

Top Priority - Legislative Action

1. Disclosure Improvements - Address Timing & Uniformity

Improvement	Reason	Goal	Priority	Action	Notes
Require accelerated disclosure for campaign contributions of \$10,000 or more whenever they occur during the year	Making the accelerated reporting period for large contributions year-round instead of just a short period before the primary and general elections provides the public with more timely information about large campaign contributions.	Maximize Timely and Robust Disclosure		Legislative	2016 session PDC proposed legislation (\$25,000)
Remove the last minute contribution requirement for special reporting of amounts of \$1,000 or more (replace with year round reporting of larger amounts)	Currently, if there is a contribution of \$1,000 or more during the special reporting periods before elections, it must be reported within 24 hours for those making the contribution for those who must report making contributions, and 48 hours for those receiving contributions. As contribution limits have risen, contributions of \$1,000 are not unusual and special reporting creates a burden on campaigns without providing disclosure of significant information to the public. Removing the special reporting, and replacing it with year round reporting of contributions of \$10,000 or more will increase transparency on large contributions.	Maximize Timely and Robust Disclosure		Legislative	Put this into a bill with the accelerated reporting of \$10,000 or more.

<p>Modify provisions in statute so they are tied to the date ballots are mailed rather than to election day</p>	<p>The references to "election day" in State law preceded the State's change to voting by mail. This clarification would help ensure that voters have access to information when ballots are mailed and they are considering how to vote.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Legislative</p>	<p>This might be more effectively achieved by keeping the election date trigger, but increasing the time period before the election (four weeks, rather than 21 days). The first step should be a review of what actions in statute are tied to election day.</p>
<p>Eliminate disclosure allowance for out-of-state committees</p>	<p>This would bring uniformity to requirements for in- and out-of-state committees and provide real-time public access to out-of-state committee information in the searchable, public database.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Legislative</p>	<p>2016 session PDC proposed legislation</p>
<p>Repeal RCW 42.17A.420 regarding large contribution timing provisions for ballot measure campaigns. This comports with federal court decision that timing provision was unconstitutional</p>	<p>The federal district court ruled that this aspect of state law regarding contributions made with 21 days of election day was unconstitutional, so the PDC no longer enforces it, but it remains on the books until the Legislature repeals it.</p>	<p>Effective &amp; Impartial Enforcement</p>		<p>Legislative</p>	<p>Align statutory requirements with legal ruling and current practice.</p>

2. Modernize Personal Financial Disclosure (F-1 Reports)					
<p>Allow new personal financial disclosure (F-1) reporting modification requests to be heard by an individual Commissioner in a brief hearing rather than the full Commission</p>	<p>Routine requests for renewed modifications are handled this way but new modification requests are not. Requests could be handled more quickly rather than only monthly, and Commission meeting time could be used for other priorities. Any new request that is not routine can be pulled from the brief hearing agenda by the presiding Commissioner and referred to the Commission for consideration at the next regular meeting.</p>	<p>Streamline and help the regulated community</p>		<p>Legislative</p>	<p>Making this change would also allow the Commission to use a consent agenda approach when reviewing modifications.</p>
<p>Allow an F-1 reporting modification to be granted for the term of office rather than annually and allow new requests to be heard by an individual Commissioner</p>	<p>Filers currently have to request a reporting modification every year, even when there has been no change in information. This would simplify their obligation, save PDC staff and Commission time and resources, and would not impact public information.</p>	<p>Streamline and help the regulated community</p>		<p>Legislative</p>	<p>Will also clarify that if there has been a change in information, a new report modification may be required (define what changes would require a new request for modification).</p>

