20036-3290

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March 15, 2002

Phil Stutzman
Director of Compliance
Washington Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908

Re: Citizen Action Letter Filed By Jeanne A. Brown, January 31, 2002

Dear Mr. Stutzman:

Enclosed is the response of the National Education Association ("NEA") in the above-referenced matter. The response consists of a letter brief addressed to PDC Assistant Director Susan Harris; the text of NEA Bylaw 2, subsection 2-7(n) of which contains the authorization for the special dues increase that is at issue in this proceeding; the Declaration of NEA's Chief Financial Officer, Wayne S. Diviney; and documents showing that NEA has reimbursed the Washington Education Association for its portion of a rebate to agency feepayers ordered by Judge Gary R. Tabor in State of Washington ex rel. Public Disclosure Commission v. Washington Education Association, Thurston County Superior Court Cause No. 00-2-01837-9 (Dec. 3, 2001).

The aforementioned declaration is different in a number of respects from a draft I faxed to you yesterday at your request. I faxed you the draft in an effort to be responsive to your request for some indication of NEA's positions in this matter, with the understanding that the document was in preliminary form. Subsequently, I learned that I had used the wrong set of financial figures in preparing the draft. After additional research and analysis by several accountants employed by NEA -- including Mr. Diviney -- we have been able to correct the erroneous data in the preliminary draft. I apologize for any confusion the earlier draft might have caused.

If you have any questions or comments regarding these documents, or any other matter pertaining to

this proceeding, please do not hesitate to contact me. Otherwise, I plan to be present at the PDC's March 26, 2002 meeting, in order to answer any questions regarding NEA's submission.

Thank you for your assistance in this matter.

Sincerely,

Richard B. Wilkof
Staff Counsel

Enclosures

nea
NATIONAL EDUCATION ASSOCIATION

Robert F. Chase, President
Reg Weaver, Vice President
Dennis Van Roekel, Secretary-Treasurer

John I. Wilson, Executive Director

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Washington, D.C. 20036-3290

TRANSMITTED BY FAX AND FEDERAL EXPRESS

March 15, 2002

Susan Harris
Assistant Director
Washington Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908

Re: Citizen Action Letter Filed By Jeanne A. Brown, January 31, 2002

Dear Ms. Harris:

Thank you for granting the National Education Association ("NEA") the opportunity to file a response in the above-referenced matter. In that matter, the Evergreen Freedom Foundation ("EFF") and several public school employees charge NEA with having committed two violations of the Washington Public Disclosure Act:

1. NEA's creation of its Ballot Measure/Legislative Crisis and Media Campaign Fund constitutes an unregistered political committee in violation of Revised Code of Washington ("RCW") § 42.17.040, and the collection of monies for that Fund from Washington State public school employees via payroll deduction without first obtaining the employees' written authorization violates RCW § 42.17.680(3); and

2. NEA violates RCW § 42.17.760 by collecting agency fees from Washington State school employees which it commingles with membership dues in both its general fund and the Ballot Measure/Legislative Crisis and Media Campaign Fund, from which it makes disbursements to influence elections, support political committees, and influence the outcomes of ballot measures, without first obtaining the employees' affirmative authorizations.

For the reasons stated below, NEA urges the Public Disclosure Commission ("PDC") to dismiss these charges.

However, before addressing the charges directly, it is necessary to correct a misstatement that occurs throughout the EFF's letter. The letter repeatedly fails to distinguish between the separate and distinct funds that NEA created to house the monies from a special dues increase that the NEA Representative Assembly ("RA") authorized at its 2000 annual meeting. At that meeting, the delegates to the RA passed an amendment to the NEA Bylaws that increases the dues of NEA Active and Student members for a five-year period, beginning with NEA's 2000-01 membership year ("special dues increase"). The amendment provides that sixty percent of those funds raised by the special dues increase will be allocated to assist NEA state affiliates with ballot measure campaigns or legislative crises, while the remaining forty percent will be allocated to "national and state media campaigns to advance the cause of public education and to publicize the role of the Association and its affiliates in improving the quality of public education." NEA Exhibit 1 at 218. After passage of the Bylaw amendment, NEA established two separate segregated funds for the monies collected pursuant to the special dues increase: the Ballot Measure/Legislative Crisis Fund; and the Media Campaign Fund. NEA Exhibit 2 at ¶ 4.

