



**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: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)**

## **Memo**

To: PDC Commissioners  
From: Sean Flynn, General Counsel  
Date: April 18, 2024  
Re: Rulemaking drafts re “deepfakes” and yard sign sponsor ID

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The Commission has two draft rules to consider at the April 24, 2024 meeting. Staff does not propose any action needed to be taken on either draft at this meeting.

***1. WAC 390-16-037&063; WAC 390-18-050 and adding new section: Regarding the use of synthetic media in electioneering communications.***

Passage of SB 5152 last year created a cause of action for candidates who are the subject of synthetic media (“deepfakes”) in electioneering communications. A sponsor’s liability for using synthetic media can be avoided if the communication includes a disclaimer. The law does not create any additional authority for the PDC, but it does instruct the PDC to adopt rules in furtherance of the legislative purpose. *See* RCW 42.62.040.

The PDC opened rulemaking on this issue earlier this year, and staff prepared draft proposed rules for the Commissioners attention. The proposed rules were filed this month for publication and public comment. A public hearing on the proposal is scheduled for regular PDC meeting on May 23<sup>rd</sup>, and staff will be conducting outreach to solicit comment on the proposal.

In order for the rules to become effective for the 2024 election cycle, they must be adopted in time to meet the June 30<sup>th</sup> statutory deadline, which prevents PDC rules from being implemented during the election cycle. Generally, rules become effective 31 days after adoption, so the May 23<sup>rd</sup> meeting would provide the last opportunity for the Commission to act without the need to schedule a special meeting.

The Commission may consider any feedback received and amend these proposed rules before final adoption. Staff anticipates bringing any recommended amendments to the Commission attention at the May meeting.

**2. WAC 390-18-030: Required sponsor ID on yard signs**

This year, the Legislature enacted HB 2032, which removes the exemption for sponsor identification on yard signs that are smaller than 4'x-8' (feet) in size. The law becomes effective June 6, 2024. The effective date raises an issue as to how the law will be applied to yard signs that are printed or placed before the effective date. The draft presented here would provide some temporary flexibility in enforcement of the new law during the current election cycle.

The draft is proposed for adoption as an emergency rule, since rulemaking must be expedited to meet the June 6<sup>th</sup> effective date. While there is not enough time to formally publish the proposal or conduct a formal public hearing, staff will publish this draft and seek input from stakeholders. Staff anticipates bringing the proposal back to the Commission at the meeting on May 23<sup>rd</sup> for possible adoption.