

October 24, 2022

Legislative Ethics Board  
P.O. Box 40482  
Olympia, WA 98504-0482

VIA EMAIL AT [Jennifer.Strus@leg.wa.gov](mailto:Jennifer.Strus@leg.wa.gov)

Executive Ethics Board  
2425 Bristol Court SW  
Olympia, WA 98504

VIA EMAIL AT [ethics@atg.wa.gov](mailto:ethics@atg.wa.gov)

Dear Board Members,

I am writing today to file complaints with both of your respective agencies regarding the repeated and flagrant violations of state ethics laws by Governor Inslee and the following members of the Washington state legislature: Senators Manka Dhingra, Emily Randall, June Robinson, and Liz Lovelett and Representatives My-Linh Thai, Jessica Bateman, Debra Lekanoff, Alex Ramel, Alicia Rule, Sharon Shewmake, and Vandana Slatter.

**RCW 42.52.180** restricts the use public resources including agency facilities in the assistance of a campaign. The Governor and other public officials have used public property and taxpayer funds and resources to conduct political rallies which comport with neither the letter nor spirit of this law. This letter should also serve as a public records request to Governor Inslee, the legislators identified and their staff members.

## **FACTS SUPPORTING COMPLAINT**

### **June 25, 2022- State Capitol Event**

On June 25, 2022 the Governor joined by state legislators: Senators Manka Dhingra and Emily Randall, Representatives My-Linh Thai and Jessica Bateman. With the capitol building as a backdrop these public officials held a partisan pep rally (nominally a “press conference”) a few weeks prior to the state primary election to galvanize political support and votes in opposition of the Federal Supreme Court Dobbs decision. The Governor railed against the Republican party and openly advocated partisan control of the legislature by the Democrats. The following members of the legislature were also in attendance:

At the rally, the Governor and the legislators repeatedly decried the Republican party and urged voters to support Democrats. The Governor complained of “Republican strategy” as well as “Mike Pence and the Republican Party” and stated “This [state capitol] building is under assault by the Republican Party. We need to be sure in November that the assault doesn’t succeed” – clear reference to the November election. He stated “this is what you get when vote for Republicans. . . we have Democrats who are great leaders to fight with us and I will look forward to you helping us out electing people who protect the right of choice in the state of Washington.” Legislators made similar comments.

On information and belief, the Governor and legislators used public employee staff and resources to plan, coordinate, and execute the event which was held at a state facility- the state

capitol building. He actually began the press conference by asking his press secretary, Jaime Smith, "Jaime are we ready?" indicating she was coordinating the event. The Governor's office used email to communicate the event. The legislators used prepared remarks that appeared to be prepared by their staffs. Although **RCW 42.52.180** and rules interpreting it allow for certain narrow exceptions- none of them are applicable here. The statements at the "press conference" were not in response to a specific question from a member of the press, and were not to express support or opposition to a pending ballot measure in the upcoming election but rather to rally voters in November to support candidates opposing Republicans.

A link on TVW to the rally can be found below:

<https://tvw.org/video/governor-jay-inslee-press-conference-2022061210/?eventID=2022061210>

### **October 21, 2022- Bellingham event**

On October 21, 2022, the Governor again flanked by state legislators, Senators June Robinson and Liz Lovelett and once again Manka Dhingra as well as Representatives Vandana Slatter, Debra Lekanoff, Alex Ramel, Sharon Shewmake, and Alicia Rule a few weeks before the general election held another "press conference" which served as a partisan political rally. The event was held at yet another state facility, the university of Western Washington. The Governor again decried Republicans generally. Rep. Shewmake referred to them as liars. Sen. Dhingra stated "We need each and every one of you to vote. Vote for those who will uphold your values. Republicans had controlled the senate as recently as five years ago. We are not going back." Sen. Lovelette stated, "We are united in the effort. You have the ability to turn the tide on elections this year, the next year, and the next year . . . your dedication needs to be to vote."