The only monies that could conceivably be at issue in this proceeding are those allocated to the Ballot Measure/Legislative Crisis Fund, and in particular, those that were spent on ballot measure campaigns. EFF's letter not only addresses the focus funds spent in connection with ballot measure campaigns, but also activities related to media campaigns to promote public education and the role of the Association in improving the quality of public education. The latter are clearly beyond the authority of the PDC. Accordingly, unless otherwise noted, NEA's response to the EFF's charges will focus on monies going into and out of the Ballot Measure/Legislative Crisis Fund.

A. Because no education employees represented by NEA and Washington Education Association ("WEA") local affiliates contributed to NEA's Ballot Measure/Legislative Crisis Fund, NEA did not violate RCW § 42.17.040 by failing to register it as a political committee.

The basis for EFF's claim that NEA failed to register its Ballot Measure/Legislative Crisis Fund as a political committee is the fact that in 2000, the Fund contributed $500,000 in support of two ballot measures in Washington. *See* EFF Exhibits G and H. Oddly enough, however, EFF's claim is undermined by the very document it cites as support: Attorney General Letter Opinion ("AGLO") No. 114. AGLO No. 114 states that a membership organization does not become a political committee merely by making contributions in support of or opposition to a candidate for office or a ballot proposition; rather, the organization must receive payments from others who have actual or constructive knowledge that such payments will be segregated and used in support of or opposition to candidates or ballot propositions. Under this principle, NEA's Ballot Measure/Legislative Crisis Fund would not constitute a political committee because the payments in question -- the $5.00 special dues increase imposed on and collected from education employees represented by WEA -- were not in fact deposited into that Fund, and consequently were not used in connection with candidate elections or ballot propositions in Washington, or anywhere else for that matter.

As EFF's own Exhibit F makes clear, NEA and WEA entered into a written agreement which expressly provided that "[n]o portion of said dues will be allocated to the component of the Fund that is used to assist NEA state affiliates in dealing with ballot measures."[1] In a desperate attempt to diminish the impact of this agreement, EFF makes the entirely unsubstantiated claim that the agreement is "a sham and has been ignored by the parties." In point of fact, nothing could be further from the truth. As the Declaration of Wayne S. Diviney, NEA's Chief Financial Officer, unequivocally demonstrates, WEA and NEA took great pains to develop a procedure that would direct into the Media Campaign Fund all the monies collected by WEA pursuant to the special dues increase. Moreover, funds from the special dues increase allocated to the Media Campaign Fund were not redirected into the Ballot Measure/Legislative Crisis Fund. NEA Exhibit 2 at ¶¶ 7, 9, 10. Accordingly, none of the monies collected by WEA pursuant to the special dues increase were used either directly or indirectly on ballot measures. The only special dues increase funds in the Ballot Measure/Legislative Crisis Fund came from education employees in states other than Washington.

B. Because no monies deducted from the paychecks of education employees represented by the NEA and WEA locals pursuant to the special dues increase went to a "political committee," the absence of employees' written authorizations specifically for such deductions did not violate RCW § 42.17.680(3).

Since NEA's Ballot Measure/Legislative Crisis Fund does not qualify as a "political committee" under Washington State law, NEA did not violate RCW § 42.17.680(3) by failing to obtain written authorizations from the employees represented by WEA locals prior to collecting the special dues increase via payroll deduction. EFF's claim in this regard is based on the erroneous premise that monies from WEA members went into NEA's Ballot Measure/Legislative Crisis Fund. However, since NEA allocated all the funds from the Washington employees' special dues increases to its Media Campaign Fund, those funds were not contributed to a political committee or used as political contributions. Consequently, the written employee authorization required in RCW § 42.17.680 was not triggered.

---

[1] As explained in the text *supra*, NEA established two separate segregated funds as repositories for the monies collected pursuant to the special dues increase – the Ballot Measure/Legislative Crisis Fund; and the Media Campaign Fund -- despite the fact that EFF Exhibit F refers to:

> a specially-established segregated fund . . . with three components – one designed to assist NEA state affiliates in dealing with ballot measures, a second designed to assist NEA state affiliates in dealing with legislative crises, and a third designed to pay for national and state media campaigns to advance the cause of public education and publicize the role of NEA and its affiliates in improving the quality of public education." (Emphasis added.)

