

# Legislative Ethics Board



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## COMPLAINT 2019 – No. 13 *In re House Democratic Caucus*

March 25, 2020

### REASONABLE CAUSE DETERMINATION AND DISMISSAL OF COMPLAINT

#### I. NATURE OF COMPLAINT

The complaint alleges that the House Democratic Caucus (HDC) violated RCW 42.52.180 of the Ethics in Public Service Act (Act) by maintaining a list of five accounts on its public Twitter account, one of which was labeled “HDC Legislators.” Some of the Twitter accounts attached or linked to the “HDC Legislators” list contain campaign material. Complainant alleges that the HDC inappropriately linked to non-official Twitter accounts which are then used for political or campaign purposes and/or that some legislators used their official Twitter accounts inappropriately.

#### II. JURISDICTION

The Board has personal and subject matter jurisdiction over this complaint. RCW 42.52.320. Although the individuals directly responsible for the HDC official Twitter account are not known to the Complainant, exclusive control of the HDC social media platforms remained with legislative staff.

#### III. PROCEDURAL HISTORY

Board counsel received the complaint on November 25, 2019. The complaint was discussed at regularly scheduled Board meetings on January 27, 2020 and March 16, 2020.

#### IV. FINDINGS OF FACT

There is reasonable cause to believe the following are the pertinent facts of the case:

1. The Respondent is the House Democratic Caucus.
2. The HDC has one official caucus Twitter account but there are no official individual House member Twitter accounts.
3. The “HDC Legislators” list contained on the HDC Twitter account listed the following accounts:

- @EmilyRandalWA
- @RepReevesWA

- @votenicolemacri
- @RepOrtizSelf
- @JohnLovickForWA
- @MiaGregerson33
- @RepGoodman
- @pettigrew\_e
- @StateRepKilduff
- @JaredMead
- @RepSpringer
- @lauriejinkins2
- @RepLeavitt
- @eileencody
- @tinaorwall
- @WAHouseDems
- @WASenDemocrats

4. This list was created some time ago by legislative staff to apparently monitor the tweets of individual legislators' unofficial Twitter accounts. When the current Digital Media Coordinator assumed her position last year, the list existed but she was unaware of it until this complaint was filed.
5. The list at issue in this Complaint was created to save the names of accounts the caucus wanted to easily find or those on which they wanted to track activity. When one adds an account to a list on Twitter, Twitter pulls those accounts into a news feed and the account name is automatically linked back to the account's profile.
6. The "HDC Legislators" list was not made private, as it should have been, so if someone from the public clicked into the list, they would see recent tweets by those accounts. If the person then clicked on a legislator account name, the person would be taken to that legislator's unofficial Twitter profile page.
7. Many of the member's unofficial profile pages on the "HDC Legislators" list contained campaign related material.
8. No state resources were used to set up or maintain the unofficial Twitter accounts owned by legislative members. The member accounts do not "live" on the HDC platform.
9. The HDC's policy is to never retweet a legislator's Tweet.
10. The official HDC Twitter account never tags to these unofficial member accounts.
11. The "HDC Legislators" list referred to in the Complaint was deleted shortly after the HDC received a copy of this complaint.



V. ANALYSIS AND CONCLUSIONS OF LAW


RCW 42.52.180 prohibits a legislator or staff from using or authorizing the direct or indirect use of legislative facilities to assist the campaign of a person for elective office. The Act defines “facilities of an agency” to include, but not be 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.” This Board has adopted a zero tolerance policy for campaign related use of legislative facilities even if the use does not assist a campaign. *In re Young*, 2017 – No. 41; *In re Johnson*, 1996 – No. 1; *Advisory Opinion* 1997 – No. 5; *Advisory Opinion* 1995 – No. 18.

An official caucus Twitter account maintained by legislative staff is a “facility of an agency.” The inclusion on the official caucus Twitter account of a list which, when clicked on, took the user to unofficial member Twitter accounts, some of which contained campaign material is a violation of RCW 42.52.180.

Although the Respondent, when informed of existence of this account, immediately deleted it, the Board is nonetheless troubled that such material which linked to campaign material existed on an official legislative social media site at all. The Board believes that each caucus which maintains social media sites is responsible for the content on those sites, whether staff are aware of the content or not. The Board recommends that staff responsible for official social media accounts periodically check those accounts to ensure they are devoid of campaign material or unintended links that might violate RCW 42.52.180.

VI. ORDER

IT IS ORDERED that reasonable cause does exist to find that Respondent violated RCW 42.52.180; however, the Board retains the discretion to dismiss an ethics complaint when it finds, after consideration of all the circumstances, that further proceedings would not serve the purpose of this chapter. RCW 42.52.425. These allegations are hereby dismissed.

  
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Eugene Green, Chair

Date: 3-25-2020