



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.pdca.wa.gov

To: Commission Members

From: Kurt Young, Compliance Officer

Date: April 24, 2017

Re: Request for Review/Reconsideration from Katherine Davis: PDC Case 10043

Agenda Item

Katherine Davis is seeking a reconsideration by the Commission of a final order entered in a Brief Enforcement Hearing held January 20, 2017 in PDC Case 10043. The reconsideration is scheduled for the April 27, 2017, Commission meeting.

Background

- Ms. Davis is an incumbent School Director for the Hockinson School District, since being appointed to that position in November of 2011.
- As an incumbent School Director, Ms. Davis was required to file a Personal Financial Affairs Statement (F-1 report) disclosing 2015 financial activities no later than April 15, 2016. Ms. Davis electronically filed an F-1 report on December 11, 2016, prior to the Brief Enforcement hearing, but after the hearing notice had been mailed to her.
- On January 20, 2017, a Brief Enforcement Hearing was held in which the Presiding Officer found Ms. Davis in violation of RCW 42.17A.700 for failing to timely file the F-1 report. Ms. Davis was assessed a \$150 penalty in accordance with the penalty schedule adopted by the Commission, payable within 30 days of the date of the Order.
- The initial Order was entered February 3, 2017.

Request for Review/Reconsideration

- On March 21, 2017, Ms. Davis sent an email to the PDC through the Freshdesk Portal after receiving the Order for the January 20, 2017 Brief Enforcement hearing, and attached two letters. One letter from Ms. Davis was dated March 21, 2017, and requested that the Commission review the \$150 penalty assessed against her. The other letter from Ms. Davis was dated March 22, 2017, and offered mitigating factors that she stated contributed to the late filing of her F-1 report for 2015.

- Mr. Davis stated that her request for review was delayed due to the recent sale of their home and a slow mail delivery by the US Postal service to her new forwarding address. She stated that their house sold in late November of 2016, and they relocated outside of the Hockinson School District boundaries in late December of 2016.
- Ms. Davis stated that they “maintained a temporary residency at the sold location until the end of January for moving conveniences but request for mail forwarding was submitted late December.” She resigned her School Director position in the Hockinson School District effective January 31, 2017, which coincided with their move into a new residence at the end of January 2017.
- Ms. Davis stated that the Order mailed out by PDC staff on February 3, 2017, did not arrive at the new mailing address until Tuesday March 14, 2017, due to delays with the US Postal Service in timely forwarding her mail to the new address. Ms. Davis stated that on March 16, 2017, she contacted PDC staff by telephone and left a voice message with PDC staff for further information about the Order.
- In the second letter, Ms. Davis stated that she attempted to file the F-1 report electronically using the F-1 filing application, and she thought she had successfully submitted the form, but later discovered she did not complete the final step to properly transmit the F-1 report. She also stated that her family has had some health issues that “contributed to my oversight in filing” the F-1 report.

Staff Recommendation

- The initial Order was entered February 3, 2017, mailed out by PDC staff that day, and constituted proper service under the Administrative Procedures Act. The 21-business days listed in the Order as the timeframe to request either a review or reconsideration expired on March 7, 2017, one week prior to Ms. Davis receiving the Order that was forwarded to her new mailing address.
- Staff confirmed that Ms. Davis’s resignation as School Director for the Hockinson School District took effect January 31, 2017, based on School Board documents reviewed on the district website.
- While the timeframe to request either a review or reconsideration expired, staff believes there are mitigating circumstances that appear to warrant entertaining a motion to reconsider the Final Order in this instance.

Staff Comments

Attachments:

- Two letters from Katherine Davis
- Findings of Fact, Conclusions of Law, and Order Imposing Fine (PDC Case 10043)

March 22, 2017

Re: Letter of Explanation for Reconsideration for PDC Order, Case #10043 Katherine Davis

Attn: Kurt Young

Dear Mr. Young:

Thank you for taking time to consider my request at this late date. My Delayed request is due to the recent sale of our home and slow mail deliveries to my forwarding address.