At the time NEA and WEA entered into the written agreement that constitutes EFF Exhibit F, NEA had not yet developed the specific mechanics for setting up the accounts for the monies collected pursuant to the special dues increase. Those mechanics were addressed during the fall of 2000, and resulted in the formation of two separate segregated funds.

C. There is no reason to penalize NEA for collecting agency fees for the 2001-02 membership year without first having obtained affirmative authorizations from nonmembers pursuant to RCW § 42.17.760.

EFF charges that NEA has violated RCW § 42.17.760 by failing to obtain affirmative authorizations from nonmembers prior to collecting agency fees via payroll deduction and depositing them in both the Ballot Measure/Legislative Crisis Fund and NEA's general treasury. The basis for this charge is a recent decision by the Thurston County Superior Court in State of Washington ex rel. Public Disclosure Commission v. Washington Education Association, Thurston County Superior Court Cause No. 00-2-01837-9 (Findings of Fact and Conclusions of Law filed Dec. 3, 2001), *appeal pending*, Case No. 2826401-II (Wash. Ct. App.) ("PDC v. WEA") However, that decision is not controlling under the present circumstances, even assuming *arguendo* that it was correctly decided.[2]

By way of background, members of NEA pay dues not only to NEA, but also to the relevant state affiliate (*e.g.*, WEA), local affiliate, and, in some states such as Washington, UniServ Council. Nonmembers pay agency fees based on the same multi-level structure. NEA Exhibit 2 at ¶5. WEA serves as NEA's collecting agent in Washington State for both dues and agency fees. WEA transmits NEA's share of agency fees together with its corresponding share of membership dues. *Id.* WEA does not transmit agency fees to NEA separately from its dues transmittals.[3] Since WEA charges an agency fee to nonmembers that is based on the amount of membership dues paid by members,[4] the special dues increase implemented pursuant to NEA Bylaw 2-7.n. would have a commensurate impact on the amount of agency fees owed by nonmembers who do not exercise their right under Chicago Teachers Union v. Hudson, 475 U.S. 292 (1986), to object to supporting financially the Association's political or ideological activities that are not germane to collective bargaining.

NEA RCW § 42.17.760 prohibits a labor organization from using agency shop fees paid by a nonmember "to make contributions or expenditures to influence an election or to operate a political committee, unless affirmatively authorized by the individual." At issue, then , is whether the NEA Ballot Measure/Legislative Crisis Fund or NEA's general treasury contained agency fees from Washington education employees without being properly authorized.

We may quickly dispose of the issue as it pertains to the NEA Ballot Measure/Legislative Crisis Fund. RCW §42.17.760 "prohibits the labor organization from using for political purposes agency shop fees paid by non-members." State of Washington ex rel. Evergreen Freedom Foundation v. Washington Education Association, 999 P.2d 602 (Wash. 2000). As explained *supra*, all of the dues or agency fees collected from Washington education employees pursuant to the special dues increase are deposited in NEA's Media Campaign Fund. None of those monies are used for ballot propositions or candidate elections, and none are transferred to the NEA Ballot Measure/Legislative Crisis Fund.

---

[2] With all due respect to Judge Tabor, NEA takes issue with his conclusions, and believes that WEA's positions will be upheld on appeal.

[3] Such unified transmittals contrast with WEA's separate and distinct transmittals of the special dues increases and their corresponding agency fees, as set forth in EFF's Exhibit F and NEA Exhibit 2 at ¶ 6.

[4] *See* PDC v. WEA, slip op. at 2 (Dec. 3, 2001).

Since the agency fees are not commingled with any other funds that are used to influence an election or support a political committee, EFF's reliance on the ruling in PDC v. WEA is inapt. Accordingly, there is no factual predicate to support EFF's charge that agency fees collected as a function of the special dues increase require prior affirmative authorization from the nonmembers under RCW § 42.17.760.

There are two reasons why the PDC should deny EFF's charge that NEA's general treasury contains agency fees that have been collected without appropriate authorization in violation of RCW § 42.17.760. First, it is our understanding that WEA already issued court-ordered rebate checks to the agency feepayers for 2001-02, and that those rebates included a portion of the fee attributable to NEA. *See* EFF Exhibit K. In addition, WEA billed NEA for reimbursement of NEA's share of the rebated amount, and NEA paid WEA that amount. *See* NEA Exhibit 3. Thus, whatever portion of the agency fees that should arguably have been collected only after prior authorization from the nonmembers has already been removed from NEA's general treasury, and to require NEA to rebate that amount again would effectively amount to double jeopardy.