<p>Modernize personal financial disclosure (F-1) reporting requirements</p>	<p>Make modest adjustments to the F-1 reporting requirements that filers identified as the most burdensome; such as the disclosure threshold for investments; allowing judges, prosecuting attorneys, and sheriffs to identify residential address by city and county; and increasing the dollar ranges for value reporting. This would also increase PDC efficiency in handling exemption requests. Media and PDC stakeholders have requested updating the financial disclosure information required of candidates, elected officials, and state appointees. The proposed changes would increase the effectiveness of educational and compliance efforts, and mitigate some of the aspects of the F-1 that filers have said are the most burdensome. These changes would not negatively impact the public.</p>	<p>Streamline and help the regulated community</p>		<p>Legislative</p>	<p>2015 session PDC proposed legislation (was not moved into active status in 2016).</p>
<p>Allow individuals who are appointed in December to file initial report the following January (the next month)</p>	<p>When individuals are first appointed, they are required to file their first F-1 within 2 weeks. For those appointed in December, they then have to file again by April 15, covering the same calendar year. This would eliminate having to file twice.</p>	<p>Streamline and help the regulated community</p>		<p>Legislative</p>	<p>Many legislative and state offices hire new employees in anticipation of the legislative session, and this will help those stakeholders.</p>

<p>Modify the cease and desist language in RCW 42.17A.755(4)</p>	<p>Because the statute refers to cease and desist from violating a requirement, when the PDC cites to it in orders, the PDC can't instruct the respondent to comply with a specific requirement (e.g., file your F-1 reports). Instead, the PDC must instruct the individual to cease and desist from violating the law requiring timely F-1 reports.</p>	<p>Organizational Effectiveness</p>		<p>Legislative</p>	<p>I-1464 would make a change to RCW 42.17A.755(4): "(4) The person against whom an order is directed under this section shall be designated as the respondent. The order may require the respondent to cease and desist from <u>or to take affirmative steps to remedy</u> the activity that constitutes a violation and in addition, or alternatively, may impose one or more of the remedies provided in RCW 42.17A.750(1) ..."</p>
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### 3. Update Inflationary Adjustments

<p>Modify authority to make inflationary dollar adjustments to independent expenditure threshold cost in the definition used to determine when "no candidate authorized this ad" sponsor ID is required</p>	<p>Per statute, the Commission must consider inflationary adjustments at the beginning of every even-numbered year and the threshold is currently set at \$1,000. A threshold cost of \$1,000 is also the trigger for 24-hour disclosure of independent ads appearing within 21 days of an election and the \$1,000 threshold in the definition of electioneering communication. The PDC is not able to adjust the latter two thresholds. Freezing the independent expenditure threshold would simplify the disclosure requirements and promote compliance.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Legislative</p>	
<p>Modify authority to make inflationary dollar adjustments to threshold determining when a contribution must be made by written instrument (rather than in cash)</p>	<p>Per statute, the Commission must consider inflationary adjustments at the beginning of every even-numbered year and the threshold for cash contributions is currently set at \$100. Contributions made with currency are hard to track and there is no audit trail. Cash contribution limits would not be adjusted for inflation, but would stay at \$100. Contributions in amounts higher than \$100 would have to be by check, credit card, or other written instrument.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Legislative</p>	

Also Priorities But Other Factors to Consider

<p>Transition to electronic filing for all reports</p>	<p>Make it easier for the regulated community to comply with their reporting requirements under State law and improve real-time, searchable disclosure and transparency of finance and expenditure information for the public, the media and the regulated community. By prioritizing improved e-filing tools, the PDC will be able to give the regulated community better options and can then seek legislation if still needed.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Address as An Agency Process Improvement Priority Prior to Seeking Legislative Mandate</p>	<p>PDC in 2016 session proposed legislation to mandate (this had also been proposed in 2015). I-1464 would also require e-filing. PDC can move forward with updating applications so that e-filing is effective, and can promote this as a priority whether or not e-filing is mandated.</p>
<p>Provide additional tools to address repeat violators</p>	<p>Individuals with key roles in the electoral process (e.g., treasurers, ballot measure petition distributors ) could be required to register (akin to lobbyist registration); and then include in the PDC's penalty authority the ability to deny, revoke or suspend registration. Requiring registration should help address the problem that orders are usually tied to an entity that is temporal and will be disbanded at the end of the campaign or soon thereafter; the penalty is rarely tied to the individuals, who can just create another entity regardless of the violation. This could be limited to campaigns that spend more than \$5,000 in an election cycle.</p>	<p>Effective &amp; Impartial Enforcement</p>		<p>Legislative</p>	<p>Commission Counsel to begin by reviewing and reporting back by the August meeting whether the Commission has the authority to address this through its approach to orders. Depending on legal review, could some of these issues be addressed through process improvement?</p>

