



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:
pdc@pdc.wa.gov • Website: www.pdc.wa.gov

March 26, 2019

Delivered electronically to Clifford Foster, an attorney with Porter Foster Rorick, LLP

Subject: Peninsula School District Amended Complaint Return Cover Letter, PDC Case 44855

Mr. Foster:

Below is a copy of an electronic letter sent to Daniel White concerning the complaint he filed with the Public Disclosure Commission (PDC) against your client, the Peninsula School District. As noted below in the electronic letter to Mr. White, the PDC will not be conducting a more formal investigation into these allegations or taking enforcement action in this matter.

However, PDC staff is reminding officials of the Peninsula School District concerning the importance of communicating factual bond and levy election related information to all citizens of the district, without including potential statements of opinions, as required by PDC laws, rules and PDC Interpretation #01-03.

Based on this information, the PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877-601-2828, or by e-mail at kurt.young@pdc.wa.gov

Sincerely,

Endorsed by:

s/ _____
Kurt Young, Compliance Officer

s/ _____
BG Sandahl, Deputy Director for
Peter Lavallee, Executive Director



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

March 26, 2019

Delivered electronically to "dwhite0221@gmail.com"

Subject: Amended complaint return regarding Peninsula School District, PDC Case 44855

Dear Mr. White:

The Public Disclosure Commission (PDC) has completed its review of the complaint you filed on January 8, 2019. Your complaint alleged that officials of the Peninsula School District (PSD) may have violated RCW 42.17A.555 by using school district facilities to produce and distribute information that supported a PSD bond measure that appeared on the April 24, 2018 special election ballot.

PDC staff reviewed the allegations listed in your complaint, the statute, rules, and PDC Interpretation #01-03 Guidelines for School Districts in Election Campaigns, and the response from Clifford Foster, an attorney with Porter Foster Rorick, LLP on behalf of the PSD. As a result of staff's review, we found the following:

- RCW 42.17A.555 prohibits public agencies from using or authorizing the use of public facilities, directly or indirectly, for the purpose of promoting or opposing any ballot measure. This prohibition does not apply to activities that are part of the normal and regular conduct of the public agency.
- On February 8, 2018, the PSD adopted Resolution No. 18-01 placing a \$220 million school bond project on the April 24, 2018 ballot.
- The documents provided by you that you obtained from PSD indicated that the district purchased 17 Facebook ads from Elan Financial Services, a school district ISP vendor on October 4, 2017, costing a total of \$2,500. Several of the advertisements were related to the April 24, 2018 bond measure and included information about upcoming PDC Superintendent Community Forums about the bond, Community Tours of the PSD facilities, and facts about the district's maintenance and operations.
- Much of the information reviewed by staff addressed the growth experienced in the area, the corresponding increases in student population, and subsequent student overcrowding issues which created the need for the bond measure to build two new elementary schools.

- The information reviewed stated the district was using 66 portables to accommodate elementary school students and that one in three elementary school students are attending class in portable classrooms.
- On March 13, 2018, PSD paid DS Political, LLC \$8,500 that included a digital banner advertisement related to the April 24, 2018 bond measure that stated: *“The Peninsula School Bond ensures all students learn in safe, modern classrooms”* and then linked the reader to the district’s website for more information about the proposed bond measure.
- In 2018, the PSD distributed 103 social media posts and 91% of such posts did not reference or mention a district ballot or bond measure, and approximately 96% of the district’s communications budget was expended for non-bond related messages and communications. In addition, a review of the district’s 2018 social media advertisements and posts indicated that only nine out of 103 social media posts contained bond related information, which totaled only eight percent of all posts.
- Mr. Foster stated that the complainant alleged PSD spent public funds to promote the bond measure, and that he provided information about the Pierce County Library System case involving the library district using public funds to boost a post for a TNT newspaper article in support of a library ballot measure. He stated this case was not at all like that case and he noted that the ad purchases were part of PSD’s “normal and regular conduct” under subsection (3) of the statute and WAC 390-05-272 that provided access to objective and neutral factual information about the April 24, 2018 bond measure.”
- Mr. Foster stated the expenditures were for “purchased informational notices sent to Facebook subscribers residing in the District” concerning upcoming school district activities and events. Those activities provided information about the upcoming bond measure and included a public “Q and A forum”, a community tour of school district facilities, and a “Q and A section on the District’s own Facebook page during the Fall of 2017 and early 2018.”
- Mr. Foster stated that the information distributed by PSD was “intended to direct viewers to District community events or information on the District’s own Facebook page providing neutral, factual information about District facilities and the proposed use of funds if the April 24, 2018 bond measure were to pass.” He stated that the content of the information in the advertisements listed in complaint Exhibits 1-3, for example were designed to inform recipients where to find information about the bond measure or attend events where information is provided about the bond measure.
- Mr. Foster stated the information provided in the communications was an “objective and fair presentation of the facts regarding district needs and the anticipated impact of a ballot measure”, and the district funds expended for the communications were “authorized and consistent” with PDC statutes, rules and Interpretation 01-03.
- Mr. Foster stated that the purpose of the flyer was not to influence the public to vote in any manner, and that PSD routinely encourages citizens to vote in other elections. He provided examples that included 14 PSD social media posts between 2014-2018 encouraging citizens to vote in various elections, and nine PSD emails that were produced and distributed between 2011-2018 that included a vote message to recipients that included district newsletters, website & reader boards.

- Staff’s review of the information considered factors such as the timing, tone, and tenor of the communications, the “normal and regular” conduct of the district, and whether the information presented in the materials was an objective and fair presentation of the facts.
- PDC staff’s review of the information found that most of the content was a fair and objective presentation of the facts being distributed in accordance with PDC Interpretation #01-03 Guidelines for School Districts in Election Campaigns.
- There was one communication that appeared to be a matter of opinion rather than facts as noted above that stated *“The Peninsula School Bond ensures all students learn in safe, modern classrooms.”*

Staff’s review found that officials of the Peninsula School District produced and distributed information about the April 24, 2018 bond measure and communicated that information in their normal and regular manner. Based on these findings, and other than the one exception staff noted above, the information distributed by the district was an objective and fair presentation of the facts which staff has determined in this instance, does not warrant further investigation.

However, PDC staff is reminding officials of the Peninsula School District concerning the importance of communicating factual bond and levy election related information to all citizens of the district, without including potential statements of opinions for all future elections, as required by PDC laws, rules and PDC Interpretation #01-03.

Based on this information, the PDC has dismissed the complaint in accordance with RCW 42.17A.755(1). If you have questions, you may contact me at (360) 664-8854, toll-free at 1-877601-2828, or by e-mail at kurt.young@pdc.wa.gov

Sincerely,

Endorsed by:

s/ _____
Kurt Young, Compliance Officer

s/ _____
BG Sandahl, Deputy Director for
Peter Lavalley, Executive Director

cc: Clifford Foster, legal counsel for Peninsula School District

