

COMPLAINTS 2010 – No. 4 and No. 5

In Re Appleton and Rolfes

REASONABLE CAUSE DETERMINATION AND ORDER OF DISMISSAL

December, 2010

I. Nature of the complaint

The complaint alleges that Respondents used public resources in their campaign for reelection to legislative office through their use of legislative badges at a campaign event and that this action violated the Ethics in Public Service Act (Act).

RCW 42.52.180 prohibits the use of public resources to directly or indirectly assist a campaign and states in pertinent part:

- (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 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.

Following an investigation conducted pursuant to RCW 42.52.420 the Board reviewed the complaint at a regularly scheduled meeting on December 8. The Board concluded it had both personal and subject-matter jurisdiction.

II. Conclusion

We conclude there is reasonable cause to believe that Respondent's use of their legislative badges at a campaign event was a violation of RCW 42.52.180. However, pursuant to RCW 42.52.425 we dismiss the complaint as further proceedings would not serve the purposes of the Ethics Act. .425 provides in pertinent part that dismissals may be ordered if:

(c) Any violation that may have occurred does not constitute a material violation because it was inadvertent and minor, or has been cured, and, after consideration of all the circumstances, further proceedings would not serve the purposes of this chapter.

We find it significant that there is no opinion of this Board interpreting .180 which speaks to a legislative identification badge as a public resource or, apparently, any examples of informal advice on the subject. While we are aware that legislators may in the course of a hectic day during the campaign season attend both legislative meetings and campaign events, it is their responsibility to be diligent at all times so that they do not use public resources while campaigning.

As a result of this opinion, legislators are now aware that the Board has concluded that it is improper to use the legislative badge, which is paid for with public funds, while campaigning.

III. Determinations of Fact

There is reasonable cause to believe that the facts of this case are as follows:

1. Respondents are incumbent legislators from the 23rd Legislative District and were campaigning for reelection when they attended a campaign event on September 22, 2010.
2. Using public resources, the House of Representatives supplied legislative badges to Respondents which exhibited their name, legislative district and the State Seal of the State of Washington. Respondents wore these badges while campaigning on September 22.
3. Respondents acknowledge wearing these badges to the event but state they were never advised against the practice and thought that merely wearing identification badges was not inappropriate.

IV. Conclusion of Law

These legislative badges are a public resource as defined in RCW 42.52.180 and as public resources they are “facilities of an agency” and may not be used “directly or indirectly” to assist a campaign.

V. Order

It is HEREBY ORDERED, ADJUDGED AND DECREED that no further proceedings are warranted in this case and the complaint is dismissed. The Board’s findings on the use of the State Seal will be forwarded to the Secretary of State.

David R. Draper, Chair

Date:

