

Washington State Public Disclosure Commission
711 Capitol Way, Room 2016
PO Box 40908
Olympia, WA 98504-0908
Phone: 360-753-1111 Fax: 360-753-1112
www.pdc.wa.gov

To: Commissioners, Washington State Public Disclosure Commission
From: Evelyn Fielding Lopez, Executive Director *efl*
Date: April 24, 2017
Re: Request for Interpretation—Follow Up from March Meeting

Request for Commission Interpretation

At the March 23, 2017 Commission Meeting, the Commission considered a request for interpretation from Conner Edwards to clarify the following:

- How expenditures for media buys must be broken down, and whether “run date” information for planned advertisements must be included;
- The detail that should be reported when volunteers and agents are reimbursed for out of pocket campaign expenses;
- The detail that should be reported for campaign related travel expenses; and
- The detail that should be reported on how lost wages were calculated for reimbursement with campaign funds.

Follow Up

1. Run Date Detail: After the PDC Meeting, staff changed the online candidate and committee instructions to clarify that when a media buy is reported, the candidate/committee should report detail on the date ad is first broadcast or published. This detail is based on statutory requirements and is more specific than previous instructions to provide “run dates” for advertisements. Copies of emails regarding this change are attached.
2. Detail Regarding Volunteer Reimbursement, Travel Expenses, and Lost Wages: At the March meeting, the Commission discussed developing a Commission Interpretation regarding the three additional areas of clarification requested. However, I would like to revisit that suggestion. Now that the Commission has a Director of Communications and Outreach in place, it may be an appropriate time to review our publications and online campaign and committee information. I suggest that the clarifications requested could be worked into the review of all campaign/committee publications rather than being addressed in a piecemeal approach.

Enclosures

Evelyn Fielding Lopez

From: Evelyn Fielding Lopez
Sent: Monday, April 24, 2017 9:51 AM
To: Conner Edwards
Cc: Jana Greer; BG (Barbara Sandahl); Jennifer Hansen; Kim Bradford
Subject: RE: Run date for media expenditures?

Actually, that is the changed language. We replaced "run dates" and instead made the info consistent with statute in that campaigns/committees are to report the date first broadcast. We also added in "if known" to the info for candidates ("Expenditures for media buys must be broken down by date, amount paid, the date the ad is first broadcast or published if known" at <https://www.pdc.wa.gov/learn/publications/candidate-instructions/expenditures-debts/expenditures-require-additional>).

We did not use the "if known" language in the political committee instructions because we used the statutory language.

The problem with the "run dates" language was that it implied that a campaign/committee would need to report every date/time the ad runs, which is not required by statute and may not be possible to determine in modern advertising (online, cable, etc.). The current language is more in line with the law.

Let me know if you have additional questions.

Thanks!

Evelyn

From: Conner Edwards [mailto:eurus53@gmail.com]
Sent: Monday, April 24, 2017 2:44 AM
To: Evelyn Fielding Lopez <evelyn.lopez@pdc.wa.gov>
Cc: Jana Greer <jana.greer@pdc.wa.gov>; BG (Barbara Sandahl) <barbara.sandahl@pdc.wa.gov>
Subject: Run date for media expenditures?

Evelyn --

I wanted to let you know that it looks like the requirements saying that candidates and committees have to include: "the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published..." is still on the website.

I remember at the last commission meeting it sounded like the Commissioners wanted that language taken down because they didn't think it was consistent with current statute/rule. This is all off memory (I didn't take notes), but it sounded like you said that staff were going to take it off the website.

Here is the link to what I am talking about: <https://www.pdc.wa.gov/learn/publications/political-committee-instructions/expenditures-debts/expenditures-require>

Frankly, I think it should be left how it is because a description of the expenditure should include the run date. I also think however that it should be defined by rule.

Still, I wanted to give you a heads up because I'll likely be engaging in another rulemaking petition (for the May meeting) to codify what is currently on the PDC's website, and I didn't want to catch anyone off-guard when I reference the language that is still currently live.

Best,

Conner Edwards
(425) 533-1677 cell

Evelyn Fielding Lopez

From: Jennifer Hansen
Sent: Tuesday, April 18, 2017 12:07 PM
To: Evelyn Fielding Lopez
Subject: RE: Need to edit website publication info--who can do this?

