



Pasco School District #1

C. L. Booth Education Service Center
1215 W. Lewis Street • Pasco, Washington 99301

Michelle Whitney, Superintendent
(509) 546-2880 • FAX (509) 543-6761

February 15, 2018

Micaiah Titus Ragins
Compliance Coordinator
Washington State Public Disclosure Commission
711 Capitol Way, Room 206
Olympia, WA 98504-0908

Re: Pasco School District's Response to Public Disclosure Commission Complaint filed by
Roger E. Lenk (No. 29929)

Dear Mr. Ragins:

Pasco School District received a copy of the above referenced complaint from your office on January 19, 2018. The District received supplemental materials submitted by the complainant, Roger E. Lenk, from your office on January 25, 2018. Thank you for the opportunity to provide this response.

Mr. Lenk's complaint alleges that I violated RCW 42.17A.555(1), which prohibits using public resources to promote or oppose a ballot proposition, by (1) authorizing informational communications about recent legislative changes to the state and the local levies that fund school districts and (2) supporting the extension of Pasco School District's senior citizens "Gold Card" program benefits to the senior citizens of Kennewick and Richland School Districts.

Mr. Lenk's allegations lack foundation for two basic reasons. First, neither of these initiatives focused to any extent on any specific ballot proposition. They therefore do not constitute the use of public resources to support or oppose a ballot proposition. RCW 42.17A.555(1) simply does not apply. Second, both of these initiatives (providing informational communications and the District's Gold Card benefits) are longstanding District practices expressly authorized by state statutes. Even if they did focus on specific ballot propositions, which they do not, both would be permitted normal and regular conduct of the District under RCW 42.17A.555(3).

The remainder of Mr. Lenk's complaint consists of facts that are either irrelevant or untrue. Under WAC 390-37-060, the Executive Director of the Public Disclosure Commission may terminate an investigation if the complaint is "obviously unfounded or frivolous." For the reasons discussed in this response, the PDC should close its investigation into this matter and close this file.

Recent Legislative Changes to School Levies

On June 30, 2017, the Washington Legislature passed Engrossed House Bill 2242 ("EHB 2242"), which made sweeping changes to Washington's state and local education funding system.

Celebrating academics, diversity, and innovation.

Among other changes, EHB 2242 increases state property taxes for basic education purposes, lowers the maximum general fund levy authority of local school districts (the cap on this authority is commonly referred to as the “levy lid”), and replaces the formula for calculating each school district’s levy lid. Under the new formula, instead of setting the levy lid as a percentage of each district’s basic education allocation of funds received from the state, the maximum local general fund levy will be the lesser of \$2,500 per pupil (increased using IPD for inflation beginning in 2020) or \$1.50 per \$1,000 of assessed property value.

A critical outcome of these changes is the shifting of local levy dollars to state levy dollars. As Pasco School District officials discussed these changes with District staff, community leaders, and District patrons, it became clear that members of the Tri-Cities communities did not understand the magnitude of EHB 2242’s changes or the interplay between EHB 2242’s funding shift and its changes to the District’s levy lid.

Informational Communications Regarding EHB 2242

Under a specific state statute, a school district may distribute information to the general public to explain its educational programs and operations. *See* RCW 28A.320.090. A central component to district operations is funding. Under this authority, Pasco School District determined that it needed to better communicate to the general public the key components in EHB 2242 that affect local school district funding sources. Kennewick, Pasco and Richland School Districts already cooperate in various educational initiatives (for example, the new cooperative Delta High School and the Tri-Tech Skills Center). The Districts are covered by common news media outlets (for example, the Tri-City Herald) and collectively represent the students, parents and patrons of the greater Tri-Cities area. Consequently, it made sense for Pasco to coordinate with Kennewick and Richland in developing consistent, fact-based information about EHB 2242.

As part of these informational efforts, Kennewick School District purchased the website www.waschoollevy.org and engaged a media consultant.¹ The three School Districts coordinated the informational content for the website, including the video. Mr. Lenk suggests that a November 2, 2017 email from Kennewick School District’s Communications Director, Robyn Chastain, undermines the informational nature of the website and the video. That email speaks for itself, and Pasco School District was not included on it or any similar communications (if any). However, Pasco School District notes that the excerpt provided by Mr. Lenk was presented out of context. Ms. Chastain’s email expressly references the Districts’ obligations to refrain from advocating for or against any ballot proposition. *See* RCW 42.17A.555 and PDC Interpretation No. 01-03.

