



**State of Washington
PUBLIC DISCLOSURE COMMISSION**

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March 1, 2023

Delivered electronically to "pendleburyfw@gmail.com"

Subject: Complaint regarding Toppenish School District, PDC Case 100637

Dear Neeland Pendlebury:

The Public Disclosure Commission (PDC) has completed its review and investigation of the complaint you filed on November 9, 2021. Your complaint alleged that Toppenish School District officials may have violated RCW 42.17A.555 by using or authorizing the use of District facilities, including the Toppenish High School print shop, to assist the 2021 campaign of Rosa Ortiz for a position on the Toppenish school board, by charging less than the fair market value to print 100 campaign yard signs for the Ortiz campaign.

RCW 42.17A.555 prohibits elected officials, public agency officials, and employees of a public office or agency from using or authorizing the use of any of the agency's facilities for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Exempt from this prohibition are activities which are part of the normal and regular conduct of the office or agency.

WAC 390-05-273 states Normal and Regular conduct, as that term is used in RCW 42.17A.555, means conduct that is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. The rule also states, no local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

PDC staff reviewed your allegations; the applicable statutes and rules; responses provided by Toppenish School District officials and employees; interviews with Cecilia Rios, Eligio Jimenez, Maria Jimenez, Rosa Ortiz, Mike Romero, Monica Saldivar, Shawn Hayden, and Bonnie Smith; and other relevant information, to determine whether the record supports a finding of one or more violations.

As a result of the review and investigation, staff found the following:

- Toppenish School District No. 202 is a public school district in Toppenish, Washington. At the time the alleged violations occurred, John Cerna was the Superintendent of the District; Bonnie Smith was Principal of Toppenish High School; Monica Saldivar was Director of the Career and Technical Education (CTE) program and Supervisor of the Toppenish High School Print Shop; Cecilia Rios was the CTE Administrative Assistant in charge of coordinating printing and billing for the print shop; Eligio Jimenez was a District employee who placed the order for signs on behalf of the Rosa Ortiz campaign; Shawn Hayden was the Graphic Design Instructor who printed the Rosa Ortiz signs; and Mike Romero was a Graduation Specialist who contacted Shawn Hayden and Cecilia Rios about lowering the price of the signs after the initial invoice was issued.
- Rosa Ortiz was defeated by John Ramos (527 to 526 votes) in the November 2, 2021 general election.
- After completing an initial review, on January 20, 2022 staff held an Initial Hearing (Case Status Review) pursuant to RCW 42.17A.755 and WACs 390-37-060 and 390-37-071 and opened a formal investigation.

Cecilia Rios

- Cecilia Rios, the Administrative Assistance for the high school print shop, said Eligio Jimenez, a District employee known to Ms. Rios, ordered 100 campaign signs in September 2021 from the high school print shop. She said the existing price sheet for yard signs called for a price of \$6 per sign for District employees and \$8 per sign for the general public. Ms. Rios said she charged \$6 per sign because the order was placed by a District employee and increased the price to \$12 per sign because the signs were double-sided, requiring each sign to be printed twice, and because each side took one hour to print.
- Ms. Rios said after sending an invoice to Eligio Jimenez for \$1,200, Mike Romero, a District Graduation Specialist, called to ask why the price was so high. Ms. Rios said she explained how she arrived at the price charged and told Mr. Romero she did not have the authority to lower the price but agreed to take his objection to Monica Saldivar, her supervisor.

Shawn Hayden

- Shawn Hayden, a Graphics Arts Instructor who operated the high school print shop, said he felt uncomfortable printing signs for the Rosa Ortiz campaign but treated it like any other order. Mr. Hayden said it is the goal of the print shop to teach students how to use the large format printer and to involve students in completing print orders but because of the COVID pandemic, students were not on campus or otherwise available for in-person training when the signs were ordered, which is why he printed the signs ordered by Mr. Jimenez.
- Mr. Hayden said, within two minutes of the print shop sending out the invoice for \$1,200 to Eligio Jimenez, Mike Romero called him through the District's phone system trying to get the price lowered. Mr. Hayden said he told Mr. Romero he was "just the guy printing the signs" and directed him to Cecilia Rios if he wanted further clarification.