<p>Consider risk management pool model as alternative for litigation funding to enhance the PDC's ability to enforce significant or complex cases (&amp; for penalty collection - see below)</p>	<p>Often the most significant violations can only be enforced through court action. Without a dedicated fund, the PDC has to take the cost of litigation out of any available agency resources, which are very limited. That can serve as a deterrent to vigorous enforcement. When the PDC does take a violator to Court and wins, there is very limited reimbursement of costs. Instead the penalties go to the State general fund. The PDC could better enforce the law and manage complex campaign finance litigation if there were a dedicated fund or revolving fund established to cover litigation expenses and PDC were allowed to retain a portion of penalties collected to defray the costs of campaign finance litigation.</p>	<p>Ensure Effective &amp; Impartial Enforcement</p>		<p>Legislative</p>	<p>I-1464 would impact this. This approach may work better than a dedicated fund for litigation and the Commission being able to retain a percentage of penalties. Stakeholder outreach to other State agencies should be done as a first step. Also discuss ideas and options with the AGO (we are working on coordinated budget request for more AG budget in the meantime).</p>
<p>Enhance collection of penalties in a cost efficient way</p>	<p>It is not effective for small agencies to handle enforcement of penalties. The State could integrate enforcement of penalties across state agencies and tie failure to pay to receipt of State services (in other words, if a respondent has not fully paid a PDC fine, a DOE fine, a DOR fine, etc. – there is an integrated State database and the collection is done through one entity, with the respondent foreclosed from getting a business license or other state benefit or service until paid in full).</p>	<p>Effective &amp; Impartial Enforcement</p>		<p>Legislative</p>	<p>This could be done as part of the risk pool approach suggested for litigation costs. Stakeholder outreach to other State agencies should be done as a first step. Would be helpful to know past efforts-- check with DES.</p>



<p>Modify the 45-day Citizen Action Complaint Process</p>	<p>The 45-day citizen action complaint process in RCW 42.17A.765(4) was created by the Legislature as an additional tool for the public to file complaints, but has resulted in several unintended consequences. First, it requires the PDC to address complaints filed using this mechanism ahead of other complaints, regardless of the factors the PDC should weigh in prioritizing its investigative work such as the nature and magnitude of the violation or the impact on the public, candidates or campaigns. Second, because of a 2015 State Supreme Court decision, if the Commission finds a violation, it must refer the complaint to the AG, rather than address it as it would an equivalent complaint filed using the regular complaint process, regardless of how minor the violation, because a ruling by the Commission is not considered official "State action". In addition, the statute provides that if an action is filed in court by the complainant and he or she prevails, the State of Washington is liable for the costs and attorneys' fees, not the person or entity who violated the campaign laws.</p>	<p>Ensure Effective &amp; Impartial Enforcement</p>		<p>Legislative</p>	<p>I-1464 would impact this.</p>
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<p>Assess whether there are opportunities in the RCWs and WACs for further consistency and simplifications</p>	<p>Reporting obligations, campaign finance and expenditure laws can be complicated and challenging for candidates and campaign treasurers to understand. They may also have local jurisdictional obligations with which they must comply. There may be other ways to help the regulated community comply by further simplifying or making laws more consistent.</p>	<p>Streamline and help the regulated community</p>		<p>Legislative &amp; Rule-Making</p>	<p>Some of this occurred in circulating the idea list and asking for feedback. Would be helpful to develop a survey or feedback tool for regulated community and to do annual check -ins. Don't currently have staff capacity but could possibly do with a law school or other intern.</p>
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Tier II - Legislative Action					
Expand low-cost fundraisers to include political party caucuses	This would relieve parties of collecting contributor information for small contributions (up to \$50/person) received during caucus. Because the volume of the contributions and the difficulty corralling participants, the parties now frequently try to make one of the other low-cost fund raiser options, such as a food & beverage event, work. Rather than try to shoehorn them into an authorized low-cost fundraiser, we should assist the parties' efforts and encourage individuals to caucus.	Streamline and help the regulated community		Legislative	Parties could collect small contributions and not track names and addresses. Would report lump sum collected.
Change agency name for improved public understanding	Consider changing the name to minimize confusion (e.g., Fair Campaign Practices Commission or Campaign Finance Board rather than Public Disclosure, which many think of in terms of as enforcing the Public Records Act), though keep in mind the PDC came from citizen initiatives and the name is meaningful in that way.	Organizational Effectiveness		Legislative	If the agency adds responsibility for citizen financing of campaigns (I-1464), that may provide a logical time/reason for a change.

