

Commissioner of Political Practices
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Helena, MT 59620-2401
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HAND DELIVERED COMMISSIONER OF POLITICAL PRACTICES
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Campaign Finance and Practices

Complaint Form (10/09)

Type or print in ink all information on this form except for verification signature

Person bringing complaint (Complainant):

Complete Name Jerry Hansen

Complete Mailing Address P. O. Box 764
Big Timber, MT 59011

Phone Numbers: Work 406-591-2330 Home 406-591-2330

Person or organization against whom complaint is brought (Respondent):

Complete Name Billings Elementary School District #2

Complete Mailing Address Lincoln Center
Billings, MT 59101

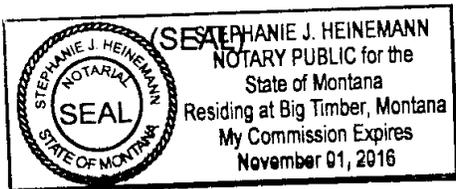
Phone Numbers: Work 406-281-5065 Home _____

Please complete the second page of this form and describe in detail the facts of the alledged violation.

Verification by oath or affirmation

State of Montana, County of Sweet Grass

I, JERRY D. HANSEN, being duly sworn, state that the information in this Complaint is complete, true, and correct, to the best of my knowledge and belief.



Jerry D. Hansen
Signature of Complainant

Subscribed and sworn to before me this 12 day of November, 2013.

Stephanie J. Heinemann
Notary Public

My Commission Expires:

Statement of facts:

Describe in detail the alleged violation(s) and cite the statute or statutes you believe have been violated. Please attach copies of documentary evidence to support the facts alleged in your statement.

If the space provided below is insufficient, you may attach additional pages as necessary.

See Attached:

Complaints must be:

- signed
- notarized
- delivered in person or by certified mail.

November 12, 2013

On September 27, 2013 I e-mailed the Superintendent of the Billings Elementary District that the District was not operating in accordance with MCA 2-2-121. He responded that the District was in compliance with the law and would have Mr. Jeff Weldon, the District's Attorney, respond to me. No response was ever received. Then on October 8, 2013 when the District was still not complying with Montana Law I requested the County Attorney look into the matter. I have yet to receive any response from the County Attorney. (Copies of these e-mails are attached).

Please refer to : MCA 2-2-121. Rules of conduct for public officers and public employees.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use **public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any** political committee, the nomination or election of any person to public office, or **the passage of a ballot issue unless the use is:**

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. **With respect to ballot issues, properly incidental**

activities are restricted to:

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

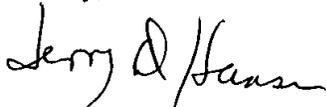
(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

The Billings Elementary School District #2 violated MCA 2-2-121 by using district facilities public time, facilities, and personnel to solicit support for the issuance of bonds to build and repair school facilities. Specifically, (1) the Board Room was used for weekly public meeting to support the bond issue, (2) meetings were held at each elementary school during the work day to solicit support for the bonds, (3) district personnel participated in meetings with the Superintendent. Specifically the Executive Director of Facilities, Mr. Lew Anderson, participated in many of the public meetings which were not in the normal course of his duties, (4) meetings in district facilities also misused public funds of the district, namely the use of utilities.

I recommend that because the district ignored MCA 2-2-121 that the results of the bond election be voided.

I would appreciate you looking into this matter.

Cordially,



Jerry D. Hansen

Attachments:

October 8, 2013

From: Jerry Hansen
hansen-jerry@outlook.com

TO: Scott Twito, County Attorney
CountyAttorney@co.yellowstone.mt.gov

Dear Mr. Twito:

On September 27, 2013 I informed the Superintendent of School District 2 that the District was not in compliance with MCA 2-2-121. Specifically that the District was using school facilities to support a ballot issue (Bond Issue) and that other District personnel were supporting the ballot issue during regular business hours. This is in direct violation of Montana Law. The Billings Gazette has also reported these meeting at http://billingsgazette.com/news/local/education/sd-middle-school-design-open-houses-set-for-each-wednesday/article_7c3bf4dd-6b8d-54f2-900f-617c3623f19a.html

The Superintendent responded that the District was in compliance with Montana Law and that Jeff Weldon would review the matter and respond to me. As of today I have not had any correspondence with Mr. Weldon.

