



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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October 7, 2016

MIKE TIUFEKCHIEV
WASHINGTON STATE REPUBLICAN PARTY
11811 NE 1ST ST
BELLEVUE WA 98005

MikeT@wsrp.org

BY ELECTRONIC AND U.S. MAIL

Subject: Complaint filed against Mike Wilson, PDC Case No. 1970

Dear Mr. Tiufekchiev:

PDC staff has completed its investigation of your complaint received on December 22, 2015, alleging that Mike Wilson violated RCW 42.17A.555 by using the facilities of the Everett School District to assist his campaign for State Representative in the 44th Legislative District in the November 4, 2014 general election.

Your complaint was considered in light of the following statute, rules, and Public Disclosure Commission Interpretation:

RCW 42.17A.555 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.

...[T]he foregoing provisions of this section shall not apply to the following activities:

...(3) Activities which are part of the normal and regular conduct of the office or agency.”

WAC 390-05-273 defines “normal and regular conduct” as conduct that is 1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and 2) usual, i.e., not effected or authorized in or by some extraordinary means or manner.

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 facilities of a public office or agency.”*

In **PDC Interpretation 01-03, *Guidelines for School Districts in Election Campaigns***, the Public Disclosure Commission stated that under RCW 42.17A.555, *“Students may originate school projects for credit that promote or oppose candidates or ballot measures [and] may use public resources to carry out school projects promoting or opposing ballot measures, to the extent that such resources are regularly and routinely made available for other student projects.”*

PDC staff reviewed your complaint, and responses to the complaint submitted by Mike Wilson. Staff reviewed an investigative report and investigator’s notes concerning the Everett School District’s internal investigation of alleged prohibited use of public facilities by Mike Wilson and other district staff. Staff reviewed letters of reprimand or direction issued by Everett School District administrators to Mike Wilson, and to employees Steve Bertrand, Robert Polk, and Eric Hruschka. Staff reviewed contemporaneous emails sent and received with Everett School District addresses and through district servers by Mike Wilson, Steve Bertrand, and other district staff and officials. Staff reviewed written information provided by district administrators and employees for this investigation. Finally, staff conducted interviews under oath with Mike Wilson and Steve Bertrand. As a result of staff’s investigation, we found the following:

- In January and February of 2014, Mike Wilson made use of Everett School District email to assist his campaign. The second occurrence included one email sent during Mr. Wilson’s contracted work hours. In both instances, Mr. Wilson did not initiate the email exchanges, however he continued the exchanges for a campaign purpose: organizing a campaign photo shoot, and inviting attendance at a campaign meeting.
- The January 2014 email exchange that Mr. Wilson conducted through his school district address concerned a campaign photo shoot on the campus of Cascade High School. Mr. Wilson testified that the photo shoot involved eight students, and occurred after his contracted work day and outside the school building, though still on school property.
- On November 4, 2014, Everett School District administrators issued a letter of reprimand to Mr. Wilson regarding his use of agency facilities to assist his campaign. The letter stated that Mr. Wilson’s actions were prohibited by RCW 42.17A.555, and also contravened Everett School Board Policy. The letter concluded with the following direction: *“Effective immediately, you are required to comply with all laws and policies relating to the use of district facilities.”* Mr. Wilson acknowledged the district’s reprimand and direction by signing his name to the letter on November 3, 2014. In an interview with PDC staff, he acknowledged that his use of agency email to assist his campaign was a mistake, one that he would not repeat.

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- PDC staff found no evidence to support the remaining allegations in your complaint, including that Mr. Wilson used or authorized the use of Everett School District facilities for campaign phone banking purposes; that he used district email to solicit another teacher to cover his study hall duties while he attended a campaign meeting; used district email during school hours to transmit documents for use in his campaign; or used district facilities to organize canvassing in support of his campaign by student athletes.
- Regarding the allegation of prohibited campaign activity involving student athletes, PDC staff noted that two other district employees, coach Steve Bertrand and Athletic Director Robert Polk, received written letters of reprimand from the district for their roles in organizing and authorizing the canvassing activity in support of Mr. Wilson.

After a careful review of the alleged violations and relevant facts, PDC staff have concluded our investigation. While RCW 42.17A.555 prohibits the use of agency email to organize campaign activity, in light of the facts of this case, PDC staff does not believe enforcement action against Mr. Wilson is warranted in this instance. Rather, we believe the Everett School District's disciplinary actions toward Mr. Wilson and other employees who used or authorized the use of public facilities to assist Mr. Wilson's campaign represent the appropriate resolution of this matter.

Because staff's investigation has not revealed evidence of a violation that rises to the level of enforcement, I am dismissing your complaint against Mike Wilson with the concurrence of the Chair of the Public Disclosure Commission. Today, PDC staff issued written warnings to Mr. Wilson, Mr. Bertrand, and Mr. Polk concerning the prohibition in RCW 42.17A.555 against the use of public facilities to assist a candidate's campaign, and a letter to Everett School District Superintendent Gary Cohn urging him to provide proper training to district employees concerning their obligations under state law.

If you have questions, please contact me at (360) 664-2735 or toll-free at 1-877-601-2828 or by email at evelyn.lopez@pdc.wa.gov.

Sincerely,


Evelyn Fielding Lopez
Executive Director

cc: Mike Wilson