Bonnie Smith

- Bonnie Smith, Principal of Toppenish High School and former Supervisor of the high school print shop, discussed with Shawn Hayden, at his request, Mr. Romero's effort to have the price for the signs reduced. Ms. Smith told Mr. Hayden, "If they do it for one person, they will have to do it for anyone."

Monica Saldivar

- As Director of the Career and Technical Education (CTE) program for Toppenish School District, Monica Saldivar was the supervisor of the print shop when the Rosa Ortiz campaign signs were ordered, printed, and invoiced. Ms. Saldivar said she was in the process of developing a new price list for the 2021-2022 school year when the Ortiz signs were printed. The new price list, which

was finalized after the Ortiz signs were printed and paid for, set a price of \$6 for one-sided yard signs and \$8 for two-sided signs with same price for District employees and the general public.

- Ms. Saldivar said when Ms. Rios charged Mr. Jimenez \$12 per sign, the print shop's price sheet did not include a price for two-sided signs, which influenced why she lowered the price to \$6 per sign. Ms. Saldivar said she did not become aware the signs were double-sided until after the final invoice, lowering the price to \$6, had been paid. Ms. Saldivar said if she had been aware the signs were double-sided, she would have instructed Ms. Rios to charge \$8 per sign to match the price later adopted for the 2021-2022 school year.

Mike Romero

- Mike Romero, a Graduation Specialist for Toppenish School District, said he did not recall contacting the print shop to seek a price reduction in the price charged for the Rosa Ortiz campaign signs, but acknowledged he may have called, based on the memory of others.

Prior Case

- In PDC Case 99943, four complaints were filed with the PDC in October 2021 alleging Toppenish School District officials had allowed campaign signs supporting Clara Jimenez, Rosa Ortiz, and Autumn Torres to be posted on school district property.
- John Cerna, Toppenish School District Superintendent, asked PDC staff about the law and said campaign signs have been placed on school district property during every election for years without a complaint being filed. Superintendent Cerna pledged to have the District's facilities workers remove all political signs from District property.
- The complaints were dismissed. However, pursuant to WAC 390-37-060(1)(d), PDC staff issued a formal warning concerning the failure of District officials to prohibit and/or remove campaign signs supporting candidates for public office from being placed on school district property.

After a careful review of the alleged violations and relevant facts, PDC staff has concluded its investigation.

Pursuant to WAC 390-37-060(1)(f), Toppenish School District Employees Mike Romero and Monica Saldivar each completed a separate Statement of Understanding (SOU) and paid civil penalties of \$300 and \$150, respectively, in accordance with WAC 390-37-143 (Brief Enforcement Penalty Schedule), acknowledging the following violations:

Mike Romero: Using the phone system of Toppenish School District to attempt to persuade employees of the Toppenish High School print shop to issue a revised invoice lowering the price for 100 campaign yard signs ordered by School District employee Eligio Jimenez and printed by employees of the high school print shop, for the benefit of the 2021 Rosa Ortiz campaign (RCW 42.17A.555). The \$300 civil penalty resolves Mr. Romero's involvement in PDC Case no. 100637.

Monica Saldivar: Authorizing and directing Toppenish School District employee Cecilia Rios to issue a revised invoice, lowering the price for 100 campaign signs ordered by School District Employee Eligio Jimenez, for the benefit of the 2021 Rosa Ortiz campaign (RCW 42.17A.555). The \$150 civil penalty resolves Ms. Saldivar's involvement in PDC Case no. 100637.

Based on this information, the PDC finds that no further action is warranted and has dismissed this matter in accordance with WAC 390-37-070 and RCW 42.17A.755(1).

If you have questions, you may contact Phil Stutzman at 360-664-8853, toll-free at 1-877-601-2828, or by e-mail at pdcpdc@pdcpdc.wa.gov.

Sincerely,
Electronically Signed Philip E. Stutzman
Phil Stutzman
Compliance Officer

Endorsed by,
Electronically Signed Peter Frey Lavalley
Peter Frey Lavalley
Executive Director

cc: Mike Romero, Toppenish School District
Monica Saldivar, Toppenish School District
John Cerna, Superintendent, Toppenish School District