¹ Mr. Lenk’s reference to certain statements in an “agreement” between Kennewick School District and its consultant is incorrect. The document he references is the consultant’s response to a Kennewick School District request for proposal. It is not a contract or agreement. That response speaks for itself. It is not a document that was produced or endorsed by any of the Districts.

Most importantly, at no time did Pasco or any of the other Districts distribute any of the EHB 2242 information as election advocacy. All of the information on the shared website, including in the informational video, centers on the changes within EHB 2242. Although the website does state that the Districts will have levy propositions on the February ballot, the website does not discuss any of those propositions in detail. Simply put, the website is about EHB 2242. It is not about any of the Districts' levy propositions. RCW 29A.17.555(1) does not apply. And even if information on the website is considered specific to the District's levy proposition, it merely provides the election date. Providing election dates is a normal and regular practice of the District. *See* RCW 42.17A.555(3); WAC 390-05-273. Indeed, the District's main website provides the same election date as well.²

Gold Card Program

The second half of Mr. Lenk's complaint attempts to link the Pasco School District senior citizens "Gold Card" program to its levy proposition. The two are unrelated.

The District's Gold Card program is expressly authorized by statute. RCW 28A.325.010. While the District memorialized its program for the first time in Policy No. 4222 on January 23, 2018, the program has been in existence for years. For example, attached to this response is an example of a Pasco School District Gold Card that was issued around 2006, and a Gold Card application date-stamped October 6, 2008. Importantly, Policy No. 4222 *increased* the age eligibility requirement to participate in the Gold Card program from 60 to 65. If the District's intent was to use the Gold Card program to garner senior citizen votes for District ballot propositions, then it should have instead *lowered* the age eligibility requirement to capture more senior citizens. But as explained below, the Gold Card program has nothing to do with District ballot propositions.

The PDC expressly recognizes: "School districts are charged with education and instilling civic virtue." *See* PDC Interpretation No. 01-03, p.4. The Gold Card program furthers this mission. Among other benefits, eligible senior citizens within the District that have a gold card are admitted free of charge to all public events sponsored by the District and the Associated Student Body (ASB). By increasing attendance at these events, the Gold Card program promotes senior citizen and community engagement with the District's educational programs and its students. Moreover, Pasco School District has traditionally served a diverse community, including underrepresented and lower-income families. The District takes pride in the fact that the community and its senior citizens remain engaged in District extracurricular activities, including school athletics, plays, concerts and cultural events.

Further coordination with Kennewick and Richland School Districts was a natural extension to Pasco School District's Gold Card program. These three Districts border each other. They are similarly sized and in the same athletic division. They collectively represent the "Tri-Cities" area.

² *See* <https://www.psd1.org/Page/1>.

Often, grandparents that live in Pasco have grandchildren in Kennewick and Richland, and grandparents in those Districts may have grandchildren in Pasco.

By extending Gold Card program benefits, Pasco School District grandparents are more likely to attend events in support of their grandchildren at the cooperating Districts. It also gives Pasco School District the opportunity to host senior citizens from neighboring Richland and Kennewick when their grandchildren participate in District extracurricular activities. All of these outcomes further support the Districts' educational and civic mission.

When the Districts' superintendents discussed extending their Gold Card programs, it was in this context only. And although the cooperative Gold Card program was discussed around the time of Pasco School District's levy proposition, this initiative had nothing to do with the levy. The complaint does not set forth any facts to the contrary because there are none.

Irrelevant and Out of Context Board Study Session Discussions

Mr. Lenk takes statements made by me and an individual Pasco School District board director at certain study sessions out of context. These statements are irrelevant because they lack partisanship in favor of or in opposition to any District levy proposition.