Evelyn:

After consulting with Kurt and Phil we have come up with alternative language for the second portion below. Because the second part deals with IEs the requirements are slightly different, hence the changes. If you like the new language I will post it. None of us had concerns about the first section.

I highlighted the "new" language suggested.

Expenditures That Require Additional Disclosure

These types of expenditures require that special information be supplied:

Independent Expenditures

Include the name of the candidate or ballot measure and whether the expenditure supports or opposes as well as the amount.

Campaign Consultants, Advertising Agencies

Supply a breakdown of each expense incurred by the consultant along with the payment made directly to the consultant. Each sub-vendor must be disclosed along with a description of the work performed.

Media Buys

Expenditures for media buys must be broken down by the date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published, amount paid, and each media outlet (newspaper, radio or TV station, billboard company, etc.). Follow the example above to report media buys made through an agent/broker.

Jennifer Hansen

Filer Assistance Specialist

Tel: 360-586-4560

Fax: 360-753-1112



Public Disclosure Commission
Shining Light on Washington Politics Since 1972

From: Evelyn Fielding Lopez
Sent: Monday, April 17, 2017 11:31 AM
To: James D. Gutholm <james.gutholm@pdc.wa.gov>
Cc: Jennifer Hansen <jennifer.hansen@pdc.wa.gov>; Jana Greer <jana.greer@pdc.wa.gov>; BG (Barbara Sandahl) <barbara.sandahl@pdc.wa.gov>
Subject: Need to edit website publication info--who can do this?

Hello—I'm following up on instructions from the last Commission meeting. I need to edit the information we have about "run dates" regarding media buy reporting. There are two areas where the edits are needed—see below with strike through and underlined text. Are these sections that Jana or Jennifer can edit?

1. <https://www.pdc.wa.gov/learn/publications/candidate-instructions/expenditures-debts/expenditures-require-additional>

Expenditures That Require Additional Disclosure

These types of expenditures require that special information be supplied:

Campaign Consultants, Advertising Agencies

Supply a breakdown of each expense incurred by the consultant along with the payment made directly to the consultant. Each sub-vendor must be entered along with a description of the work performed.

Media Buys

Expenditures for media buys must be broken down by date, amount paid, the date the ad is first broadcast or published if known ~~run dates of the ad~~, and each media outlet (newspaper, radio or TV station, billboard company, etc.). ORCA users who purchase flight time through an agent or broker, enter one expenditure with the broker as the vendor and each broadcast outlet is entered as a separate expense with the station name in the description.

2. <https://www.pdc.wa.gov/learn/publications/political-committee-instructions/expenditures-debts/expenditures-require>

Expenditures That Require Additional Disclosure

These types of expenditures require that special information be supplied:

Independent Expenditures

Include the name of the candidate or ballot measure and whether the expenditure supports or opposes as well as the amount.

Campaign Consultants, Advertising Agencies

Supply a breakdown of each expense incurred by the consultant along with the payment made directly to the consultant. Each sub-vendor must be disclosed along with a description of the work performed.

Media Buys

Expenditures for media buys must be broken down by date, amount paid, the date the ad is first broadcast or published if known ~~run dates of the ad~~, and each media outlet (newspaper, radio or TV station, billboard company, etc.). Follow the example above to report media buys made through an agent/broker.

This will bring our materials in line with the requirement in RCW 42.17A.305:

(1) A payment for or promise to pay for any electioneering communication shall be reported to the commission by the sponsor on forms the commission shall develop by rule to include, at a minimum, the following information:

... (e) The date the expenditure was made and the date the electioneering communication was first broadcast, transmitted, mailed, erected, distributed, or otherwise published

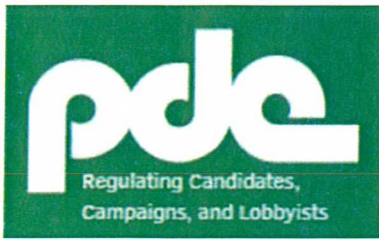
Evelyn Fielding Lopez

Executive Director

Public Disclosure Commission, www.pdc.wa.gov

Phone: 360-664-2735

Email: evelyn.lopez@pdc.wa.gov



Washington State Public Disclosure Commission
711 Capitol Way, Room 2016
PO Box 40908
Olympia, WA 98504-0908
Phone: 360-753-1111 Fax: 360-753-1112
www.pdc.wa.gov

To: Commissioners, Washington State Public Disclosure Commission
From: Evelyn Fielding Lopez, Executive Director
Date: March 22, 2017
Re: Request for Interpretation

Request for Commission Interpretation

On January 10, 2017, Conner Edwards filed a request for a Declaratory Ruling pursuant to RCW 34.05.240. After discussion about the process for a declaratory ruling, Mr. Edwards agreed that a published Commission Interpretation would also satisfy his request.

