



## State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112  
Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcca.gov](http://www.pdcca.gov)

To: Members, Washington State Public Disclosure Commission  
From: Evelyn Fielding Lopez, Executive Director  
Date: April 26, 2016  
Re: Legislators' Letter to PDC with Concerns about Freedom Foundation

On March 24, 2016, the PDC received a letter of concern from 30 members of the state Senate and House of Representatives. The letter asked the PDC for an assessment of the activities of the Freedom Foundation:

Based on the examples in the attached documents, it appears the Freedom Foundation has grown increasingly partisan and has directly intervened in political campaigns in violation of state rules.

We would like to know:

1. Do the Freedom Foundation's actions disqualify it from tax exemptions, such as under RCW 82.04.3651(2)(c), which states that no organization shall qualify as a non-profit if its activities include a "substantial amount of political activity"?
2. Do the Freedom Foundation's activities qualify as in-kind contributions to candidates and/or political parties, and do they, or the beneficiaries of their actions, violate Washington Public Disclosure Commission rules regarding political activity?
3. Is the Freedom Foundation at risk of violating any other state rules regarding non-profit activity?

*Letter from Washington State Legislature, March 24, 2016 (copy attached).* On the same day, the Legislators wrote to Attorney General Ferguson with similar concerns about the Freedom Foundation. A copy of that letter, plus correspondence with the Attorney General regarding the Freedom Foundation and complaints to the IRS, are attached. The Attorney General responded to the Legislators' letter on April 20, 2016, and that response is also attached.

### **Issues Raised**

The Legislators raise questions about state tax laws, campaign finance rules, and any other rules regarding non-profit activity. The Attorney General has answered similar questions in his letter of April 20.

The questions about state tax laws fall outside the authority and expertise of the PDC; the question about whether the Freedom Foundation is at risk of violating any other state rules regarding non-profit activity is vague, and probably outside the expertise of the PDC as well. The Attorney General has provided general information regarding the campaign finance and political committee complaint that is currently in litigation.

The second question, regarding in-kind contributions, does fall within the PDC's expertise and authority. It might be helpful for the PDC to provide some general information regarding the standards for making and reporting in-kind contributions in addition to responding to the specific question. We could also provide an overview of other issues that we have looked at regarding the Freedom Foundation.

### **Staff Recommendation**

Based upon our review of the information provided regarding the Freedom Foundation, we would recommend sending a letter back to the Legislators that is similar to the letter from the Attorney General. The PDC's letter could clarify what areas fall within the expertise and authority of the PDC, and what issues should be addressed by other state agencies. With regard to the question about possible in-kind contributions, that is an area within the expertise and authority of the PDC, and we recommend responding with information about in-kind contributions and about our previous actions in response to complaints about the Freedom Foundation. The letter could be drafted for the Chair's signature, or sent by the Executive Director.

Attachments: April 20, 2016 letter from the Attorney General  
March 24, 2016 letter from the Legislators to the PDC  
March 24, 2016 letter from the Legislators to the Attorney General  
March 23, 2016 letter from the Attorney General re Freedom Foundation  
February 16, 2016 letter from complaining organizations to the AG