Tier III - Legislative Action

<p>Modify Commissioners' prohibited activities so that Commissioners are not foreclosed from participation in campaigns over which they have no authority, such as federal campaigns</p>	<p>Removing the total prohibition regarding any political involvement may expand the pool of those with campaign experience interested in serving as Commissioners.</p>	<p>Organizational Effectiveness</p>		<p>Legislative</p>	
<p>Change PDC funding appropriation to a set percentage of Operating Budget</p>	<p>Funding the PDC at a set rate is a sound approach to ensuring adequate funding for sufficient enforcement and customer service staff and would eliminate the need to seek and lobby for appropriations from those whom the PDC regulates.</p>	<p>Organizational Effectiveness</p>		<p>Legislative</p>	<p>This would be impacted by I-1464.</p>

Top Priority - Rule-Making / Interpretations (July - December 2016)

Provide guidance as to whether or when language on signature-gathering petitions for ballot measures constitutes political advertising	Ballot measure petitions which are used to collect signatures to qualify the measure for the ballot may contain a wide-range of advocacy statements written by the proponents which if in another format such as a print ad or TV ad would be regulated as advertising. The PDC has not adopted rules in the past regarding petitions so a rule would provide clarity for the regulated community.	Maximize Timely and Robust Disclosure		Rule-making	Impacted by July 1 moratorium. Might consider starting with Interpretation. This should be done collaboratively with the Secretary of State.
Establish surplus funds reporting schedule	Surplus funds are those funds remaining at the end of a campaign cycle. There is no required schedule for regular reporting of expenditures so this would increase transparency for the public.	Maximize Timely and Robust Disclosure		Rule-making	
Require candidates to directly pay proportionate share of joint campaign expenses	The PDC allows joint campaign expenses to be paid by one candidate who is reimbursed by the other(s). WAC 390-16-234.	Maximize Timely and Robust Disclosure		Rule-making	Impacted by July 1 moratorium. There may be some change to this if I-1464 passes.
Timely filing presumption for reports received within 'X' days of due date	Would allow mailed reports to be processed more efficiently if the PDC did not have to use the postmarked date as the date filed in order to show compliance.	Organizational Effectiveness		Rule-making	
Modify definition of contribution to exclude snip/paste of web photos and other neutral website content	This would modernize the definition of "contribution" to align with current, routine practices and promote greater fairness as campaigns are not held accountable for activity of which they may not be aware.	Effective & Impartial Enforcement		Rule-making	

