



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908
(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: pdcc@pdcc.wa.gov • Website: www.pdcc.wa.gov

September 5, 2018

Sent electronically to Charles W. Lind, an attorney with Patterson, Buchanan, Fobes & Leitch, Inc. on behalf of the client Puyallup School District at "cwl@pattersonbuchanan.com"

Subject: Complaint filed by Maxford Nelson, PDC Case 37218

Dear Mr. Lind:

Enclosed is a copy of a letter sent to Maxford Nelson, with the Freedom Foundation, concerning a complaint filed with the Public Disclosure Commission (PDC) against your client, the Puyallup School District. The complaint alleged the Puyallup School District violated RCW 42.17A.555 by using school district facilities to process district employee voluntarily withheld payroll deductions, which were designated by the employee as contributions for the Washington Education Association/s Political Action Committee (WEA-PAC) and the National Education Association Fund for Children and Education (NEA-FCPE).

As noted in the letter to Mr. Nelson, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter. If you have questions, you may contact Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at jennifer.hansen@pdcc.wa.gov

Sincerely,

/s _____
Jennifer Hansen
Compliance Officer

Endorsed by,

/s _____
Barbara Sandahl, Deputy Director
For Peter Lavalley, Executive Director



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September 5, 2018

Delivered electronically to Maxford Nelson at "mnelsen@freedomfoundation.com"

Subject: Complaint regarding Puyallup School District, PDC Case 37218

Dear Maxford Nelson:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on June 20, 2018 and the additional information provided on August 22, 2018. Your complaint alleged that the Puyallup School District may have violated RCW 42.17A.555 by using school district facilities to process district employee voluntarily withheld payroll deductions, which were designated by the employee as contributions for the Washington Education Association's Political Action Committee (WEA-PAC), a political committee registered with the PDC, and the National Education Association Fund for Children and Education (NEA-FCPE).

PDC staff reviewed the allegations listed in your complaint, PDC statutes, rules, and PDC Interpretation #01-03, and the July 17, 2018 response from Charles W. Lind, an attorney with Patterson, Buchanan, Fobes & Leitch, Inc. on behalf of the client Puyallup School District. As a result of staff's review, we found the following:

- RCW 42.17A.555 prohibits the use of public facilities to support or oppose candidates and ballot propositions, including the use of school district resources, equipment and employees.
- The Commission adopted PDC Interpretation 01-03, *Guidelines for School Districts in Election Campaigns*, which provides information concerning the use of public facilities including activities that are permitted or prohibited, activities which are part of the "normal and regular conduct" of the school district, and other general considerations.
- Mr. Lind stated that under Washington State law, public employers, including school districts and the Puyallup School District (PSD), are permitted to process authorized deductions from the wages or salary of district employees to be used for a specific purpose, including withholdings designated by the employee to be a contribution to a political committee. He stated the act of PSD processing authorized employee deductions from the wages or salary of district employees, does not constitute violations of RCW 42.17A.555 by "assisting a campaign for election" or "the promotion of opposition to any ballot" in violation .
- Mr. Lind stated under state law, the PSD has express authority to make withholdings or deductions in order to disburse funds from salaries or wages from district employees in accordance with the employee's request, provided the district receives written request from at least ten percent of the employees. The district then makes the requested deductions as authorized by the employee, subject to the limitations or district equipment or personnel.

- Mr. Lind stated PSD is required to process those employee authorized withholdings, and to disburse those funds as directed by the school district employee. In addition, PSD is authorized to withhold or divert a portion of the employee's wages or salaries for contributions to committees with the written authorization of the employee, in accordance with RCW 42.17A.495(3). He added that the Commission adopted a form to be completed by the employees, which provides the required information to be included on the form in order for the employee's deductions to be properly documented, as noted in WAC 390-17-100.
- Finally, Mr. Lind stated there is nothing in the PDC statutes or rules that expressly prohibits a public employer from processing employee authorized payroll deductions to be used for political purposes. He went on to add that "A logical inference is that the Legislature and the Commission consider contributions or deductions from an employee's wage/salary to be private funds, not public funds under Section .500, and that the withholding of such for political purposes flows from an employee's individual decision and written authorization that does not constitute prohibited public agency conduct under Section .555."

The Puyallup School District processes employee payroll deductions and other employee voluntary withholdings as part of the "normal and regular conduct" of the school district. No evidence was found that the district provided any preferential treatment concerning district employee's withholding of funds designated for the WEA-PAC and NEA-FCPE, and any other district employee withholdings for charitable contributions, deferred compensation, etc.

Staff has determined that in this instance, no evidence supports a finding of a material violation warranting further investigation. The PDC has closed the matter, and will not be conducting a more formal investigation into your complaint or pursuing further enforcement action in this case. If you have questions, you may contact Jennifer Hansen at 1-360-586-4560 toll-free at 1-877-601-2828, or by e-mail at jennifer.hansen@pdc.wa.gov.

Sincerely,

/s _____
Jennifer Hansen
Compliance Officer

Endorsed by,

/s _____
Barbara Sandahl
Deputy Director
For Peter Lavallee
Executive Director

cc: Charles W. Lind