Furthermore, I refer you to the Superintendent's calendar posted at https://www.google.com/calendar/embed?src=billingsschools.org_emnvdb7hvcgks41sjbgaj8n8@gro-up.calendar.google.com&ctz=America/Denver . It appears that the Superintendent is visiting all elementary buildings and making a bond presentation to the Staff. This is in direct violation of MCA 2-2-121 which prohibits the use of facilities, public time, and personnel to solicit support for a ballot issue.

I would appreciate you looking into this matter and taking appropriate action.

Thanks.

Jerry Hansen

Attachments:

9/30/2013

Dear Jerry Hansen,

Thank you for your email of September 27th. It is my understanding that the District is in compliance with Montana law. Nonetheless, I have asked Jeff Weldon to review your email and respond to you.

Respectfully,
Terry Nelsen Bouck

Superintendent Bouck:

I refer to MCA:

2-2-121. Rules of conduct for public officers and public employees.

(3) (a) Except as provided in subsection (3)(b), a public officer or public employee may not use **public time, facilities, equipment, supplies, personnel, or funds to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue unless the use is:**

(i) authorized by law; or

(ii) properly incidental to another activity required or authorized by law, such as the function of an elected public officer, the officer's staff, or the legislative staff in the normal course of duties.

(b) As used in this subsection (3), "properly incidental to another activity required or authorized by law" does not include any activities related to solicitation of support for or opposition to the nomination or election of a person to public office or political committees organized to support or oppose a candidate or candidates for public office. **With respect to ballot issues, properly incidental activities are restricted to:**

(i) the activities of a public officer, the public officer's staff, or legislative staff related to determining the impact of passage or failure of a ballot issue on state or local government operations;

(ii) in the case of a school district, as defined in Title 20, chapter 6, compliance with the requirements of law governing public meetings of the local board of trustees, including the resulting dissemination of information by a board of trustees or a school superintendent or a designated employee in a district with no superintendent in support of or opposition to a bond issue or levy submitted to the electors. Public funds may not be expended for any form of commercial advertising in support of or opposition to a bond issue or levy submitted to the electors.

I believe SD2 is violating this provision of Montana Law. For example you are conducting meeting in SD2 facilities: "please join us for one of our bond issues presentations, taking place every Wednesday night from September 18th - October 30th at 6:00pm in the Lincoln Center Board Room." As reported in the Billings Gazette "On Wednesday, the district held a morning and evening open house in downtown Billings, where data-saturated poster boards and graphs and architectural renderings lined the walls and community members walked around asking questions." Clearly this information was presented in the Board Room. The use of SD2 facilities for meeting regarding a ballot issue is clearly contrary to Montana Law. Furthermore, the Superintendent is the only person in SD2 that can speak publically regarding ballot issues while conducting school business. It appears that the Executive Director of Facilities is meeting with the public during business hours to discuss the ballot issue. This is also contrary to Montana Law.

Also it appears that the Yes for Kids kickoff campaign may have been held at a SD2 facility. It is really appalling how those supporting the ballot issue use children to appeal to the voters. But I guess you'll do anything to win. The purpose of these laws is to make a level playing field for both those who support a ballot issue and those who oppose a ballot issue. It appears that you are trying to make a clear advantage for to those who support the ballot issue.

I strongly suggest that you discuss this matter with SD2's attorney and the County Attorney. I have made complaints to the County attorney who on one occasion had a meeting with the Superintendent and Board Chair to inform them that they clearly violated Montana Law.

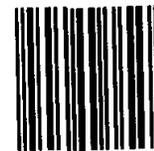
I strongly suggest that you discuss this matter with SD2's attorney and the County Attorney.

Jerry Hansen

JERRY D. HANSEN
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