The first statement concerns Board President Lehrman's inquiry into which of the four possible election dates the District should place the levy proposition. This statement is irrelevant for two reasons. First, the statement did not specifically state that it was addressed to either the pro or the con citizens' committees. And the discussion to that point focused on voter turnout and weather conditions, factors that would have been relevant to both the pro and con committees. Second, even if President Lehrman's intent was to pick an election date that either favored or disfavored the levy proposition, his individual motive in gaining this information has no bearing on the Board's final decision as to which of the four election dates it would place the levy proposition. That decision is statutorily delegated to the District's Board of Directors, and nothing in Washington's Fair Campaign Practices Act prohibits the legislative authority of any local government from determining the election date to run its levy propositions in its discretion. RCW 29A.04.330.

My comments are similarly taken out of context. First, my comments were about a potential for a third bond proposition if the District's November 2017 bond proposition did not pass. They had nothing to do with the February 2018 levy proposition at issue in Mr. Lenk's complaint. Because the District's voters passed the November 2017 bond proposition, the School Board did not take any action related to my comments. Second, I was addressing the practical concerns with placing another proposition on the ballot without sufficient time to seek public input, prepare the necessary resolutions, and provide the community with information regarding the proposition. These were practical concerns, not partisan concerns. My comment regarding the efforts of the citizens' committees in preparing for a ballot proposition was directed at all citizens' committees, pro and con alike.

Mr. Lenk's attempt to characterize a Board study session discussion as a "survey" similarly lacks any basis in fact or in the PDC's guidelines. Open discussions in study sessions are not surveys. Even if they were, a discussion of potential election dates has nothing to do with determining the level of taxation voters would support or the shoring up of support or opposition to a ballot proposition. See PDC Interpretation No. 01-03.

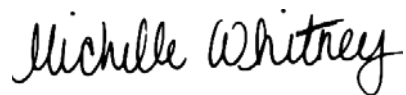
Finally, it is important to note that nothing discussed during the study session related to the Districts' public information communications regarding EHB 2242 or the District's separate Gold Card program. The study session simply has no bearing on the information provided by any of the Districts regarding any levy proposition.

Conclusion

As Superintendent, I believe it is my responsibility to comply not only with the express provisions of Washington's Fair Campaign Practices Act, but also its spirit. Pasco School District appreciates your attention to these allegations and for the opportunity to respond in a manner that demonstrates the District's commitment to the public trust. For the reasons discussed in this response, the PDC should close its investigation into this matter and close this file.

If you require additional information or have any questions, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink that reads "Michelle Whitney". The signature is written in a cursive, flowing style.

Michelle Whitney
Superintendent
Pasco School District

Attachment: Pasco School District Gold Card Examples

Clip here ~ Return bottom portion to District Office

Gold Card Registration

Name: VELMA SPARKS
Address: 242 SIERRA GOLD DR
Phone: 545-9345
Date of Birth: 11/23/39

There are many ways you can enrich Pasco students' education and help our school with your experience, time, and care. Please check or circle which of these golden opportunities you would like information about:

- Reading partner
- Math partner
- Helping hand at school
- Mentor/penpal
- Chess/checker partner
- Share your hobby
- Classroom speaker or resource person
- District citizen advisory committees
- Other (list) _____

Return to:
Pasco School District
Office of Public Affairs
1215 W. Lewis Street
Pasco WA 99301
Questions? Phone 546-2807

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Gold Card Registration

Name: Sherry Jensen
Address: 5610 Juniper
Phone: 547-0813
Date of Birth: 12/28/42

There are many ways you can enrich Pasco students' education and help our school with your experience, time, and care. Please check or circle which of these golden opportunities you would like information about:

- Reading partner
- Math partner
- Helping hand at school
- Mentor/penpal
- Chess/checker partner
- Share your hobby
- Classroom speaker or resource person
- District citizen advisory committees
- Other (list) _____

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Pasco School District #1
Sherry Jensen
Member's Name

V.I.P. Gold Card

Sandra L. Hill
Sandra L. Hill, superintendent



This Pasco School District "Gold Card" is for:

- Pasco residents 60 years and older;
- FREE admission to all Pasco School District events (concerts, plays, athletic events, etc., excluding playoff games);
- A \$2 lunch at any Pasco District School; (Please give a day's notice to school.)
- Pasco School District sponsored events in school facilities.

This card is to be used by the card holder only.
Questions? Phone 546-2807

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PERSONNEL DEPT.