

Chapter 390-37 WAC

ENFORCEMENT RULES

WAC 390-37-062 Enforcement procedures—Alternative responses—Cases resolvable by stipulation prior to an investigation—Penalty schedule. (1) The purpose of ~~WAC 390-37-062~~[this section](#) is to set forth a schedule of violations and penalties that may be agreed to by a respondent pursuant to a stipulation prior to an investigation, as authorized by RCW 42.17A.755. That schedule appears in the table below.

(2) A violation not set forth in the schedule may be resolved pursuant to a stipulation, provided that the proposed penalty amount is within the dollar ranges listed in the schedule.

(3) "Occasion" as used in the schedule means a violation found by the commission,[or agreed to in a statement of understanding](#).

(4) Only violations within the last five years will be considered for determining whether the violation under consideration will be deemed a second or third occasion.

(5) Any proposed stipulation must be in writing, must include a brief recitation of the facts, violations, and penalty, and be signed by each party to the stipulation or their representative and provided by 4:00 p.m. three business days preceding the commission meeting. The executive director will sign for PDC staff.

(6) The commission has the option of accepting, modifying or rejecting the proposed stipulation. If the commission accepts the stipulation, or modifies the stipulation with the agreement of the parties, the commission will enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation, the commission staff may consider whether:

- (a) An investigation should be initiated; or
- (b) The matter may appropriately be resolved in another manner.

(7) In determining whether to accept the stipulation, the commission may consider the nature of the violation(s), and any aggravating and/or mitigating factors as provided in WAC 390-37-182.

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$300 <u>500</u>	\$300 - \$600 <u>500 - \$1,000</u>	\$600 - \$1,000 <u>1,500</u>
Report is filed late and is incomplete or inaccurate.	\$0 - \$1,000 <u>600</u>	\$600 - \$1,200 <u>1,000 - \$2,000</u>	\$1,200 - \$2,400 <u>2,000 - \$3,000</u>
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 Report)			
Filed missing C-3 Report or amended C-3 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$1,000 <u>750</u>	\$750 - \$1,500 <u>1,000 - \$2,000</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Campaign Summary Receipts and Expenditures Report (C-4 Report)			
Filed missing C-4 Report or amended C-4 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to report a contractual contingent liability.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to properly dispose of surplus funds.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>
Independent Expenditure Report (C-6 Report)			
Filed missing C-6 Report or amended C-6 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$1,000 <u>\$0 - \$750</u>	\$1,000 - \$2,000 <u>\$750 - \$1,500</u>	\$2000 - \$3,000 <u>1,500 - \$2,250</u>

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Report is incomplete or inaccurate.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Out-of-State Political Committee Report (C-5 Report)			
Filed missing C-5 Report or amended C-5 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint, and provided written explanation with mitigating circumstances.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Exceeding Contribution Limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Other Alleged Violations			
Exceeding Mini Reporting Threshold			
Filed C-3 and C-4 Reports for full reporting after being notified about the complaint, and provided written explanation with mitigating circumstances.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Failure to file electronically			
Filed C-3 and C-4 Reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition.			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	<u>\$0 - \$1,000</u> \$0 -\$750	<u>\$1,000 - \$2,000</u> \$750 \$1,500	<u>\$2000 - \$3,000</u> \$1,500 \$2,250
Failure to file Lobbyist Registration report (L-1 Report)			
Filed missing L-1 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	<u>\$0 - \$500</u> \$0 \$300	<u>\$500 - \$1,000</u> \$300 \$600	<u>\$1,000 - \$1,500</u> \$600 \$1,000

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Failure to File Agency Lobbying Report (L-5 Report)			
Filed missing L-5 Report or amended L-5 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$500 \$0-\$300	\$500 - \$1,000 \$300-\$600	\$1,000 - \$1,500 \$600-\$1,000
Grassroots Lobbying Report (L-6 Report)			
Filed missing L-6 Report or amended L-6 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$500 \$0-\$300	\$500 - \$1,000 \$300-\$600	\$1,000 - \$1,500 \$600-\$1,000
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification, or included improper or misleading sponsor identification.	\$0 - \$500 \$0-\$300	\$500 - \$1,000 \$300-\$600	\$1,000 - \$1,500 \$600-\$1,000
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$500 \$0-\$300	\$500 - \$1,000 \$300-\$600	\$1,000 - \$1,500 \$600-\$1,000
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$500 \$0-\$300	\$500 - \$1,000 \$300-\$600	\$1,000 - \$1,500 \$600-\$1,000
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$1,000 \$0-\$600	\$1,000 - \$2,000 \$600-\$1,200	\$2,000 - \$3,000 \$1,200-\$2,400
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$1,000 \$0-\$600	\$1,000 - \$2,000 \$600-\$1,200	\$2,000 - \$3,000 \$1,200-\$2,400
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$1,000 \$0-\$600	\$1,000 - \$2,000 \$600-\$1,200	\$2,000 - \$3,000 \$1,200-\$2,400
Commercial advertisers—Public inspection of documents			