EFF asserts that the 8% rebate ordered by Judge Tabor in PDC v. WEA is insufficient because NEA spends a far greater portion of its budget on "non-chargeable activities." EFF's position is baseless, for it confuses nonchargeable expenditures, as defined by agency fee case law, with the "contributions or expenditures to influence an election or to operate a political committee" proscribed in RCW § 42.17.760. The class of expenditures covered by the term "nonchargeable" is much broader than the class of expenditures that is the subject of RCW § 42.17.760. The term "nonchargeable" covers not only the class of expenditures at issue in the Washington statute, but also, *inter alia*, lobbying expenditures, public relations expenditures aimed at the general public, union benefits available only to members, and other expenditures not germane to collective bargaining activities.

Moreover, perusing NEA's agency fee allocations -- as they are set forth in EFF Exhibit J -- reveals that the 8% figure was *overly generous*. Nearly all of NEA's expenditures that are related to "contributions or expenditures to influence an election or to operate a political committee" are incurred through its Government Relations ("GR") Department. However, GR also incurs many other expenditures that are outside the scope of the expenditures defined in RCW §42.17.760 -- *e.g.*, legislative lobbying, advising education employees about the impact of recently enacted legislation -- and therefore could not conceivably be covered by the statute's authorization requirement. Nonetheless, if we err on the side of conservatism and consider all the expenditures incurred by GR in fiscal year 1999-2000 (*i.e.*, the expenditures serving as the basis for NEA's agency fee calculations for the current membership year), the percentage of NEA's total expenditures that was attributable to GR is only 6.1%.[5] Thus, even if the decision in PDC v. WEA is ultimately upheld, it would not justify rebating any additional money to WEA agency feepayers.

---

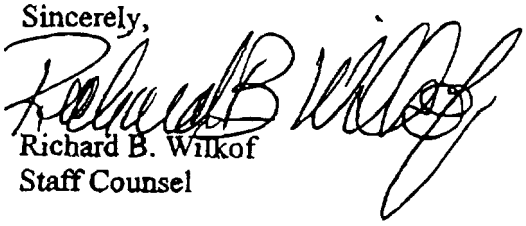
[5] For fiscal year 1999-2000, GR activities were expensed through Descriptors 3, 4, and 5 of the Public, Parental and Business Support Strategic Priority. *See* EFF Exhibit J. Moreover, if we apply the same analysis to NEA's expenditures for the other fiscal years described in EFF Exhibit J -- 1996-97 through 1998-99 -- the results are no different than for fiscal year 1999-2000. For fiscal year 1996-97, the percentage of NEA's total expenditures that was attributable to GR was

Second, the ruling by the Thurston County Superior Court in PDC v. WEA has been appealed by WEA to the Court of Appeals. It would be neither reasonable nor an expeditious use of the resources of the PDC or the Washington courts to litigate this claim while the appeal in that case is pending.

D. Conclusion

Based on the foregoing discussion, it is clear that the EFF's charges against NEA contained in the Citizen Action Letter filed by Jeanne A. Brown on January 31, 2002, are baseless. Accordingly, NEA urges the PDC to dismiss those charges.

Sincerely,



Richard B. Wilkof
Staff Counsel

Attachments

6%; for 1997-98, the percentage was 6.4%; and for 1998-99, the percentage was 5.1%. For fiscal year 1996-97, GR activities were expensed through Strategic Activity 1.4; for 1997-98, they were expensed through Components 5-11 of Strategic Activity 1.3; and for 1998-99, they were expensed through Descriptors 3, 4, and 5 of the Public, Parental and Business Support Strategic Priority. The activities from those budget areas are also described in EFF Exhibit J.

