



Rob McKenna

ATTORNEY GENERAL OF WASHINGTON

1125 Washington Street SE • PO Box 40100 • Olympia WA 98504-0100

September 7, 2006

Nancy Vernon
2314 263rd St. Ct. E
Spanaway, WA 98387

RE: The Office of Superintendent of Public Instruction (OSPI)

Dear Ms. Vernon:

As the current Chief Deputy for the Office of the Attorney General, I am writing to respond to your many letters, e-mails, and calls to this office in which you request we take some form of action against the Office of Superintendent of Public Instruction (OSPI), Superintendent Bergeson, and members of her staff. In preparing my response, I reviewed approximately 2,500 pages of documents you have provided to our office over the past year and a half.¹

As early as January 16, 2004, you requested that the Office of the Attorney General conduct a criminal inquiry into your allegations about the actions of the OSPI. Distilled down, your allegations revolve around your belief that the OSPI is engaged in the pursuit of a teaching curriculum based on theosophy and religion-based thought control. In part, you view the teachings of Robert Carkhuff and the WASL as the primary vehicles through which this curriculum is pursued. In addition, you raise a number of corollary concerns, including your son's educational experiences and those of other children similarly situated, contract fraud, destruction of public records, and other violations.

I am aware you met with my predecessor, Chief Deputy Craig Wright, on one occasion and corresponded regularly with him about your concerns over the past year and a half. He advised you that our office was legally unable to assist you with your concerns regarding the OSPI. I am also aware that your same concerns were shared with Mr. Wright's predecessor, Chief Deputy Kathleen Mix. Finally, I believe you personally met with then Attorney General Christine Gregoire on more than one occasion.

¹ In addition to the many documents provided directly to our office, many others were copies of documents where our office was "cc'd" in your correspondence to the Governor's Office, the United States Attorney's Office, the Executive Ethics Board, and others.



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Despite the fact that Chief Deputies Kathleen Mix and Craig Wright both reviewed your complaints and advised you that our office simply had no jurisdiction to act on them, I felt it my obligation to conduct a *final review* of your concerns. I have now completed that review.

As has been explained to you in the past, the Washington State Constitution allocates power, responsibility, and authority among three branches of government; the legislature, the executive branch, and the judiciary. The legislative branch is responsible for setting state policy by passing laws and establishing a budget. The executive branch is obligated to carry out those laws passed by the legislature. The judiciary determines whether laws passed by the legislature comply with our constitution and apply the laws to particular facts in dispute, whether between private citizens or in situations involving the other branches of government.

Within this context, the Office of the Attorney General is a part of the executive branch of government. As an independently elected constitutional officer, the Attorney General has a direct duty to the people of the State of Washington. He also has a duty to represent all of state government in legal disputes. Thus, state agencies, including the OSPI, the legislature, and the Governor are clients of this office.

Under state law, this office does not have jurisdiction to investigate the alleged crimes and wrongdoings as you request. Pursuant to Revised Code of Washington (RCW) 43.10.232, our office may only investigate the matters alleged if requested to do so by one of three actors: a county prosecutor, the Governor, or a majority of the committee charged with the oversight of the organized crime intelligence unit.² Because we have not received (and accepted) such a request, we simply have no jurisdiction to act on your complaints.

² RCW 43.10.232 provides:

Concurrent authority to investigate crimes and initiate and conduct prosecutions — Payment of costs.

(1) The attorney general shall have concurrent authority and power with the prosecuting attorneys to investigate crimes and initiate and conduct prosecutions upon the request of or with the concurrence of any of the following:

- (a) The county prosecuting attorney of the jurisdiction in which the offense has occurred;
- (b) The governor of the state of Washington; or
- (c) A majority of the committee charged with the oversight of the organized crime intelligence unit.

(2) Such request or concurrence shall be communicated in writing to the attorney general.

(3) Prior to any prosecution by the attorney general under this section, the attorney general and the county in which the offense occurred shall reach an agreement regarding the payment of all costs, including expert witness fees, and defense attorneys' fees associated with any such prosecution.

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Similarly, this office does not have authority to review or audit the actions of other executive branch departments of state government. There are two agencies of state government, however, that have been granted that authority explicitly.

One such agency is the Executive Ethics Board. The Board has jurisdiction over alleged ethical violations by state officials pursuant to RCW 42.52. I am aware that you filed a complaint against the OSPI with the Board. In the course of reviewing your allegations, I received a copy of the final report of the Board finding your complaints to be unfounded and ordering your case dismissed. I note that your case before the Executive Ethics Board mirrored the allegations you have lodged with our office over the past three years.

The other state agency with authority to review the actions of other executive branch agencies is the State Auditor. "The auditor shall be the auditor of public accounts, and shall have such powers and perform such duties in connection therewith as may be prescribed by law." WA Const. Art. III, Sec. 20. I am aware that you raised your concerns with the Auditor about the propriety of contracts entered into between Mr. Carkhuff and the OSPI. Similarly, the State Auditor informed you in August 2004 that he found "no significant reporting issues" after reviewing the contracts between the OSPI and Robert Carkhuff.

Since your initial submission of documents to our office on April 11, 2005, you have provided our office with approximately 2,500 pages of documents to support your allegations. These documents have been reviewed multiple times, by multiple attorneys, over multiple months and represent innumerable hours of effort spent addressing your concerns. Representatives of our office have also exchanged numerous e-mails with you, explained our legal posture on multiple occasions, and taken the time to meet with you in person. You sought redress from the two state agencies charged with investigating your concerns, and both have found your complaints to be unfounded.

In closing, I note that our office has finite resources to devote to the citizens of this state. Time spent revisiting your complaints is time we cannot spend on other citizens' concerns where we *do have* the lawful ability to act on their behalf. This office can do and will do nothing more to address your concerns with the OSPI as we have neither the civil nor the criminal jurisdiction to conduct the inquiry you request.

Sincerely,



BRIAN T. MORAN
Chief Deputy Attorney General
(360) 753-6200

BTM:rb
cc: Rob McKenna, Attorney General