

RECEIVED

JAN 23 2012

WASHINGTON STATE PUBLIC DISCLOSURE COMMISSION

Public Disclosure Commission

**Complaints Relating to An Elected Official or
Candidate for Public Office
Must be in Writing and Signed by the Complainant Under Oath**

Revised Code of Washington 42.17.310 and Washington Administrative Code 390-37-040 require that a complaint filed with the Public Disclosure Commission, relating to an elected official or candidate for public office, be in writing and signed by the complainant under oath.

RCW 9A.72.085 states that when, under a law or rule of the State of Washington, a statement is required to be supported by an oath, the statement may be supported by an unsworn written statement, declaration, verification, or certificate which:

1. Recites that it is certified or declared by the person to be true under penalty of perjury;
2. Is subscribed by the person;
3. States the date and place of its execution; and
4. States that it is so certified or declared under the laws of the State of Washington.

Complaints relating to an elected official or candidate for public office will not be processed without a properly executed oath (or affirmation) or an acceptable unsworn written statement, declaration, verification, or certificate.

Following is an acceptable format for a certification in support of a written complaint relating to an elected official or candidate for public office. If the certification is used, it must be attached to your complaint and does not require the services of a notary public.

RECEIVED

JAN 23 2012

Certification for a
Complaint to the Washington State Public Disclosure Commission Public Disclosure Commission
Elected Official or Candidate for Public Office
(Notary Not Required)

I certify (or declare) under penalty of perjury under the laws of the State of Washington that the facts set forth in this attached complaint are true and correct.

Your signature: 

Your printed name: MARK A. ROSSMILLER

Street address: 19601 SE 9TH CIRCLE

City, state and zip code: CAMAS, WASHINGTON 98607

Telephone number: 360-607-3733

E-Mail Address: (Optional) mrossmiller@toast.net

Date Signed: JANUARY 22, 2012

Place Signed (City and County): CAMAS CLARK
City County

*RCW 9A.72.040 provides that: "(1) A person is guilty of false swearing if he makes a false statement, which he knows to be false, under an oath required or authorized by law. (2) False swearing is a misdemeanor."

COMPLAINT

This is a complaint against the Evergreen School District Board of Directors and its secretary, Superintendent John Deeder for violation of the following statute: Use of Public Facilities [RCW 42.17.130]

Elected and appointed officials as well as other public employees are prohibited from using or authorizing the use of any facilities of a public office or agency, directly or indirectly, to assist a candidate's election campaign or to promote or oppose a ballot proposition. Public agency facilities include, but are not limited to, office stationery, postage, machines, equipment, employees during working hours, vehicles, office space, office publications and client lists.

The District allowed Supt. Deeder and COO Mike Merlino to wear a campaign button visibly advertising VOTE YES for the upcoming replacement school levy during a full one hour televised public information cable program paid for with public funds and continues to air on TV-ETC Ch.27,28,29. School officials do not have the right to their personal opinion on how to vote on a ballot issue WEARING VOTE YES BUTTONS VISIBLE ON A TELEVISION PROGRAM BROADCAST PAID FOR WITH PUBLIC FUNDS. This is a violation of state campaign laws and unauthorized use of public funds violating WAC 390-05-273 (6) and highlighted unpermitted guidelines therein, including but not limited to proffering rebuttal that opposition is "bogus" and using survey data to shore up support for the ballot measure. (See photos)

RECEIVED

FEB -9 2012

Public Disclosure Commission

PUBLIC DISCLOSURE COMMISSION
711 Capitol Way Rm. 206,
Olympia, Washington 98504-0908

ADDENDUM COMPLAINT ALLEGATIONS

COMPLAINANT

February 9, 2012

Mark Rossmiller
19601 SE 9th Circle
Camas, WA 98607
360-607-3733

RESPONDENTS

Evergreen School District Board of Directors
and, Superintendent John Deeder
13501 NE 28th Street,
Vancouver, WA 98668-8910

Evergreen Citizens for Schools PAC
16505 A SE First St #352
Vancouver, WA 98684

ADDENDUM FACTUAL AND LEGAL ALLEGATIONS

1. This Addendum Complaint in support of the original Complaint filed January 22, 2012 is additionally filed pursuant to those allegations of violations of the Washington State Campaign laws, and the Public Disclosure Commission (PDC) regulations and policies promulgated there under RCW 42.17(A), RCW 28A.320.090, and WAC 390-05-[271,273].
2. As detailed in the factual allegations provided with the original complaint, this addendum and previous information and evidence submitted by formal complaint indicates that the Evergreen School District, its Superintendent, and with its supporting political action committee (PAC), "Evergreen Citizens for Schools", did unilaterally and collectively violate those state campaign laws in the following manner.¹

¹ "The combination of a number of activities into a coordinated campaign involving close coordination between district activities and citizens' committee activities which closely resembles traditional election campaign activities and which is targeted at and/or occurs close in time to a school district ballot measure election is likely to draw close scrutiny and careful consideration by the PDC as to whether a violation has occurred." PDC Guidelines, revised 9/28/06. Based on this PDC policy guideline, the use of public TV cable facilities to display PAC promotional campaign buttons during the levy broadcast should be investigated for a violation.