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

In the Matter of:	)
	)
Citizen Action Letter Filed By	)
	)
Jeanne A. Brown, January 31, 2002	)

NEA EXHIBIT LIST

1. NEA Bylaw 2

2. Declaration of Wayne S. Diviney

3. Statement and Voucher Showing NEA's Reimbursement of Agency Fees to WEA Pursuant to Order in State of Washington ex rel. Public Disclosure Commission v. Washington Education Association, Thurston County Superior Court Cause No. 00-2-01837-9 (Permanent Injunction Issued Dec. 3, 2001)

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

In the Matter of:	)
	)
Citizen Action Letter Filed By	)
	)
Jeanne A. Brown, January 31, 2002	)

DECLARATION OF WAYNE S. DIVINEY

I, Wayne S. Diviney, hereby declare:

1. I am employed by the National Education Association ("NEA"), in Washington, D.C., as Chief Financial Officer. I have held that position for 10 months, prior to which I was NEA's Assistant Executive Director of Administration and Finance for 10 years.

2. As Chief Financial Officer, I am responsible for NEA's business and finance operations, conference and facilities management, and subsidiary corporations (NEA Member Benefits Corporation, NEA Portal Company, and NEA Members Insurance Trust). When I served as Assistant Executive Director of Administration and Finance, among my responsibilities were NEA's business and finance operations.

3. At NEA's Annual Meeting and Representative Assembly ("RA") held in Chicago, Illinois between June 30 and July 5, 2000, the delegates approved an amendment to NEA Bylaw 2-7, Membership Dues. That amendment, which became Bylaw 2-7.n., provided that beginning with the 2000-01 membership year and continuing through the 2004-05 membership year, the annual dues of Active NEA members would be increased by $5.00. Specifically, Bylaw 2-7.n. provides in part:

> *Sixty percent (60%) of the money allocated to the Ballot Measure/Legislative Crises and Media Campaign Fund during each membership year shall be available to assist state affiliates in dealing with ballot measures and legislative crises, and forty percent (40%) shall be available for national and state media campaigns to advance the cause of public education and publicize the role of the Association and its affiliates in improving the quality of public education.*
>
> *Where necessary to avoid legal problems under state law, the Association and a state affiliate may, at the request of the state affiliate, enter into a written agreement providing that the money collected from members of that state affiliate shall not be used to deal with ballot measures, but shall be used only to deal with legislative crises and/or to fund national and state media campaigns.*

(Emphasis added.) NEA's fiscal, or membership, year begins on September 1 and ends the following August 31.

4. On October 13, 2000, NEA established two separate segregated funds for the monies collected pursuant to NEA Bylaw 2-7.n. ("special dues increase"). One fund was for ballot measures and legislative crises, while the other was for national and state media campaigns. In all states where the italicized language in Paragraph 3 above did not apply, NEA planned to transmit sixty percent of each $5.00 dues increase to the Ballot Measure/Legislative Crisis Fund, while the remaining forty percent would be transmitted to the Media Campaign Fund.

5. NEA members in Washington State pay dues via payroll deduction to four separate levels of the Association: NEA, the state affiliated organization, the UniServ Council, and the local affiliated organization. In general, a school district transmits the entire amount in either of two ways: (1) to a local association or UniServ Council, which takes its share and then forwards the remainder to the WEA, which in turn takes its share and forwards the remainder to NEA; or (2) to an automatic payroll authorization system that distributes WEA dues to WEA, NEA dues to NEA, the UniServ Council dues to the Council, and the local association's dues to the local. Where applicable, nonmembers' agency fees are transmitted in the same manner.

6. As per the italicized language in Paragraph 3 above, NEA and its state affiliate in Washington State, the Washington Education Association ("WEA"), entered into a written agreement ("Agreement") in early August 2000, providing that all monies collected from NEA members in Washington pursuant to the special dues increase would be transmitted to NEA by WEA separately from other NEA dues, and that "[n]o portion of said dues will be allocated to the component of the Fund that is used to assist NEA state affiliates in dealing with ballot measures."

7. NEA's Accounting office had the responsibility for developing a procedure for handling the WEA monies collected pursuant to the special dues increase in accordance with the Agreement. Under the procedure it developed, WEA sent the monies collected pursuant to the special dues increase in separate transmittals -- either by check or wire transfer -- from the rest of the dues. NEA Accounting deposited both the regular dues and the special dues increase into NEA's general treasury, and then allocated all $5.00 of the special dues increase from WEA members into the Media Campaign Fund.