Use calendar days instead of business days for request for reconsideration or appeal of a Commission ruling	This issue came in up discussions around the request for reconsideration at the May PDC meeting. Review the use of “business days” as compared with “calendar days” for calculating time periods as well as other reconsideration instructions in WAC 390-37-144 and 150 to clarify process and time periods.	Effective & Impartial Enforcement		Rule-making	Commission Counsel to provide a memo before August meeting. Rule-making could be done in concert with rec. below regarding revising the process for request Commission re-consideration.
Address differences between PDC hearing rules and State model administrative procedures	The State has model rules under the APA that may be used by all State agencies. The PDC's hearings rules may differ in ways that limit the Commission's ability to conduct hearings in certain ways.	Effective & Impartial Enforcement		Rule-making	Commission Counsel to provide a memo before August meeting. Rule-making could be done in concert with rec. above regarding revising the process for requesting Commission re-consideration.
Penalty Schedules	Make the statement of understanding alternative enforcement more effective by adopting penalty schedules for violations in addition to not timely filing routine reports.	Effective & Impartial Enforcement		Rule-making	
Penalty Schedules	Amend current penalty schedules to include a tiered approach based on how long the noncompliance lasts: first tier = warning, second tier = mandatory, automatic penalty, third tier = single commissioner hearing.	Effective & Impartial Enforcement		Rule-making	
Penalty Schedules	Develop penalty schedules for every kind of PDC violation.	Effective & Impartial Enforcement		Rule-making	

<p>Repeal implied incumbency section of political advertising rule WAC 390-18-040(6).</p>	<p>The PDC has stopped enforcing this political advertising restriction unless there is evidence to establish the candidate is acting with actual malice in claiming to be the incumbent.</p>	<p>Effective &amp; Impartial Enforcement</p>		<p>Rule-making (expedited)</p>	<p>Impacted by July 1 moratorium.</p>
<p>Update and clarify duties for County officials receiving PDC reports</p>	<p>WAC 390-13-100 sets requirements for how County elections officials are to maintain copies of campaign finance reports that were filed with the County before June 2010. The reports were to be maintained for six years (note that the time period has now passed). Recommend repealing this rule as it is no longer necessary for the PDC to dictate how the reports received by Counties must be indexed and maintained, and it may be easier for the Counties to decide whether to retain the records further (it's now on them, not per the PDC).</p>	<p>Streamline and help the regulated community</p>		<p>Rule-making (expedited)</p>	

Possible Rule-Making or Commission Interpretation - stakeholder work in progress/needed

<p>Clarify the law regarding segregation and reporting of primary and general election contributions (and define “continued use” and “reserved”)</p>	<p>A candidate asserted that she was confused over when contributions for General Election could be used during the Primary period if the money was used for items for the General Election. Staff reviewed the rule and felt it was appropriate, but instructions could be improved. Instructions were changed (see additional materials)</p>	<p>Ensure Effective &amp; Impartial Enforcement</p>		<p>Rule-making</p>	<p>Staff do not think there is an immediate need for rule-making, but if this rule were revisited we would organize the information provided to campaigns for increased clarity. May need to review if I-1464 passes as there are additional limits on use of campaign contributions.</p>
<p>Clarify the law regarding use of funds for recounts</p>	<p>There have been questions about use of campaign funds for post-election expenses such as recounts. Staff are working on a list of questions to the regulated community to scope the issues before recommending any agency interpretation or rule change.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Possible Rule-making</p>	<p>Questions have been drafted to gather more information from regulated community following presentation at June PDC meeting; survey has been sent to stakeholders and have provided survey links through social media sites.</p>



<p>Clarify what triggers registering as a political committee when a person supports or opposes a ballot measure</p>	<p>Clarify when campaign activity begins for ballot measures that triggers the obligation for a Committee to register and report contributions and expenditures.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Start with Interpretation as may be need to alter after court decisions.</p>	<p>Note that a case on this issue from Thurston County Superior Court has been appealed, and the Supreme Court has been asked to take direct review. Clarification may come from Court. Until there is a decision, action on this may create issues for our case. In the meantime, as part of process improvement, work with SOS and local elections offices to develop a system to notify PDC when ballot issues are filed.</p>
<p>Provide guidance to the regulated community regarding marketing and polling for measures to be voted on by the public</p>	<p>School Districts, Ports, Transit Authorities, Hospital Districts and other local governments often struggle to understand what type of information they are allowed to provide the public when the entity is proposing to, or has, put a measure on the ballot.</p>	<p>Streamline and help the regulated community</p>		<p>Rule-making</p>	<p>Requires special stakeholder to local jurisdictions. School district and local agency and election activities guidelines will be impacted.</p>

Rule-Making - good ideas beyond current capacity

<p>Require more details about independent expenditures reported</p>	<p>The PDC could provide the public with more detailed information about independent spending, such as requiring the spenders to report in such a way that allows statistical analysis of independent spending. On C-4 reports, independent spending is a catch-all category and there is no breakout of broadcast ads, print ads, online, ads, or other granular detail. On C-6 reports, the underlying expenditures are described in a narrative. The PDC could adopt independent expenditure categories that would allow the public to export information into Excel or some other format.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Rule-making</p>	<p>Beyond current capacity because of programming changes that must be made to ORCA software and C-6 online filing system.</p>
<p>Designate surplus funds transfers on C-3 (campaign contribution) reports</p>	<p>Senator Roach suggests that the public would be better informed if C-3 reports indicated when contributions were transferred from another campaign or a surplus account. She has suggested the addition of a check box that would indicate a transfer or otherwise adding the letter "T" to the contributor's name.</p>	<p>Maximize Timely and Robust Disclosure</p>		<p>Rule-making</p>	<p>Beyond current capacity because of programming changes that must be made to ORCA software and, possibly, database</p>

Projects to Scope

<p>Address reporting issues regarding an individual or entity with several initiative committees</p>	<p>Address concerns about use of the initiative process potentially for self-advantage by filing a number of different initiatives, and generating significant contributions, and then using those contributions for other purposes, as well as not being required to file as an ongoing committee and whether a committee that is formed for a specific initiative has the option to evolve into a different direction simply by changing or redefining its purpose, but the contributions that were originally made just roll over.</p>	<p>Ensure Effective &amp; Impartial Enforcement</p>		<p>Rule-making or Legislative</p>	<p>Would need to assess whether rule-making would address the concerns, or if statutory change is needed (e.g., when is a committee required to file as a continuing committee rather than annual initiative committees?)</p>
<p>Consider options for modifying campaign requirements for low dollar campaigns</p>	<p>Review RCW 42.17A.110(8), which allows relieving candidates and campaigns of certain requirements if there are less than \$5,000 in expenditures or contributions. This is one of the enumerated powers of the Commission so may be achievable through rule-making. Also, because lobbyist requirements apply even to student lobbyists, the Commission may also want to consider whether to seek similar statutory authority for lobbyists who receive nominal expenses.</p>	<p>Streamline and help the regulated community</p>		<p>Rule-making</p>	<p>This suggestion came up from a candidate in an F-1 enforcement hearing.</p>

<p>Make F-1 penalties automatic if the person fails to file after the deadline and a warning; may appeal order</p>	<p>RCW 42.17A.700 contains mandatory filing requirements and set deadlines for filing F-1's. Current practice is to warn, send a hearing notice, and hold a hearing to impose a penalty and order compliance. Staff would like to review whether based on the statute, a penalty can be imposed, and then appeals would be available to those who disagree and want a hearing.</p>	<p>Ensure Effective &amp; Impartial Enforcement</p>		<p>Possible Rule-making</p>	<p>Internal staff discussions--would like to look into this option.</p>
<p>How does a voucher program work with anti-bundling laws?</p>	<p>The question has come up as the Seattle Ethics and Elections Commission works on implementing the democracy voucher program. Specifically, the question is(a) whether a group/committee can collect vouchers and transmit them to a campaign without that being prohibited contribution bundling, and (b) can the group transmit the collected vouchers to SEEC rather than to a campaign and avoid bundling issues?</p>	<p>Streamline and help the regulated community</p>		<p>Possible Rule-making or Interpretation</p>	<p>Because the state initiative includes a similar voucher program, it may be helpful for the PDC to address this issue as well.</p>