

Legislative Ethics Board

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COMPLAINT 2024 – No. 12

In re Abbarno

December 23, 2024

ORDER OF DISMISSAL – LACK OF REASONABLE CAUSE

I. NATURE OF COMPLAINT

The Complaint alleges that Respondent violated RCW 42.52.180 by listing his legislative contact information on the Voter's Pamphlet argument for the passage of Initiative 2124 which was on the ballot for the general election in November 2024.

II. JURISDICTION

The Board has personal and subject matter jurisdiction. RCW 42.52.320.

III. PROCEDURAL HISTORY

Complaint 2024 – No. 12 was received on October 14, 2024 and was discussed during the Board's regularly scheduled meeting on December 16, 2024.

IV. FINDINGS OF FACT

1. Respondent is a current member of the House representing the 20th legislative district. He first assumed office in January 2021.
2. Complainant represents an organization entitled Washingtonians for Ethical Government.
3. At some point prior to the November election, Respondent was informed by the House minority leader that he had been selected to be on the committee to help draft the arguments supporting Initiative 2124 which would be placed in the State Voters' Pamphlet.
4. Respondent was then contacted by the Lt. Governor's and Secretary of State's office and provided the criteria to follow in drafting the argument.

5. Respondent was selected to be listed in the Voters' Pamphlet as the point of contact for the arguments for Initiative 2124.
6. Unsure about whether he could use his legislative contact information in the Voters' Pamphlet, Respondent contacted House Republican Counsel, Cathy Hoover.
7. On July 25, 2024, Cathy Hoover emailed Board counsel asking whether Respondent could use his legislative contact information on the Voters' Pamphlet.
8. Included in this email was an email from 2019 between the former House Counsel and another House member in which House Counsel stated that legislative resources could be used in preparation of a Voters' Pamphlet argument because those activities fell under the exception to RCW 42.52.180 as "normal and regular" conduct.
9. Based upon this past advice and a review of past cases on the topic, Board counsel advised Ms. Hoover that Respondent could use his legislative contact information on the Voter's Pamphlet.

V. ANALYSIS AND CONCLUSIONS OF LAW

RCW 42.52.180 prohibits the use of public resources for campaign purposes. There are several exceptions to this prohibition: action taken at an open public meeting by members of an elected legislative body to express a collective decision; a statement supporting or opposing a ballot measure made at an open press conference; and activities that are part of the normal and regular conduct of the office. RCW 42.52.180(2)(a), (b) and (c).

RCW 29A.32.060 sets out the process for establishing the committees that write and submit arguments for the approval or rejection of ballot measures that are included in the Voter's Pamphlet. Specifically, this statute requires the Secretary of State, the President of the Senate and the Speaker of the House to appoint the initial two members. In making these initial committee appointments, the Secretary of State, President of the Senate and Speaker of the House must consider legislators, sponsors of the ballot measure and other interested groups known to support or oppose the ballot measure.

The Board has previously considered whether legislators who are appointed to one of these committees may use state resources with which to prepare these arguments. In *Advisory Opinion* 1995-No. 18, the Board held:

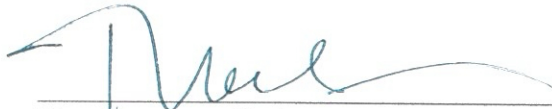
"[The preparation of the Voters' Pamphlet argument] is permitted, because it is "part of the normal and regular conduct" of the office. Chapter [29A.32] which provides for the voters' pamphlet, specifically involves the legislature in the preparation of the arguments for and against state constitutional amendments, referenda and initiatives. The Senate and House have traditionally interpreted this law as sufficient authority for the activity, and the board adopts that interpretation."

Respondent was appointed to the committee to draft the Voters' Pamphlet arguments for Initiative 2124. Based upon the Board's prior opinion, he was permitted to use public resources with which to do so. Those resources also included his legislative email contact information.

Prior to the inclusion in the Voters' Pamphlet of his legislative contact information, he sought the advice of House Republican caucus attorney. She, in turn, sought the advice of Board counsel who indicated that including his legislative contact information on the pamphlet was permitted. Pursuant to Board Rule 1.M.(2), "in considering a complaint the Board will give weight to the fact that the person charged in the complaint relied in good faith on board staff's advice."

VI. ORDER

IT IS HEREBY ORDERED: that there is no reasonable cause to believe the Ethics Act was violated and this matter is hereby dismissed.



Tom Moemann, Chair

12/23/24
Date