8. Many of the disbursements by NEA in connection with ballot measure campaigns were made before all the special dues increases had been collected. Most of those disbursements were made even before the Ballot Measure/Legislative Crisis Fund bank account was set up in October 2000. In those cases, disbursements were made out of the NEA general treasury fund, with the understanding that it would be reimbursed out of subsequent dues collections. The general treasury fund was augmented at that time with an advance from NEA's line of credit with a commercial bank. That advance was repaid against the line of credit as NEA received dues payments, including the special dues increase, during the normal course of business.

9. If during the course of a fiscal year, NEA determines that there is a need for greater ballot measure or legislative crisis financial assistance than there are funds allocated for such purposes from the special dues increase, NEA has several options to make up the difference. It can: (a) redirect funds from its general treasury that were budgeted for some other activities, assuming those activities would not be unduly disadvantaged; (b) allocate funds from its Contingency Fund, which is built into each fiscal year's budget pursuant to NEA Bylaw 11-9.c.,

and must contain at least one million dollars ($1,000,000) but no more than one percent of the budget; or (c) borrow money from a commercial lending institution. NEA has not redirected monies from the special dues increase that were allocated to the Media Campaign Fund for use in ballot measures or legislative crises.

10. Payments made by WEA for the 2000-01 fiscal year that were attributable to the special dues increase totaled $327,760. All those funds, along with forty percent of the special dues increase collections from other NEA state affiliates, were allocated to the Media Campaign Fund, creating a total of $3,658,674 available to that Fund.

11. At the end of fiscal year 2000-01 (*i.e.*, August 31, 2001), the Media Campaign Fund had a receivable of $602,085 from the NEA general fund for dues yet to be collected from state affiliates.

12. For fiscal year 2000-01, NEA allocated a total of $9,347,921 to its Ballot Measure/Legislative Crisis Fund. The sources of this money were $4,996,371 from the special dues increase (excluding any funds from WEA), a total of $2,351,550 in funds originally allocated for ballot measure and legislative crisis assistance and for contingency reserves before the special dues increase was approved by the 2000 RA, and $2,000,000 in funds accrued from the 1999-2000 budget.

13. During fiscal year 2000-01, NEA's expenditures from its Ballot Measure/Legislative Crisis Fund exceeded the amount allocated by a total of $616,086. The deficit was made up with funds from NEA's general treasury.

14. NEA and WEA have followed the same procedure for transmitting monies collected pursuant to the special dues increase during the 2001-02 fiscal year.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 15TH day of March, 2002 at WASHINGTON, DC.

WAYNE S. DIVINEY

JOYCE PARKER, Notary Public
Washington, D.C.

My commission expires April 14, 2004.

NEA Exhibit 3

nea

NATIONAL EDUCATION ASSOCIATION
1201 16th Street, N.W. • Washington, D.C. 20036-3290

VOUCHER ACCOUNT DISTRIBUTION

GROUP NUMBER 0000029222
VOUCHER NUMBER 00272423
INVOICE # 1426 WAEA
INVOICE DATE 1/18/2002
PAYMENT TERM NOW
ATTACHMENTS
EXTENSION # 7158
PURCHASE ORDER #
ACCOUNTING APPROVAL

VENDOR WASHINGTON EDUCATION ASSOCIATION
ID: 0000003351 LOC: 1
ADDRESS 33434 8TH AVENUE SOUTH
FEDERAL WAY WA 98003

VCHR Ln No.	DIST Ln No.	ACCT	COST CTR	PROJ	SID	DESCRIPTION	USE TAX?	1099?	DEBIT	CREDIT
1	1	4038	NEA			AF REBATE 2001-2002	N	N	27,804.62	

TOTAL	27,804.62	0.00
LESS CREDITS	0.00	
CHECK AMOUNT	27,804.62	

PLEASE INITIAL THAT THE SUPPORT DOCUMENTS HAVE BEEN VERIFIED FOR MATHEMATICAL ACCURACY.