FEB -9 2012

Public Disclosure Commission

- a. By authorizing the Superintendent and the Chief Operating Officer of the District to openly wear "Vote Yes" levy buttons during District produced and publically funded cable television programs and distributed via YouTube² for the promotion of that levy ballot proposition.
- b. By coordinating informational activities with campaign efforts of the "Evergreen Citizens for Schools" in the use of publically funded cable television programs to display "Vote Yes" campaign buttons provided by that PAC for the promotion of that levy ballot proposition.³
- c. By authorizing the Superintendent the use of publically funded cable television programs to solicit and express his own personal views, voicing his own personal disparaging comments and personal criticisms of levy opponents in open rebuttal to their circulated levy opposition post cards.⁴
- d. By coordinating informational activities with the campaign efforts of the "Evergreen Citizens for Schools" in the use of publically funded cable television programs to publicize a conducted survey designed to shore up support for this ballot measure.⁵

3. In order to address these violations, the complainant requests that the Washington State Public Disclosure Commission include this complaint addendum and investigate the District to determine

² The District authorized the distribution of the publically funded TV program to YouTube at addresses and all four parts of the video should be considered for evidence of violations described:

<http://www.youtube.com/watch?v=VpWb4tRbZNc&feature=youtu.be&list=PL2807B96A3371572C&t=10m21s>
<http://www.youtube.com/watch?v=QJVJM3dS7cY&feature=related>

³ As WAC 390-05-271 state, "*RCW 42.17.130 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.*" Thus when Superintendent Deeder and COO Mike Merlino wore campaign buttons provided by the PAC expressing their personal views to promotional the levy on camera using district studio facilities on a publically funded cable TV broadcast, and at the same time provided its collaborative PAC advertizing for its levy promotional campaign, the District violated the law.

⁴ Superintendent John Deeder does not have a statutory right to express his personal views, debasing and demonizing those opposed to the school levy and doing so while appearing on a publicly funded TV program, using district facilities, for which such actions do not represent the normal and regular conduct of his office. The inappropriateness of Supt. Deeder's following excerpt comments overstepped the bounds of what was to have been a strictly public informational TV program about the levy. The postcard topics chosen by moderator, Sharon Mitchell appeared staged to allow the district an opportunity to take shots at levy opposition not bonafied questions from the public.

RE: Student Math Competency

Deeder: "So, if he wants to make that criticism, he needs to make that criticism national rather than localize as much as he would like to..."

RE: Administrative Pay Increases

Deeder: "I am not sure where this gentleman gets his information, but it's bogus, it's not factual. And I would also say that this individual is willing to hurt 27,000 kids by encouraging people to vote no on something because he is upset with some people inside the district which is a pretty shallow mentality. And he continues to demonstrate that because he did that same thing in the last levy election"

⁵ Superintendent John Deeder made direct reference on the public TV program to a survey conducted and purported by him to have been funded by the "Evergreen Citizens for Schools" PAC. However, there is no record of reported expenditures to the PDC subsequent to any previous levy or bond measure. If in fact the PAC expended such funds and did not declare it – that is a disclosure violation. We require that the PDC approach the District and the supporting PAC to produce disclosure of the source of funds expended for this survey, why it was not reported by the PAC, and determine a further violation as it was presented by Supt. Deeder to shore up support for this ballot measure.

FEB - 9 2012

Public Disclosure Commission

whether any or all of the alleged violations are in conflict with state campaign laws, strictly enforce those laws, and remedy any unlawful conduct.

JURISDICTION

4. The Washington State Public Disclosure Commission is responsible for ensuring compliance with state campaign laws, receiving information about, investigating, and remedying violations of RCW 42.17(A), RCW 28A.320.090, and WAC 390-05-[271,273].
5. The complainant has not filed this complaint with any other agency or institution.
6. Given the ongoing nature of the violations documented, this complaint addendum is timely.

RELIEF REQUESTED

27. The complainant requests that:

- a. Washington State Public Disclosure Commission consider all previous submitted information, attention to attachments and footnote information herein, and investigate the Evergreen School District, its Superintendent, and its supporting political action committee (PAC), "Evergreen Citizens for Schools" for violation of state statute defined under RCW 42.17A.[225,550,555].
- b. Washington State Public Disclosure Commission take all necessary steps to remedy any unlawful conduct identified in its investigation of the District and its collaborative PAC including imposing civil remedies and sanctions defined under RCW 42.17A.750.
- c. If any violations are found, the Washington State Public Disclosure Commission secure assurances of compliance by the District and its collaborative PAC, as well as full remedies for the violations found.
- d. Washington State Public Disclosure Commission monitor any resulting corrective action required by the District, and/or the "Evergreen Citizens for Schools" PAC, to ensure that compliance with state campaign law is achieved.

I certify (or declare) on this date of February 9, 2012 in the county of Clark, under penalty of perjury under the laws of the State of Washington that the facts set forth in this complaint addendum are true and correct.

Signed,



Mark Rossmiller
19601 SE 9th Circle
Camas, WA 98607
360-607-3733