Mr. Edwards is requesting the Commission to clarify several guidelines that are provided to campaigns and political committees in the PDC's publications. Specifically, Mr. Edwards would like the Commission to clarify:

- How expenditures for media buys must be broken down, and whether "run date" information for planned advertisements must be included;
- The detail that should be reported when volunteers and agents are reimbursed for out of pocket campaign expenses;
- The detail that should be reported for campaign related travel expenses; and
- The detail that should be reported on how lost wages were calculated for reimbursement with campaign funds.

A copy of Mr. Edward's original request is attached.

Recommendation

A review of the PDC's publications on candidate and political committee instructions would be appropriate, especially as a more comprehensive Communications Plan and training plans are developed. In the meantime, the Commission may want to ask staff to work with our attorneys to review these specific questions, and any other issues that appear to be recurring in recent complaints, and then return with recommendations regarding a potential Interpretation.

Enclosure

Request for Declaratory Order (per RCW 34.05.240)

Conner Edwards reported 2 months ago (Tue, 10 Jan at 2:08 PM) via Email
To: "PDC Support" <pdcc@pdc.wa.gov>

To Whom it May Concern --

It has come to my attention that there are some potential discrepancies between what additional disclosures are required by statute/rule, and online filing instructions written by PDC staff. The purpose of this request for declaratory order is to officially confirm how certain statutes and rules are interpreted by the Commission.

There are many campaign treasurers who put in tremendous amounts of time and energy to ensure compliance with PDC regulations when submitting C4 forms, however there are many who do not.

It is particularly difficult for treasurers who try to follow PDC staff instructions for reporting expenditures, but cannot find the justification for these instructions in statute or rule.

Clarification on the below instructions given by PDC staff is needed because the requirements contained in those instructions do not exactly line up with statute and rules.

For these reasons, I request that the Commission issue a Declaratory Order on the following issues below.

Request

According to the PDC's guidelines about "Expenditures that require additional disclosure", the following is required to be placed in the "Purpose of Expense and/or Description" column on the C4 form: (see: <https://www.pdc.wa.gov/learn/publications/political-committee-instructions/expenditures-debts/expenditures-require>)

1) "Expenditures for media buys must be broken down by date, amount paid, run dates of the ad, and each media outlet (newspaper, radio or TV station, billboard company, etc.)."

While WAC 390-16-205 clearly shows that expenses must be properly broken down, other statutes/rules do not offer specifics on whether or not the "run dates of the ad" are required to be reported.

Based on my interpretations of RCW 42.17A.240 (8) and RCW 42.17A.904, I believe that the staff interpretation of this statute is accurate. I ask that the Commission confirm or clarify this interpretation.

2) "When reimbursing volunteers or agents of the committee for out-of-pocket campaign expenses, list each expense being reimbursed by showing the vendor's name and address, what was paid for, and amount paid"

Based on my interpretation of WAC 390-16-205, I believe that the staff interpretation of this statute is accurate. I ask that the Commission confirm or clarify this interpretation.

3) "When reporting direct payments to vendors for campaign-related travel expenses incurred by the agents of the committee, report the date of payment, the vendor's identity, the traveler's name in the description field, and the amount spent."

Based on my interpretation of WAC 390-16-205, I believe that the staff interpretation of this statute is accurate. I ask that the Commission confirm or clarify this interpretation.

4) "When reporting payments to agents of the committee to offset salaries or wages lost as a result of campaigning, include a description that explains how the amount paid was calculated."

Based on my interpretation of RCW 42.17A.445 (1), I believe that the staff interpretation of this statute is accurate. I ask that the Commission confirm or clarify this interpretation.

end

I respectfully request that the Commission issue a Declaratory Order to address the above issues. Written clarification of these issues will help the filing community accurately conform with state law and PDC rules.

Best,

Conner Edwards
(425) 533-1677 cell