STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION
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February 23, 2016

ROGER LENK
1817 N RD 76
PASCO WA 99301

Subject: Complaint filed against Officials of Pasco School District No. 1 and Pasco Citizens for Better Schools, PDC Case No. 2331 (Formerly Case No. 13-097)

Dear Mr. Lenk:

PDC staff has completed its investigation of your complaint received on June 9, 2013 and supplemented on June 24, 2013 and December 17, 2013. Your complaint alleged violations of RCW 42.17.130 and RCW 42.17A.555 by Pasco School District Superintendent Saundra Hill and other Pasco Schools officials for using or authorizing the use of public facilities to assist a candidate's campaign, or to promote or oppose a ballot proposition. You further alleged violations of RCW 42.17A.235 and RCW 42.17A.240 by Pasco Citizens for Better Schools, for failing to file complete, accurate reports of monetary contributions.

Your complaint was considered in light of the following statutes and administrative rule:

RCW 42.17A.555[1] states, in part:

> "No elective official nor any employee of his office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition.
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> ...[T]he foregoing provisions of this section shall not apply to the following activities:
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> > ...(3) Activities which are part of the normal and regular conduct of the office or agency."

WAC 390-05-271 states that *"(1) RCW 42.17A.555 does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the*

[1] Prior to January 1, 2012, RCW 42.17A.555 was codified as RCW 42.17.130.

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

RCW 42.17A.235 and **RCW 42.17A.240** require political committees to file timely, complete, and accurate reports of contributions and expenditures, including the name and address of every person making a contribution of more than $25 in the aggregate.

PDC staff reviewed your original and supplemental complaints, responses to the allegations received from counsel to Pasco School District officials and counsel to Pasco Citizens for Better Schools, PDC contribution reports and data filed by Pasco Citizens for Better Schools, correspondence received from the committee, and PDC staff's telephone records. Finally, PDC staff conducted interviews under oath with Howard Roberts, Pasco School District Director of Fiscal Services, Pasco School District Director of Public Affairs Leslee Caul, and Pasco School District Superintendent Saundra Hill. As a result of staff's investigation, we found the following:

Alleged Violations of RCW 42.17.130 and RCW 42.17A.555 by Pasco School District Officials

- In your complaint, you alleged that Pasco Schools officials coordinated district activities with the Pasco Citizens for Better Schools political committee, including to facilitate payroll deductions from school district employees for campaign contributions, to provide the committee with public records, to appoint a "pro"-bond measure committee for the Franklin County voters' pamphlet (and generally facilitate the inclusion of arguments supporting the bond in the voters' pamphlet), to provide the citizens committee with informational materials concerning the bond, to appear at open public meetings of other local agencies alongside citizens committee activists, and to distribute voter registration packets using district facilities.

  We found that on one occasion, Superintendent Saundra Hill used her district email address to forward an invitation for a Pasco Citizens for Better Schools election night celebration to certain PSD staff. With the exception of this email, we found that in each instance of alleged coordination, district officials acted within the normal and regular conduct of their office and agency, and did not use or authorize the use of public facilities to promote a ballot proposition.

- You further alleged that in interviews with Pasco School District officials, and in the district's written and other informational activities, the officials failed to make an objective and fair presentation of the facts concerning the 2013 bond measure. You alleged that the officials made statements connecting real estate valuation to area schools, and repeatedly emphasized potential negative outcomes to the failure of the bond, including double-shifting or a multi-track

school year, with the understanding that this emphasis served to promote a "yes" vote on the bond.

We found evidence that multi-track year round and double-shift schedules were policy options that were well considered by the Pasco School Board, and presented to the public in an objective and fair manner in district communications. While certain bond-related communications appeared to minimize the impact of the bond to taxpayers, or emphasized the district's frugality in designing, building and operating its facilities, on balance these statements were outweighed by the neutral, factual information presented. In general, we found that the district's elections-related communications appeared to follow the agency's normal and regular conduct, and constituted an objective and fair presentation of the facts concerning the bond measure, including the projects it would fund.

- You alleged that Pasco School District officials used public facilities to co-host an October 24, 2013 candidate forum for school board candidates with the Pasco Association of Educators. We found that that all of the 2013 candidates received letter invitations to participate from the Pasco Association of Educators, all candidates were listed on publicity materials for the event, and all candidates participated. Accordingly, we found that the event constituted an equal access-nondiscriminatory use of public facilities for political purposes, allowed under WAC 390-05-271 and RCW 42.17A.555.
- Staff's investigation found some evidence that Pasco School District officials used agency email in a manner that appeared to assist a candidate's campaign, including to assist incumbent school board members in filing for re-election. However, we found that the uses in question occurred outside of the five-year statute of limitations in RCW 42.17A.770.
- You alleged that district officials used public facilities to conduct survey research in a manner prohibited by RCW 42.17.130 and RCW 42.17A.555. We found that Pasco School District officials, led by Superintendent Saundra Hill, conducted two community surveys in the fall of 2011 and fall of 2012 that appeared designed to support a ballot proposition by seeking to learn the optimum timing of a bond election, and the level of taxation that would receive voter approval. A separate survey sponsored in September of 2009 contained similar questions, however it fell outside of the five-year statute of limitations in RCW 42.17A.770.

Alleged Violations of RCW 42.17A.235 and RCW 42.17A.240 by Pasco Citizens for Better Schools

- You alleged that the Pasco Citizens for Better Schools political committee failed to accurately identify the source of contributions of $1,000 received on September 26, 2012 and $15,968.83 received on October 24, 2012. Both contributions were listed in the committee's reports as being made by Pasco Citizens for Better Schools to Pasco Citizens for Better Schools.

> Staff's investigation found that Pasco Citizens for Better Schools substantially complied with the applicable requirement to disclose carry-forward balances in contributions from prior calendar years in lump sum, rather than attributing the carry-forward to individual contributors. The committee did not comply entirely with the requirement to disclose the source of these contributions when they were first received, and failed to file an indeterminate number of C-3 Monetary Contributions reports. However, the reports in question were due outside the five-year statute of limitations in RCW 42.17A.770, and action on the late filings is now barred.

After a careful review of the alleged violations and relevant facts, PDC staff have concluded our investigation. Previously, PDC staff notified you that on December 4, 2015, staff issued administrative charges against Pasco School District Superintendent Saundra Hill regarding survey research sponsored in the fall of 2011 and fall of 2012 for the partial purpose of promoting a ballot proposition. On Friday, February 12, 2016, staff notified you that Superintendent Hill had waived her right to a hearing on the charges and had acknowledged violations of RCW 42.17.130 and RCW 42.17A.555 for authorizing the survey research. Because staff's investigation has not revealed evidence of other material or actionable violations of laws or regulations under the Commission's jurisdiction, I am dismissing your complaint against officials of Pasco School District Number 1 and Pasco Citizens for Better Schools with the concurrence of the Chair of the Public Disclosure Commission.

I sincerely regret how long it has taken to bring this matter to conclusion, and appreciate your patience as PDC compliance staff members have worked their way through the backlog of complaints from prior elections.

If you have questions, please contact Tony Perkins, PDC Compliance Officer, at (360) 586-1042, toll-free at 1-877-601-2828, or by e-mail at tony.perkins@pdc.wa.gov.

Sincerely,

Evelyn Fielding Lopez
Executive Director

cc: Pasco School District Superintendent Saundra Hill, c/o Steve DiJulio, Foster Pepper PLLC
Pasco Citizens for Better Schools, c/o Leland Kerr, Kerr Law Group