

COMPLAINT 2000 - NO. 1

Constituent Mailing “ E-mail

REASONABLE CAUSE DETERMINATION “ ORDER OF DISMISSAL

I. Nature of the Complaint

The complaint alleges that Representative Carolyn Edmonds violated RCW 42.52.180 by sending a mass unsolicited e-mail message to her constituents. The complainant contends that the e-mail constitutes a constituent mailing during an election year, and that Representative Edmonds’ e-mail is above and beyond the two constituent mailings authorized to a legislator during an election year.

II. Procedural History

Complaint 2000 - No. 1 is dated March 7, 2000. The complaint was transmitted to the Office of the Attorney General for investigation pursuant to RCW 42.52.450, because it alleges a violation of RCW 42.52.180 by a legislator.

An investigation was conducted pursuant to RCW 42.52.420. The results were submitted to the Board in an investigative report and the Board deliberated on the complaint at its regular meeting on July 13, 2000.

III. Determination of Allegations of Fact

The complaint focuses on an e-mail that was sent by Representative Edmonds to a constituent, Diane K. Hettrick, on February 15, 2000. Ms. Hettrick forwarded Representative Edmonds e-mail to an e-mail network of about 200 people that she maintains in connection with her community volunteer work on public education and children’s issues. One of those recipients, Todd Linton, then forwarded the e-mail to an e-mail list of people that he maintains. The e-mail from Mr. Linton asked the recipients to contact their 32nd District legislators, including Representatives Edmonds and Kagi, regarding a Charter Schools bill that was pending before the legislature. The Board’s investigation of this complaint determined that Representative Edmonds’ original e-mail to Ms. Hettrick was forwarded by Ms. Hettrick and then by Mr. Linton without asking permission from Representative Edmonds. Representative Edmonds was unaware that her message was going to or had been sent to others and had not approved that it be done.

IV. Determination of Allegations of Ethics Law Violations

A. Relevant Statutes

RCW 42.52.180 prohibits the use of state resources for the purpose of assisting a campaign for election. For purposes of this complaint, the pertinent portion of RCW 42.52.180 provides as follows:

(1) No state officer or state employee may use or authorize the use of facilities of an agency, directly or indirectly, for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Knowing acquiescence by a person with authority to direct, control, or influence the actions of the state officer or state employee using public resources in violation of this section constitutes a violation of this section. Facilities of an agency include, but are not limited to, use of stationery, postage, machines and equipment, use of state employees of the agency during working hours, vehicles, office space, publications of the agency, and clientele lists of persons served by the agency.

(2) This section shall not apply to the following activities:

. . .

(c) Activities that are part of the normal and regular conduct of the office or agency;

. . .

In addition to the above restrictions as to the use of public facilities for campaign purposes, RCW 42.52.185 places restrictions on mailings by legislators during an election year. A violation of this statute is a violation of RCW 42.52.180. RCW 42.52.185 provides in pertinent part:

(1) During the twelve month period beginning on December 1st of the year before a general election for a state legislator's election to office and continuing through November 30th immediately after the general election, the legislator may not mail, either by regular mail or electronic mail, to a constituent at public expense a letter, newsletter, brochure, or other piece of literature, except as follows:

(a) The legislator may mail two mailings of newsletters to constituents. All newsletters within each mailing must be identical as to their content but not as to the constituent name or address. One such mailing may be mailed no later than thirty days after the start of a regular legislative session . . . The other mailing may be mailed no later than sixty days after the end of a regular legislative session.

(b) The legislator may mail an individual letter to (i) an individual constituent who has contacted the legislator regarding the subject matter of the letter during the legislator's current term of office...

B. Analysis

The mailing restrictions found in RCW 42.52.185(1)(a) prohibit legislators from mailing at public expense, by regular mail or electronic mail, a letter, newsletter, brochure, or other piece of literature— to constituents, before December 1 of a year in which the legislator runs for election, except under the limited circumstances set forth therein.

Given the facts found in the investigation, the e-mail in question does not violate RCW 42.52.185(1)(a). The document was an e-mail sent to one constituent, apparently in response to an e-mail from that constituent to Representative Edmonds. There is no evidence that Representative Edmonds intended that her individual e-mail to the constituent be sent to anyone else or knew or approved that it would be so sent. The evidence is to the contrary. She was neither aware that it would be so sent, nor did she authorize that it be forwarded to anyone else.

V. Conclusion and Order

Based on a review of the complaint and the Board's investigation, the Board determines that there is not reasonable cause to believe that Representative Edmonds committed a violation of RCW 42.52.180 or RCW 42.52.185. The complaint is, therefore, dismissed.

Dated this 13 day of July, 2000

James A. Andersen, Chair