Although the governor attempted to mitigate the obvious political tone of the event by halfheartedly saying a few times they were not advocating for any particular political party, these comments were outweighed by the numerous constant partisan attacks on an opposing party. He thundered "Voters have the right to make decisions this fall. We are not intending to advocate for a particular vote [sic] but one party stands for the right of choice and one party stands against it."

On information and belief, the Governor and legislators used public employee staff and resources to plan, coordinate, and execute the event which was held at a state facility- the University of Western Washington. For example, the Governor's office sent out a calendar notice using state resources that identified the event. In addition, Jaime Smith, the Governor's communications director posted on Linked In a congratulation to other governor's office staff who worked on the event a copy of which is attached to this Complaint. Although **RCW 42.52.180** and rules interpreting it allow for certain narrow exceptions- none of them are applicable here. None of the public official identified in this Complaint were speaking in favor of an actual pending constitutional amendment or ballot measure pending in this upcoming election and aside from a single staged question from a member of the press the governor's comments were not in response to a question at a press conference.

### **LAW SUPPORTING COMPLAINT**

The law is very clear that public officials including the Governor and legislators are forbidden from use of public resources for political campaigns.

*RCW 42.52.180*

*Use of public resources for political campaigns.*

*(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 an 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.*

*(2) This section shall not apply to the following activities:*

*(a) Action taken at an open public meeting by members of an elected legislative body to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition as long as (i) required notice of the meeting includes the title and number of the ballot proposition, and (ii) members of the legislative body or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;*

*(b) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry. For the purposes of this subsection, it is not a violation of this section for an elected official to respond to an inquiry regarding a ballot proposition, to make incidental remarks concerning a ballot proposition in an official communication, or otherwise comment on a ballot proposition without an actual, measurable expenditure of public funds. The ethics boards shall adopt by rule a definition of measurable expenditure;*

*(c)(i) The maintenance of official legislative websites throughout the year, regardless of pending elections. The websites may contain any discretionary material which was also specifically prepared for the legislator in the course of his or her duties as a legislator, including newsletters and press releases.*

*(ii) The official legislative websites of legislators seeking reelection or election to any office shall not be altered, other than during a special legislative session, beginning on the first day of the declaration of candidacy filing period specified in RCW 29A.24.050 through the date of certification of the general election of the election year. As used in this subsection, "legislator" means a legislator who is a "candidate," as defined in RCW 42.17A.005, for any public office. "Legislator" does not include a member of the legislature who has announced their retirement from elected public office and who does not file a declaration of candidacy by the end of the candidacy filing period specified in RCW 29A.24.050.*

*(iii) The website shall not be used for campaign purposes;*

*(d) Activities that are part of the normal and regular conduct of the office or agency, which include but are not limited to:*

*(i) Communications by a legislator or appropriate legislative staff designee directly pertaining to any legislative proposal which has been introduced in either chamber of the legislature; and*

*(ii) Posting, by a legislator or appropriate legislative staff designee, information to a legislator's official legislative website including an official legislative social media account, about:*

*(A) Emergencies;*

*(B) Federal holidays, state and legislatively recognized holidays established under RCW 1.16.050, and religious holidays;*

*(C) Information originally provided or published by other government entities which provide information about government resources; and*

*(D) Achievements, honors, or awards of extraordinary distinction; and*

*(e) De minimis use of public facilities by statewide elected officials and legislators incidental to the preparation or delivery of permissible communications, including written and verbal*

*communications initiated by them of their views on ballot propositions that foreseeably may affect a matter that falls within their constitutional or statutory responsibilities.*

*(3) As to state officers and employees, this section operates to the exclusion of RCW 42.17A.555.*

*(4) As used in this section, "official legislative website" includes, but is not limited to, a legislator's official legislative social media accounts. 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 an 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.*

With regard to the executive, **WAC 292-110-010** "Use of State Resources" clearly applies to these examples of Governor Inslee misusing state resources in clear violation of Washington State's Executive Ethics Laws. Specifically, it appears the Governor Inslee's paid staff and other state resources were utilized to organize, schedule, and prepare the June 25, 2022 and October 21 "press conferences" documented above. These are a clear violations of **WAC 292-110-010**.