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain records and books of account, or make such information available by the methods provided under WAC 390-18-050.	<u>\$0 - \$1,000</u> \$0 —\$600	<u>\$1,000 - \$2,000</u> \$600 —\$1,200	<u>\$2,000 - \$3,000</u> \$1,200 —\$2,400
Candidates and political committees—Public inspection of books of accounts			
Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.	<u>\$0 - \$1,000</u> \$0 —\$600	<u>\$1,000 - \$2,000</u> \$600 —\$1,200	<u>\$2,000 - \$3,000</u> \$1,200 —\$2,400
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	<u>\$0 - \$1,000</u> \$0 —\$600	<u>\$1,000 - \$2,000</u> \$600 —\$1,200	<u>\$2,000 - \$3,000</u> \$1,200 —\$2,400

(8) In a matter where the PDC staff have completed an investigation or resolved the matter as a technical correction, as authorized in RCW 42.17A.755, the schedule set forth in the table above is not applicable.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-37-062, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-062, filed 11/30/18, effective 12/31/18.]

WAC 390-37-140 Brief enforcement hearings (brief adjudicative proceedings)—Authority. (1) The commission may provide a brief adjudicative proceeding for violations in which

the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than ~~\$1,000~~ 2,000 will be assessed for the violations. Typical matters to be heard in a brief adjudicative proceeding include, but are not limited to, the following:

- (a) Failure to file or late filing of required reports;
 - (b) Failure to report or accurately report campaign contributions or expenditures or funds spent in lobbying;
 - (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal; and
 - (d) Infractions of political advertising law regarding sponsor identification or political party identification.
- (2) The commission may utilize a penalty schedule for brief adjudicative proceedings.

(3) Brief adjudicative proceedings are set forth in RCW 34.05.482 through 34.05.494.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-140, filed 11/30/18, effective 12/31/18.

Statutory Authority: RCW 42.17A.110(1). WSR 16-01-015, § 390-37-140, filed 12/4/15, effective 1/4/16. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-37-140, filed 1/4/12, effective

2/4/12. Statutory Authority: RCW 42.17.370. WSR 03-22-065, § 390-37-140, filed 11/4/03, effective 12/5/03; WSR 93-15-004, § 390-37-140, filed 7/7/93, effective 8/7/93; WSR 91-16-072, § 390-37-140, filed 8/2/91, effective 9/2/91.]

WAC 390-37-142 Brief enforcement hearing (brief adjudicative proceeding)—Procedure. (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the commission designated by the chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the respondent notice, which shall include:

(a) Alleged violation;

(b) The maximum amount of the penalty that can be imposed at the hearing, relevant penalty schedules, and the amount of any proposed fine; and

(c) Person's right to respond either by electronic writing or in person.

(3) As provided in RCW 34.05.050, a respondent may waive the opportunity for a hearing by providing the following:

(a) A signed statement of understanding;

(b) Any missing required reports; and

(c) A penalty payment specified by the executive director in accordance with the penalty authority of WAC 390-37-140 and the brief enforcement hearing penalty schedules of this chapter.

(4) As used in this section, the term "statement of understanding" means a written statement signed by the respondent that:

(a) Acknowledges a violation of chapter 42.17A RCW and any relevant rules; and

(b) Expresses the respondent's understanding that the commission will not hold any adjudicative proceeding concerning the violation.

(5) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than ~~one~~two thousand dollars, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding by the full commission.

(6) Within thirty days after the hearing, the commission shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed,

and information about any internal administrative review or reconsideration available. The executive director is authorized to sign the decision on behalf of the presiding officer.

(7) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-142, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 17-03-004, § 390-37-142, filed 1/4/17, effective 2/4/17. Statutory Authority: RCW 42.17A.110(1). WSR 16-01-015, § 390-37-142, filed 12/4/15, effective 1/4/16. Statutory Authority: RCW 42.17.370. WSR 03-22-065, § 390-37-142, filed 11/4/03, effective 12/5/03. Statutory Authority: RCW 42.17.390. WSR 94-05-010, § 390-37-142, filed 2/3/94, effective 3/6/94. Statutory Authority: RCW 42.17.370. WSR 93-15-004, § 390-37-142, filed 7/7/93, effective 8/7/93; WSR 91-16-072, § 390-37-142, filed 8/2/91, effective 9/2/91.]