RECEIVED
FEB 11 2002
NEA ACCOUNTING OFFICE

PREPARED BY DEBORA A. BARTLEY
APPROVED BY Michael

UNIT Exec Off
DATE 2/4/02

Washington Education Association

33434 Eighth Avenue South
Federal Way, Washington 98003
253-941-6700 or 800-622-3393
Fax: 253-946-4692

Charles Hasse, President
David Scott, Vice President
Armand L. Tiberio, Executive Director
www.wa.nea.org

INVOICE

RICK WILKOFF
NATIONAL EDUCATION ASSOCIATION
1201 16TH STREET NW
WASHINGTON, DC 20036

DATE: JAN 18, 2002

ACCT: 1426 WAEA

DESCRIPTION	AMOUNT
This billing is for 8% of NEA agency shop fees refunded by WEA to fee payers on record for fiscal year 2001-2002. As a result of Judge Tabor's ruling, WEA was ordered to rebate to ALL fee payers for fiscal years 2001-2002 and 2002-2003 an amount equal to 8 percent of agency fees paid (NEA, WEA, UniServ Council and Local). Fee payers who submitted a challenge or objection letter in response to the Hudson mailing were not included. If more information is needed, please call 253-941-6700 for Aimee Iverson at ext. 7021, Tom Hedges at ext. 7007 or Emelie Hagberg at ext. 7008.	$27,804.62

JAN 25 2002

MAKE CHECKS PAYABLE TO WASHINGTON EDUCATION ASSOCIATION. ALL INVOICES DUE AND PAYABLE UPON RECEIPT

The MISSION of the Washington Education Association
is to make public education the best it can be for students, staff and communities. .

EXHIBIT 7
Page 15 of 15

nea
NATIONAL EDUCATION ASSOCIATION

Robert F. Chase, President
Reg Weaver, Vice President
Dennis Van Roekel, Secretary-Treasurer

John I. Wilson, Executive Director

1201 16th Street, N.W.
Washington, D.C. 20036-3290

TRANSMITTED BY FAX AND FEDERAL EXPRESS

March 27, 2002

Phil Stutzman
Director of Compliance
Washington Public Disclosure Commission
711 Capitol Way #206
PO Box 40908
Olympia, WA 98504-0908

Re: Citizen Action Letter Filed By Jeanne A. Brown, January 31, 2002

Dear Mr. Stutzman:

Enclosed is a revised declaration by National Education Association ("NEA") Chief Financial Officer Wayne S. Diviney, that the PDC should substitute for the original declaration included in NEA's March 15, 2002, submission in the above-referenced matter. The revised declaration corrects several financial figures that inadvertently made their way into the original.

The revisions were the result of a post-submission review of the document that NEA staff undertook in preparation for the PDC Open Meeting that was originally scheduled for March 26, but has since been rescheduled for April 9, 2002. During that review, the staff discovered that the figures in paragraphs 10 through 13 of the original declaration were from budget projections based on full-time equivalent membership estimates. Those figures should have reflected actual receipts and payments. The figures in the enclosed revised declaration reflect the appropriate schedules.

NEA apologizes for any confusion caused by this error, but believes the PDC will be better served in its evaluation of this matter if it has the correct figures. If you have any questions or concerns regarding the revision, please do not hesitate to contact me.

Thank you for your assistance in this matter.

Sincerely,

Richard B. Wilkof
Staff Counsel

Enclosure

cc: Wayne S. Diviney

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

In the Matter of:	)
	)
Citizen Action Letter Filed By	)
	)
Jeanne A. Brown, January 31, 2002	)

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> Sixty percent (60%) of the money allocated to the Ballot Measure/Legislative Crises and Media Campaign Fund during each membership year shall be available to assist state affiliates in dealing with ballot measures and legislative crises, and forty percent (40%) shall be available for national and state media campaigns to advance the cause of public education and publicize the role of the Association and its affiliates in improving the quality of public education.
>
> *Where necessary to avoid legal problems under state law, the Association and a state affiliate may, at the request of the state affiliate, enter into a written agreement providing that the money collected from members of that state affiliate shall not be used to deal with ballot measures, but shall be used only to deal with legislative crises and/or to fund national and state media campaigns.*

(Emphasis added.) NEA's fiscal, or membership, year begins on September 1 and ends the following August 31.

4. On October 13, 2000, NEA established two separate segregated funds for the monies collected pursuant to NEA Bylaw 2-7.n. ("special dues increase"). One fund was for ballot measures and legislative crises, while the other was for national and state media campaigns. In all states where the italicized language in Paragraph 3 above did not apply, NEA planned to transmit sixty percent of each $5.00 dues increase to the Ballot Measure/Legislative Crisis Fund, while the remaining forty percent would be transmitted to the Media Campaign Fund.

