



**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

August 30, 2018

Sent electronically to Parker A. Howell, an attorney with Porter, Foster, Rorick, LLP on behalf of the client, Federal Way School District at "parker@pfrwa.com"

Subject: Complaint filed by Maxford Nelson, PDC Case 37216

Dear Parker Howell:

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 the Federal Way School District alleging violations of RCW 42.17A.555 by using school district facilities to process employee voluntarily withheld contributions designated 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@pdc.wa.gov

Sincerely,

/s_____
Jennifer Hansen
Compliance Officer

Endorsed by,

/s_____
Barbara Sandahl, Deputy Director
For Peter Lavalley, Executive Director



**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

August 30, 2018

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

Subject: Complaint regarding Federal Way School District, PDC Case 37216

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 29, 2018. Your complaint alleged that the Federal Way School District may have violated RCW 42.17A.555 by using school district facilities to process employee voluntarily withheld contributions designated 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 relevant statutes, rules and Interpretation #01-03, and the July 3, 2018 response from Parker A. Howell, an attorney with Porter, Foster, Rorick, LLP on behalf of the client, the Federal Way 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. Howell stated that under Washington State law, the Federal Way School District (FWSD) is expressly authorized to make withholdings or deductions in order to disburse funds from salaries or wages to employees of school districts, upon written request of its employees in accordance with RCW 42.17A.495(3). In addition, he stated the Commission adopted an employee withholding authorization form to be completed by the FWSD employees in accordance with WAC 390-17-100, which provides employers with the required information necessary in order for the employee's deductions to be properly documented and in compliance with the rule.
- Mr. Howell stated FWSD's policies do not prohibit the school district from withholding or diverting wages for contributions to political committees in accordance with RCW 42.17A.495(3), but noted that its policy states that school district facilities are not "....used to assist in any candidate's campaign or to support or oppose any ballot measure." In addition, FWSD's policy states that "school property (including equipment and real property) and school time, supported by public funds, may not be used for political purposes."

- Mr. Howell stated the collective bargaining agreement contract between FWSD and the Federal Way Education Association (FWEA) provide authority for employee payroll deductions. He stated that the FWEA gives "written notice to the District of the dollar amount of annual dues (including special assessments) required by the Association, including affiliate dues." In addition, the contract requires the district to process district staff authorized withholdings and other payroll deductions, and states that a "deduction will made from each monthly pay warrant in twelve (12) equal amounts for dues, representation fees, or charitable contributions."
- Finally, Mr. Howell stated that while RCW 42.17A.555 prohibits the use of a public office or an agency's facilities to support or oppose any candidate or ballot proposition, it does not apply in this instance to "activities which are part of the normal and regular conduct of the office or agency" as further defined under WAC 390-05-273 and PDC Interpretation 01-03.

The Federal Way 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: Parker Howell