WAC 390-37-143 Brief enforcement hearings (brief adjudicative proceeding)—Penalty schedule. The presiding officer may assess a penalty up to ~~one~~ two thousand dollars upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 <u>500</u>	\$150 - \$300 <u>500 - \$1,000</u>	\$300 - \$600 <u>1,000 - \$1,500</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 - \$500	\$300 <u>500 - \$1,000</u>	\$600 <u>1,000 - 1,500</u>
Failed to file report by date of enforcement hearing.	\$250 - \$750	\$500 <u>750 - \$1,000</u>	\$1,000 - \$2,000
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 <u>500</u> per report	\$150 - \$300 <u>500 - \$1,000</u> per report	\$300 - \$600 <u>1,000 - \$1,500</u> per report up to \$1,000 <u>2,000</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 <u>500</u> per report	\$300 <u>1,000</u> per report	\$600 - 1,500 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 <u>500</u> per report	\$500 <u>1,000</u> per report	consideration by full commission
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 <u>500</u>	\$150 - \$300 <u>500 - \$1,000</u>	\$300 - \$600 <u>1,000 - \$1,500</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$500 <u>\$150</u>	\$1,000 <u>\$300</u>	\$1,500 <u>\$600</u>
Failed to file report by date of enforcement hearing.	\$250 <u>750</u>	\$500 <u>1,500</u>	\$1,000 <u>2,000</u>
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 <u>500</u>	\$150 - \$300 <u>500 - \$1,000</u>	\$300 - \$600 <u>1,000 - \$1,500</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 <u>500</u>	\$300 <u>1,000</u>	\$600 <u>1,500</u>
Failed to file report by date of enforcement hearing.	\$250 <u>750</u>	\$500 <u>1,250</u>	\$1,000 <u>2,000</u>
Failure to timely file accurate and complete disclosure reports:			
Political committee registration (C-1pc).	\$150 <u>500</u>	\$300 <u>1,000</u>	\$600 <u>1,500</u>
Statement of contributions deposit (C-3).	\$150 <u>500</u>	\$300 <u>1,000</u>	\$600 <u>1,500</u>
Summary of total contributions and expenditures (C-4).	\$150 <u>500</u>	\$300 <u>1,000</u>	\$600 <u>1,500</u>
Independent expenditures and electioneering communications (C-6).	\$150 <u>500</u>	\$300 <u>1,000</u>	\$600 <u>1,500</u>
Last minute contribution report (LMC).	\$500 <u>\$150</u>	\$1,000 <u>\$300</u>	\$1,500 <u>\$600</u>
Out-of-state committee report (C-5).	\$500 <u>\$150</u>	\$1,000 <u>\$300</u>	\$1,500 <u>\$600</u>

Violation	1st Occasion	2nd Occasion	3rd Occasion
Annual report of major contributors (C-7).	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Public agency lobbying report (L-5).	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Grass roots lobbying report (L-6).	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failure to file electronically.	\$350 750	\$650 1,500	\$1,000 2,000
Exceeding contribution limits.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Exceeding mini reporting threshold.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failure to comply with political advertising sponsor identification requirements.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failure to include required candidate's party preference in political advertising.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failure to comply with other political advertising requirements, RCW 42.17A.330 through 42.17A.345.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Use of public facilities to assist a campaign for election or promote a ballot measure.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Treasurer's failure to timely file an accurate and complete annual treasurer's report (T-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - \$150 500	\$150 500 - \$300 1,000	\$300 1,000 - \$600 1,500
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$500 \$150	\$1,000 \$300	\$1,500 \$600
Failed to file report by date of enforcement hearing.	\$250 750	\$500 1,500	\$1,000 2,000

"Occasion" means established violation by the Commission, or agreed to in a statement of understanding. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors, including:

(a) Whether the respondent is a first-time filer;

(b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(c) The respondent's unpaid penalties from a previous enforcement action;

(d) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(e) The amount of financial activity by the respondent during the statement period or election cycle;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;

(h) Good faith efforts to comply, including consultation with PDC staff prior to initiation of enforcement action and cooperation with PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;

(i) Personal emergency or illness of the respondent or member of his or her immediate family;

(j) Other emergencies such as fire, flood, or utility failure preventing filing;

(k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;

and

(l) PDC staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing; and

(m) Participation in one or more PDC training courses.