5. NEA members in Washington State pay dues via payroll deduction to four separate levels of the Association: NEA, the state affiliated organization, the UniServ Council, and the local affiliated organization. In general, a school district transmits the entire amount in either of two ways: (1) to a local association or UniServ Council, which takes its share and then forwards the remainder to the WEA, which in turn takes its share and forwards the remainder to NEA; or (2) to an automatic payroll authorization system that distributes WEA dues to WEA, NEA dues to NEA, the UniServ Council dues to the Council, and the local association's dues to the local. Where applicable, nonmembers' agency fees are transmitted in the same manner.

6. As per the italicized language in Paragraph 3 above, NEA and its state affiliate in Washington State, the Washington Education Association ("WEA"), entered into a written agreement ("Agreement") in early August 2000, providing that all monies collected from NEA members in Washington pursuant to the special dues increase would be transmitted to NEA by WEA separately from other NEA dues, and that "[n]o portion of said dues will be allocated to the component of the Fund that is used to assist NEA state affiliates in dealing with ballot measures."

7. NEA's Accounting office had the responsibility for developing a procedure for handling the WEA monies collected pursuant to the special dues increase in accordance with the Agreement. Under the procedure it developed, WEA sent the monies collected pursuant to the special dues increase in separate transmittals -- either by check or wire transfer -- from the rest of the dues. NEA Accounting deposited both the regular dues and the special dues increase into NEA's general treasury, and then allocated all $5.00 of the special dues increase from WEA members into the Media Campaign Fund.

8. Many of the disbursements by NEA in connection with ballot measure campaigns were made before all the special dues increases had been collected. Most of those disbursements were made even before the Ballot Measure/Legislative Crisis Fund bank account was set up in October 2000. In those cases, disbursements were made out of the NEA general treasury fund, with the understanding that it would be reimbursed out of subsequent dues collections. The general treasury fund was augmented at that time with an advance from NEA's line of credit with a commercial bank. That advance was repaid against the line of credit as NEA received dues payments, including the special dues increase, during the normal course of business.

9. If during the course of a fiscal year, NEA determines that there is a need for greater ballot measure or legislative crisis financial assistance than there are funds allocated for such purposes from the special dues increase, NEA has several options to make up the difference. It can: (a) redirect funds from its general treasury that were budgeted for some other activities, assuming those activities would not be unduly disadvantaged; (b) allocate funds from its Contingency Fund, which is built into each fiscal year's budget pursuant to NEA Bylaw 11-9.c.,

and must contain at least one million dollars ($1,000,000) but no more than one percent of the budget; or (c) borrow money from a commercial lending institution. NEA has not redirected monies from the special dues increase that were allocated to the Media Campaign Fund for use in ballot measures or legislative crises.

10. Payments made by WEA for the 2000-01 fiscal year that were attributable to the special dues increase totaled $366,290. All those funds, along with forty percent of the special dues increase collections from other NEA state affiliates, were allocated to the Media Campaign Fund, creating a total of $3,694,106 available to that Fund.

11. At the end of fiscal year 2000-01 (*i.e.*, August 31, 2001), the Media Campaign Fund had a receivable of $625,082 from the NEA general fund for dues yet to be collected from state affiliates.

12. For fiscal year 2000-01, NEA allocated a total of $9,343,275 to its Ballot Measure/Legislative Crisis Fund. The sources of this money were $4,991,725 from the special dues increase (excluding any funds from WEA), a total of $2,351,550 in funds originally allocated for ballot measure and legislative crisis assistance and for contingency reserves before the special dues increase was approved by the 2000 RA, and $2,000,000 in funds accrued from the 1999-2000 budget.

13. During fiscal year 2000-01, NEA's expenditures from its Ballot Measure/Legislative Crisis Fund exceeded the amount allocated by a total of $620,732. The deficit was made up with funds from NEA's general treasury.

14. NEA and WEA have followed the same procedure for transmitting monies collected pursuant to the special dues increase during the 2001-02 fiscal year.

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 27TH day of March, 2002 at GAITHERSBURG, MARYLAND

WAYNE S. DIVINEY

State: Maryland
County: Montgomery

SUBSCRIBED AND SWORN TO BEFORE ME THIS 27 DAY OF MARCH 2002

Clinso Cuneland, Notary Public
NOTARY PUBLIC
State of Maryland

My Commission Expires July 1, 2002

My commission expires