#### **WAC 292-110-010**

##### *Use of state resources.*

*(1) Statement of principles. All state employees and officers are responsible for the proper use of state resources, including funds, facilities, tools, property, and their time. This section does not restrict the use of state resources as described in subsections (2) and (3) of this section.*

*(2) Permitted uses.*

*(a) Use of state resources for official state purpose. "Official state purpose" includes use of state resources to conduct official duties, activities reasonably related to the conduct of official state duties, activities related to state employment, and activities otherwise allowed by statute.*

*Examples of official state purposes include:*

*(i) Training and career development approved by the employing agency under RCW 41.06.410;*  
*(ii) Membership or participation in professional associations that enhance job-related skills of the state officer or employee, so long as use of state resources for this purpose has been authorized in writing;*

*(iii) State or agency sponsored health, safety, or diversity fairs;*

*(iv) Management of or access to state-provided or state-sponsored benefits, including health, deferred compensation, insurance, retirement, and the employee assistance program;*

*(v) Searching and applying for state jobs, including taking an examination or participating in an interview; and*

*(vi) Placement of nongovernmental web page links on an agency website for official state purposes as long as the use does not violate RCW 42.52.180.*

*(b) Agency approved use. An agency head or designee may authorize limited use of agency staff time and resources for the following uses as long as that use is specifically authorized in an agency policy and conforms to that policy:*

*(i) Supporting, promoting, or soliciting for charitable activities;*

*(ii) Employee recognition, including birthday, retirement, wedding/baby showers, or other similar celebrations;*

*(iii) Activities supporting agency organizational effectiveness provided the agency's policy allowing use of state resources for such purposes is approved by the executive ethics board;*

*(iv) State or intermittent agency sponsored health activities, for example, vaccinations, diabetes screenings, cholesterol screenings; or recording participation in an agency or PEBB sponsored wellness program.*

*(3) Permitted personal use of state resources. This subsection applies to any use of state resources not included in subsection (2) of this section.*

*(a) A state officer or employee's use of state resources is de minimis only if each of the following conditions are met:*

*(i) There is little or no cost to the state;*

*(ii) Any use is brief;*

*(iii) Any use occurs infrequently;*

*(iv) The use does not interfere with the performance of any state officer's or employee's official duties;*

*(v) The use does not compromise the security or integrity of state property, information systems, or software;*

*(vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and*

*(vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.*

*(b) A state officer or employee may use state resources for wellness or combined fund drive activities as long as use conforms with (a) of this subsection or as authorized in state law and rule.*

*(4) No expectation of privacy. Technologies such as electronic mail, facsimile transmissions, the internet, and voice mail may create an electronic record. This is what separates these from other forms of communication such as a telephone conversation. The ethics rules do not distinguish between the various forms of communication. Electronic records are reproducible and therefore cannot be considered private. Such records may be subject to disclosure under the Public Records Act, or may be disclosed for audit or legitimate state operational or management purposes.*

*(5) Reimbursement for personal use. In some limited situations, such as officers or employees working at remote locations, an agency may allow reimbursement for limited personal use of state resources by the state employee or officer.*

*(6) Agency policies. Agency policies that are approved by the board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of agency policy.*

*(7) Advisory opinions and frequently asked questions. The executive ethics board publishes advisory opinions interpreting the Ethics in Public Service Act and/or its rules and provides answers to frequently asked questions regarding the use of state resources that can be found at [www.ethics.wa.gov](http://www.ethics.wa.gov).*

I am sure that Governor Inslee will claim he is exempt from these obligations, and he will cite **WAC 292-110-020(8)** which states:

*(8) The governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, commissioner of public lands, and the insurance commissioner are elected to office and hold office for a term of four years and until their successors are elected and qualified. Since these officers are elected to a term of office, they do not have working hours and may engage in activity that would fall under RCW [42.52.180\(1\)](#) at any time. However, if these officers engage in activity that would fall under RCW [42.52.180\(1\)](#), they may not make use of any facilities of an agency except as provided in RCW [42.52.180\(2\)](#).*

However, while Governor Inslee will claim he does not have working hours and therefore he can politically campaign any time as much as he wants, he is still clearly not allowed to use state resources for these political campaign activities including promoting or denigrating political parties and providing recommendations for who (and how) the public should vote. The Governor used staff time and state resources to organize this press conference and that is a clear violation of **RCW 42.52.180(1)** and there are no applicable exceptions either in that statute or in the underlying WACs that provide more detail.

The Governor may also contend that his comments fall under the press conference exception which allows for advocating for or against a ballot proposition. The Governor referred to a hypothetical constitutional amendment which would deal with abortion rights that he might seek support at a future session from legislators. But the phrase ballot proposition has a specific legal context in our state. See e.g. the definition of “ballot” in **RCW 29A.04.101** “The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election.” See also use of phrase ballot proposition in **RCW 36.120.070** and **RCW 81.112.030**. The bottom line is that “ballot proposition” cannot mean any idea or proposal for a law or constitutional amendment that a Governor might advocate for - the law must apply to actual pending ballot proposals or the restriction is meaningless.

With regard to the legislators, the ethic rules employed to enforce **RCW 42.52.180’s** prohibition on the use of public resources for campaigns is also unforgiving. It is a strict standard, not de minimis. Rule 3 provides: (1) A legislator or legislative employee may not make private use of state resources for any campaign related activity. Such a use of state resources is not authorized by this rule and may also be prohibited by **RCW 42.52.180**, subject to the exceptions in **RCW 42.52.180(2)** regarding normal and regular conduct of an elected official’s office and certain permissible communications about ballot propositions. The legislators here used public resources including facilities in participating in partisan campaign events.

For context, the selection of the the topic and locations for these events had obvious political motivation in the current election for the legislators involved and particularly Rep. Shewmake and Sen. Dhingra. Numerous newspaper articles in recent months have noted the political strategy for democrats to focus on abortion in their effort to counteract Republican charges that Democrat refusal to offer tax relief had contributed to the escalating cost of living and democrat anti-police bills have led to an explosion of crime. So regardless of the merits of any side of the abortion issue, the “press conferences” served a clear political purpose in an effort to get out the vote for democrats.

The timing of the events reinforces their obvious political motivation- both occurred on or near the dates that ballots were sent to voters for the primary and the general elections. The Democrat “press conference was covered in newspapers across the state which were carried in critical swing districts. The date chosen for both events was easily the most critical for the purpose of influencing ballots.

The location was also blatantly political. Western Washington University is located adjacent to the 42<sup>nd</sup> legislative district. LD 42 was a swing district in the 2022 primary where the combined Republican vote exceeded the democrat vote in both house seats and the Senate seat.

SENATE

DEMOCRAT VOTE: 47.07%

REPUBLICAN VOTE: 52.09%

HOUSE SEAT #1  
DEMOCRAT VOTE: 48.69%  
REPUBLICAN VOTE: 51.24%

HOUSE SEAT #2  
DEMOCRAT VOTE: 48.25  
REPUBLICAN VOTE: 51.67

In the last senate election in LD 42, in 2018 Republicans won the seat by 46 votes. It was the closest election that cycle. To have a tax-payer funded press conference right next door to the highly competitive LD 42 on the day ballots hit the voters mail boxes is not only openly and outrageously political – it is also illegal.