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within ~~five~~ 30 business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes ~~one thousand dollars~~ the penalty limit would be an insufficient penalty or the matter warrants consideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when ~~the respondent~~:

(a) The respondent already had been ~~was~~ found in violation during a previous reporting period;

(b) ~~The~~ That prior violation remains in effect, following any appeals; and

(c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

[Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-143, filed 11/30/18, effective 12/31/18.

Statutory Authority: RCW 42.17A.110(1) and 42.17A.570. WSR 18-10-088, § 390-37-143, filed 5/1/18, effective 6/1/18. Statutory Authority: RCW 42.17A.110. WSR 17-03-004, § 390-37-143, filed 1/4/17, effective 2/4/17.]

WAC 390-37-182 Penalty factors (full adjudicatory proceedings). (1) In assessing a penalty after a full adjudicatory proceeding, the commission considers the purposes of chapter 42.17A RCW, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the additional factors described in subsection (3) of this section.

(2) Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time violation;

(b) Must assess a penalty for a second violation by the same person or individual, regardless if the person or individual committed the violation for a different political committee;

(c) Must assess successively increased penalties for succeeding violations pursuant to the following schedule:

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$500 <u>1,000</u>	\$500 - \$1,500 <u>1,000 - 2,500</u>	\$1,500 - \$2,500 <u>2,500 - 5,000</u>
Report is filed late and is incomplete or inaccurate.	\$0 - \$1,000 <u>2,000</u>	\$1,000 - \$2,000 <u>2,000 - 5,000</u>	\$2,000 - \$3,000 <u>5,000 - 7,500</u>
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 Report)			
Filed missing C-3 Report or amended C-3 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$1,500 <u>2,500</u>	\$1,500 - \$2,500 <u>2,500 - 5,000</u>	\$2,500 - \$10,000 <u>5,000 - 10,000</u>
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - \$2,500 <u>\$0 - 1,500</u>	\$2,500 - \$5,000 <u>\$1,500 - 2,500</u>	\$5,000 - \$10,000 <u>\$2,500 - 10,000</u>
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - \$2,500 <u>\$0 - 1,500</u>	\$2,500 - \$5,000 <u>\$1,500 - 2,500</u>	\$5,000 - \$10,000 <u>\$2,500 - 10,000</u>
Campaign Summary Receipts and Expenditures Report (C-4 Report)			
Filed missing C-4 Report or amended C-4 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 <u>\$0 - 1,500</u>	\$2,500 - \$5,000 <u>\$1,500 - 2,500</u>	\$5,000 - \$10,000 <u>\$2,500 - 10,000</u>
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - \$2,500 <u>\$0 - 1,500</u>	\$2,500 - \$5,000 <u>\$1,500 - 2,500</u>	\$5,000 - \$10,000 <u>\$2,500 - 10,000</u>
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - \$2,500 <u>\$0 - 1,500</u>	\$2,500 - \$5,000 <u>\$1,500 - 2,500</u>	\$5,000 - \$10,000 <u>\$2,500 - 10,000</u>

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Failed to report a contractual contingent liability.	\$0 - \$2,500 \$0 - \$1,500	\$2,500 - \$5,000 \$1,500 - \$2,500	\$5,000 - \$10,000 \$2,500 - \$10,000
Failed to properly dispose of surplus funds.	\$0 - \$2,500 \$0 - \$1,500	\$2,500 - \$5,000 \$1,500 - \$2,500	\$5,000 - \$10,000 \$2,500 - \$10,000
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - \$2,500 \$0 - \$1,500	\$2,500 - \$5,000 \$1,500 - \$2,500	\$5,000 - \$10,000 \$2,500 - \$10,000
Independent Expenditure Report (C-6 Report)			
Filed missing C-6 Report or amended C-6 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0 - \$1,000	\$2,500 - \$5,000 \$1,000 - \$2,000	\$5,000 - \$10,000 \$2,500 - \$10,000
Report is filed late and is incomplete or inaccurate.	\$0 - \$2,500 \$0 - \$1,500	\$2,500 - \$5,000 \$1,500 - \$2,500	\$5,000 - \$10,000 \$2,500 - \$10,000
Out-of-State Political Committee Report (C-5 Report)			
Filed missing C-5 Report or amended C-5 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0 - \$1,000	\$2,500 - \$5,000 \$1,000 - \$2,000	\$5,000 - \$10,000 \$2,500 - \$10,000
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0 - \$1,000	\$2,500 - \$5,000 \$1,000 - \$2,000	\$5,000 - \$10,000 \$2,500 - \$10,000
Exceeding contribution limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0 - \$1,500	\$2,500 - \$5,000 \$1,500 - \$2,500	\$5,000 - \$10,000 \$2,500 - \$10,000
Other Alleged Violations:			
Exceeding mini reporting threshold			
Filed C-3 and C-4 Reports for full reporting after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0 - \$1,000	\$2,500 - \$5,000 \$1,000 - \$2,000	\$5,000 - \$10,000 \$2,500 - \$10,000
Failure to file electronically			