Our home sold in late November of 2016 and we relocated outside my district boundaries late December. We maintained a temporary residency at the sold location until the end of January for moving conveniences but request for mail forwarding was submitted late December. My School Board position ended with our official move the end of January.

Forwarding mail delays caused the letter dated February 3, 2017 to arrive to me on Tuesday March 14, 2017. March 16, 2017 I left a message with the PDC office for further information.

I am hoping you will consider my appeal understanding my delays in receiving the Order.

Thank you again for your consideration,

Katherine Davis

360-624-4116

March 21, 2017

Re: Letter of Explanation for late PDC Filing

Attn: Kurt Young

Dear Mr. Young,

Thank you for your consideration for my letter of explanation regarding my failure to file my 2016 PDC form.

My failure to file was simply a lack of understanding that I had NOT completed the final step required to submit my form. I was under the impression that the saved document had been submitted when I moved to the next screen.

During 2016 my husband received a cancer diagnosis with two hospitalizations and surgery as well as care for my mother who has been receiving cancer treatments for the past two and a half years. I am sure these things contributed to my oversight in filing with proper submission.

My apologies and I greatly appreciate any consideration you might have for a fine reduction.

Thank you again,

Katherine Davis

360-624-4116



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February 3, 2017

Katherine Davis
19307 NE Davis Road
Brush Prairie WA 98606

Subject: PDC Order, Case 10043

Dear Ms. Davis:

Enclosed is a copy of the Public Disclosure Commission's Order Imposing Fine that was entered in the above-referenced case.

At the January 20, 2017, Brief Enforcement hearing, the Presiding Officer assessed a total civil penalty of \$150 in accordance with WAC 390-37-160, that is payable within 30 days of the date of this Order.

The \$150 penalty is payable no later than March 4, 2017. Please make the check or money order payable to the WA State Treasurer, and mail the payment to the following:

WA State Treasurer - Public Disclosure Commission
Financial Office
PO Box 41465
Olympia, WA 98504-1465

Thank you for your prompt attention to this matter. If you have questions, please contact me by email at kurt.young@pdc.wa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Young", written over a horizontal line.

Kurt Young
Compliance Officer

Enclosure



Public Disclosure Commission
Shining Light on Washington Politics Since 1972



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BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON

Katherine Davis
19307 NE Davis Road
Brush Prairie WA 98606

In Re Compliance with RCW 42.17A

Katherine Davis

Respondent.

PDC Case 10043

Findings of Fact,
Conclusions of Law, and
Order Imposing Fine

A brief enforcement hearing (brief adjudicative proceeding) was held on January 20, 2017, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider whether the Respondent violated RCW 42.17A.700 by failing to timely file a Personal Financial Affairs Statement (F-1 report) as an incumbent official, which was due to be filed not later than April 15, 2016, disclosing financial activities for calendar year 2015.

The hearing was held in accordance with Chapters 34.05 and 42.17A RCW and Chapter 390-37 WAC. A brief enforcement hearing notice was sent to Katherine Davis on December 1, 2016. Commission Chair Anne Levinson was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. The Respondent did not participate in the hearing or submit any written materials.

Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent is an incumbent School Director for the Hockinson School District, since being appointed to that office in November of 2011.
2. As an incumbent School Director, the Respondent was required to file an F-1 report no later than April 15, 2016.
3. The Respondent filed the missing F-1 report on December 11, 2016, prior to the date of the hearing.
4. The Respondent has no prior PDC violations.

CONCLUSIONS OF LAW

Based on the above facts, as a matter of law, the Presiding Officer concludes as follows:

1. This matter was duly and properly convened and all jurisdictional, substantive and procedural requirements have been satisfied.
2. The Respondent violated RCW 42.17A.700 by failing to timely file the F-1 report by April 15, 2016.

