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November 16, 2023

Phil Stutzman  
Compliance Office  
Washington Public Disclosure Commission  
711 Capitol Way S. #206  
P.O. Box 40908  
Olympia, WA 98504-0908

Re: PDC Case No. 144263  
BIL No.: 3450\*008-001

Dear Mr. Stutzman,

We are writing on behalf of Washington Education Association PAC (WEA PAC or Committee) to respond to the most recent allegations raised by Glen Morgan in his October 26 complaint to the PDC. The allegations contained in Mr. Morgan's October 26 complaint are virtually identical to those raised in his September 17 complaint: that the Committee failed to timely report certain legal expenses incurred in responding to past PDC complaints in violation of RCW 42.17A.235 and .240.

WEA PAC reported an in-kind contribution from WEA for the value of the legal services at issue via its 7-day pre-election C-4 report filed on October 30, prior to receiving notice from the PDC of Case No. 144263. Though WEA was invoiced for September legal services at the end of the month, WEA did not internally approve the expense until October 16 and did not pay the invoice until October 23. WEA PAC reported receiving the in-kind contribution of legal services from WEA on October 18, shortly after WEA's approval, and before payment was rendered. WEA PAC timely filed a C-4 report on October 30 reflecting the in-kind contribution of legal services from WEA.<sup>1</sup>

The Committee awaits further guidance from the PDC in Case No. 141529 about the proper timing for disclosing services whose value can only be ascertained after the services have been provided. This complaint raises the further question of the proper timing for reporting an in-kind contribution of such services. These scenarios are not clearly contemplated under WAC 390-05-215 or other guidance addressing the reporting of contributions generally, without regard to type. Moreover, they raise unique administrative challenges, particularly for committees like WEA PAC engaged in a large volume of activity and reporting.

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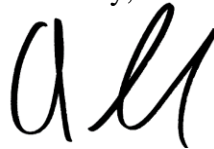
<sup>1</sup> C-4 Report No. 110184768. An amendment filed three days later, C-4 Report No. 110186228, clarified that this contribution was received on 10/18 and not on 10/30.

If the PDC takes the position that the in-kind contribution at issue should nonetheless have been reported on the Committee's October 17 C-4, despite legal uncertainty and the practical challenges in doing so, then WEA PAC's disclosure was at most two weeks late. In apparent recognition that legal expenses associated with PDC compliance and case handling are of limited public interest, the PDC has declined to find a material violation of the Fair Campaign Practices Act solely based on a committee's failure to timely report such costs.<sup>2</sup> The PDC has also found that failure to report a four-figure outstanding debt associated with unpaid legal services was a "minor or technical" reporting discrepancy that did not rise to the level of an enforcement action, where the committee at issue handled over a million dollars in contributions and expenditures.<sup>3</sup> And the PDC dismissed with a warning a complaint stemming in part from a committee's failure to report \$228,641 in in-kind legal expenses over the course of an entire year.<sup>4</sup>

Because the legal expenses at issue were reported as an in-kind contribution on October 30 and there has been minimal impact on the public from their purportedly late disclosure, we ask that the PDC decline to further investigate this latest complaint. In the alternative, as the PDC is already investigating allegations against WEA PAC related to late and amended reports and the reporting of in-kind contributions, we ask that this latest complaint be consolidated with the PDC's other ongoing cases.

Please contact us with any questions or concerns at (206) 644-6002.

Sincerely,



Abby Lawlor  
Danielle Franco-Malone  
*Counsel for Washington Education Association PAC*

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<sup>2</sup> See PDC Case No. 37430 (finding no evidence of material violation warranting further investigation where committee reported the in-kind contribution of legal services associated with its payment of a PDC penalty thirty-five days late).

<sup>3</sup> See PDC Case No. 28291 (finding no evidence of material violation warranting further investigation where the committee dealt with a very high volume of contributions and expenditures and timely filed the overwhelming majority of initial C-3 and C-4 reports). This reflects the directive in WAC 390-37-061 that PDC staff consider the amount of late-reported activity relative to the amount of activity that was timely reported by the respondent.

<sup>4</sup> PDC Case No. 53454.