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed C-3 and C-4 Reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0-\$1,000	\$2,500 - \$5,000 \$1,000-\$2,000	\$5,000 - \$10,000 \$2,500-\$10,000
Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - \$2,500 \$0-\$1,000	\$2,500 - \$5,000 \$1,000-\$2,000	\$5,000 - \$10,000 \$2,500-\$10,000
Failure to File Lobbyist Registration Report (L-1 Report)			
Filed missing L-1 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$500-\$1,500	\$5,000 - \$10,000 \$1,500-\$2,500
Failure to File Agency Lobbying Report (L-5 Report)			
Filed missing L-5 Report or amended L-5 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$500-\$1,500	\$5,000 - \$10,000 \$1,500-\$2,500
Grassroots Lobbying Report (L-6 Report)			
Filed missing L-6 Report or amended L-6 Report after being notified about the complaint and provided written explanation with mitigating circumstances.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$500-\$1,500	\$5,000 - \$10,000 \$1,500-\$2,500
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification or included improper or misleading sponsor identification.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$500-\$1,500	\$5,000 - \$10,000 \$1,500-\$2,500
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$500-\$1,500	\$5,000 - \$10,000 \$1,500-\$2,500
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - \$2,500 \$0-\$500	\$2,500 - \$5,000 \$1,000-\$1,000	\$5,000 - \$10,000 \$1,000-\$1,500

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - \$2,500 \$500	\$2,500 - \$5,000 \$1,500	\$5,000 - \$10,000 \$2,500
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$2,500 \$500	\$2,500 - \$5,000 \$1,500	\$5,000 - \$10,000 \$2,500
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$2,500 \$600	\$2,500 - \$5,000 \$1,200	\$5,000 - \$10,000 \$2,400
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain records and books of account, or make such information available by the methods provided under WAC 390-18-050.	\$0 - \$2,500 \$600	\$2,500 - \$5,000 \$1,200	\$5,000 - \$10,000 \$2,400
Candidates and political committees—Public inspection of books of account			
Candidates or political committees who fail to accommodate requests for public inspections as required by WAC 390-16-043.	\$0 - \$2,500 \$600	\$2,500 - \$5,000 \$1,200	\$5,000 - \$10,000 \$2,400
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - \$2,500 \$600	\$2,500 - \$5,000 \$1,200	\$5,000 - \$10,000 \$2,400

(3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

(a) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative

of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(b) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;

(d) Amount of financial activity by the respondent during the statement period or election cycle;

(e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;

(h) Personal emergency or illness of the respondent or member of his or her immediate family;

(i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) PDC staff or equipment error, including technical problems at the PDC preventing or delaying electronic filing;

(k) The respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions;

(l) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);

(m) Whether the respondent is a first-time filer;

(n) Good faith efforts to comply, including consultation with PDC staff prior to initiation of enforcement action and cooperation with PDC staff during enforcement action, and a

demonstrated wish to acknowledge and take responsibility for the violation;

(o) Participation in one or more PDC training courses;

(p) Penalties imposed in factually similar cases; and

~~(p)~~ (q) Other factors relevant to a particular case.

(4) The commission may consider the factors in subsections (1) through (3) of this section in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) Notwithstanding the above schedule, the commission may assess a penalty of up to ten thousand dollars per violation, or a greater amount if agreed to by the parties, pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) through (3) of this section.

(6) The penalty schedule for brief enforcement proceedings is provided under WAC 390-37-143.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-37-182, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-182, filed 11/30/18, effective 12/31/18.]

Statutory Authority: RCW 42.17A.110(1). WSR 16-01-015, § 390-37-182, filed 12/4/15, effective 1/4/16. Statutory Authority: RCW 42.17A.110, 42.17A.755. WSR 13-05-014, § 390-37-182, filed 2/7/13, effective 3/10/13.]