



**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

September 10, 2018

Sent electronically to William A. Coats, an attorney with Vandenberg, Johnson & Gandara, LLP on behalf of the client Bethel School District at "wcoats@vjglaw.com"

Subject: Complaint filed by Maxford Nelson, PDC Case 37213

Dear Mr. Coats:

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 your client, the Bethel School District. The complaint alleged the Bethel School District violated RCW 42.17A.555 by using school district facilities to process district employee voluntarily withheld payroll deductions, which were designated by the employee as contributions 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



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September 10, 2018

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

Subject: Complaint regarding Bethel School District, PDC Case 37213

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 September 3, 2018. Your complaint alleged that the Bethel School District (BSD) may have violated RCW 42.17A.555 by using school district facilities to process district employee voluntarily withheld payroll deductions, which were designated by the employee as contributions 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 statutes, rules, and PDC Interpretation #01-03, and the August 30, 2018 response from William A. Coats, an attorney with Vandenberg, Johnson & Gandara, LLP on behalf of the client Bethel 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. Coats cited RCW 28A.405.400 which states, in part, that school districts are authorized to disburse funds from the salaries or wages of school district employees. The statute requires the district to receive written requests from at least ten percent of the employees to make deductions to the same organization, subject to the limitations of district equipment or personnel and prohibits the employer from deriving any financial benefit from such deductions. He stated that the statute mandates the Bethel School District (BSD) make the deductions as directed by employees when at least 10% of its employees submit a written request form.
- Mr. Coats stated that RCW 42.17A.555 "prohibits an elected official or his/her office from promoting a particular candidate or ballot proposition." He stated that the employee deductions did not assist or "target a particular election", or support or oppose any candidate or ballot proposition. In addition, he stated the employee withheld deductions are collected throughout the calendar year, and that the wages withheld for contributions "fit the definition of 'normal and regular conduct of a public office or agency' in accordance with WAC 390-05-273."

- Finally, Mr. Coats stated that RCW 42.17A.495(3) provides, in part, that no employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. Mr. Coats stated that "in *State ex rel. Evergreen v. WEA*, the Court analyzed the statute's application to school districts and the WEA and found that school districts can divert part of an employee's wages to a political committee, if it is done properly."

The Bethel 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 Lavalley
Executive Director

cc: William A. Coats, an attorney with Vandeberg, Johnson & Gandara, LLP