Rep. Shewmake got the desired article she wanted in her hometown newspaper the day after the press conference. Sen. Dhingra is in a highly competitive senate seat where she lost the endorsement of her hometown newspaper. She is a lawyer and the Chair of the Senate Law and Justice Committee and should be the most knowledgeable about the ethics law and what actions are illegal. Instead of being cautious in her remarks, however, she might have been the most egregious in violating the law. She advocated at least twice for people to vote at both events and pleaded with voters to not allow the Senate to return to Republican control like it was five years before.

Participating legislators might argued that they did not use their personal staffs to ready themselves for the press conference. However, they knew that the press conference was publicized with taxpayer dollars not campaign dollars. The law is clear. No taxpayer money can be used to promote political campaigns. Legislators cannot hide behind the fact that executive branch employees illegally organized the event. Because they chose to participate and reap the benefits of the “press conference” they should be forced to face the consequences of violating the law, just like Governor Inslee.

### **CONCLUSION**

It should be noted that this complaint has nothing to do with the *Dobbs* decision by the Federal supreme court. It would have been equally unethical for a pro-life Governor to lead partisan political events with state resources in opposition to the *Roe* decision. The law should be enforced equally regardless of party or position.

### **PUBLIC RECORDS REQUEST**

I request the following records pursuant to the Washington Public Records Act (**RCW 42.56**): All records - including emails, notes, records of phone calls, physical letters, and other correspondence—sent, prepared, or received by Governor Inslee, Senator Manka Dhingra, Senator Emily Randall, Senator June Robinson, Senator Liz Lovelett, Representative My-Linh Thai, Representative Jessica Bateman, Representative Debra Lekanoff, Representative Alex Ramel, Representative Alicia Rule, Sharon Shewmake, and Representative Vandana Slatterany or any employee of their respective offices regarding the June 25, 2022 or October 21, 2022 events that are the subject of this Complaint.

The above requests for records are intended to include requests for copies of all drafts of documents. If not specified, “records” is also intended to include all communications, including

emails, text messages, and other electronic communications (e.g., Facebook Messenger, Twitter public and direct messages, etc.) regardless of whether they are contained on the personal or work devices or accounts of Governor Inslee, Senator Manka Dhingra, Senator Emily Randall, Senator June Robinson, Senator Liz Lovelett, Representative My-Linh Thai, Representative Jessica Bateman, Representative Debra Lekanoff, Representative Alex Ramel, Representative Alicia Rule, Sharon Shewmake, and Representative Vandana Slatterany or any employee of their respective offices.

Please produce any responsive records in electronic format via email at [glen@wethegoverned.com](mailto:glen@wethegoverned.com) or through a file sharing service. If you do not have a cloud-based sharing method and the responsive records are too large to send via email, please let me know and I will coordinate with you to utilize a file-sharing service, or since I live nearby, I am happy to come by and pick them up in person. One way I have done this in the past is to provide a new (in the package, unopened) thumbdrive on which you can download the responsive records.

If records responsive to these requests may be produced in installments, please do so as soon as they are available. If there are any fees associated with searching for and copying the requested records, please let me know if those costs exceed \$100 prior to producing those documents to our office, and provide detailed explanations for how you hope to justify those fees.

I look forward to receiving your response within five days of this request. If all or any part of this request is denied, please provide a statement citing the specific exemptions that you believe and might claim justify the refusal to release the documents or communications and an explanation of how that exemption applies to this request. **RCW 42.56.210(3)**. Additionally, if only portions of a document are exempt, only the exempt portions may be redacted, and the remainder of the record provided. **RCW 42.56.210(1)**. If challenges to these exemptions are necessary, it is best you be specific.

If you need further evidence or wish to discuss this matter further, please feel free to contact me at [glen@wethegoverned.com](mailto:glen@wethegoverned.com) or via phone (360) 791-6556

Best Regards,

Glen Morgan

cc: Governor Jay Inslee  
Senators Manka Dhingra, Emily Randall, June Robinson, and Liz Lovelett  
Representatives My-Linh Thai, Jessica Bateman, Debra Lekanoff, Alex Ramel, Alicia Rule, Sharon Shewmake and Vandana Slatter