ORDER

ON the basis of the foregoing Findings of Fact and Conclusions of Law,

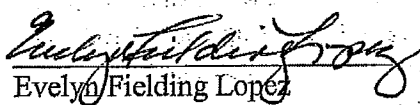
IT IS HEREBY ORDERED that the Respondent is assessed a civil penalty of \$150, in accordance with the F-1 penalty schedule set forth in WAC 390-37-160, payable within 30 days of the date of the Order.

In the event the Respondent fails to pay the \$150 penalty within 30 days of the date of the Order, PDC staff is directed to refer the matter to DES for collection of the amount owed within 10 days.

This is an **Initial Order** of the Public Disclosure Commission.

Entered this 3rd day of February, 2017.

Public Disclosure Commission


Evelyn Fielding Lopez
Executive Director

I, <u>Kurt Young</u> , certify that I mailed a copy of this order to the Respondent/Applicant at his/her respective address postage pre-paid on the date stated herein.	
<u>Kurt Young</u> Signed	<u>2/3/2017</u> Date

Respondent's Appeal Rights

REVIEW OF INITIAL ORDER - BY THE COMMISSION

The presiding officer will issue an initial order following a brief enforcement hearing. Any party may request the Commission **review** an initial order. Parties seeking the review must:

- Make the request orally or in writing, stating the reason for review (*WAC 390-37-144*).
- Deliver the request so it is received at the Commission office within **TWENTY-ONE (21) BUSINESS DAYS** after the postmark date of the initial order.

A Respondent does not need to pay a penalty until after the Commission rules on the request. If the Commission is unable to schedule a meeting to consider the request within twenty (20) business days, the initial order becomes a **final order** and the request will automatically be treated as a **request for reconsideration** of a final order (unless the party advises the Commission otherwise, such as by withdrawing the request). See more information on reconsideration below.

If the request for review was an oral request, it must now be confirmed in writing. The matter will be scheduled before the full Commission as soon as practicable. If the Commission does not receive a request for review within twenty-one (21) business days, the initial order will automatically become a **final order**. At that point, the Respondent is legally obligated to pay the penalty unless reconsideration has been sought or the matter has been timely appealed to Superior Court. *RCW 42.17A.755; RCW 34.05.470; RCW 34.05.570.*

RECONSIDERATION OF FINAL ORDER – BY THE COMMISSION

Any party may ask the Commission to **reconsider** a final order. Parties seeking reconsideration must:

- Make the request in writing;
- Include the specific grounds or reasons for the request; and
- Deliver the request to the PDC office so it is received within **TWENTY-ONE (21) BUSINESS DAYS** of the date that the Commission serves this order upon the party. *WAC 390-37-150.*
- Note: the date of service by the Commission on a party is considered the date of mailing by U.S. mail if the order is mailed, the date the Order is emailed if agreed to by the Respondent, or the date received if the order is personally served. *RCW 34.05.010(19).* (The Commission orders are generally mailed via U.S. mail or emailed.)

Within twenty (20) business days after the petition for reconsideration is filed, the Commission may either act on the petition or notify the parties in writing of the date by which it will act. If neither of these events happens within twenty business days, the Commission is deemed to have denied the petition for reconsideration. WAC 390-37-150.

A Respondent is not required to ask the Commission to reconsider a final order before seeking judicial review by a superior court. RCW 34.05.470(5).

FURTHER APPEAL RIGHTS – SUPERIOR COURT

A **final order** issued by the Public Disclosure Commission is subject to **judicial review** under the Administrative Procedure Act (APA), chapter 34.05 RCW. *RCW 42.17A.755*. The procedures are provided in the APA at RCW 34.05.510 - .574.

ENFORCEMENT OF FINAL ORDERS

If **enforcement** of a final order is required, the Commission may seek to enforce a final order in superior court under RCW 42.17A.755 - .760, and recover legal costs and attorney's fees if a penalty remains unpaid and no petition for judicial review has been filed. This action will be taken without further order by the Commission.