

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-002 Mission and purpose of the public disclosure commission.** (1) The public disclosure commission was created by the passage of Initiative 276 in 1972 for the principal purpose of providing the public with accurate information about certain financial affairs of candidates and elected officials, about the financing of election campaigns and the sponsors of political advertising, and about expenditures made in the course of lobbying. The passage of Initiative 134 in 1992 further expounded the purpose of the commission and the law.

(2) The duties, responsibilities and powers of the commission, and provisions for establishing the commission and appointing the members thereof, are set forth in chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-007 Public disclosure commission—Description of organization.** (1) The public disclosure commission is a five-member commission appointed by the governor with the consent of the senate. The commission is assisted by a staff (~~(consisting of)~~), managed by an executive director (~~(and such other employees as are necessary)~~).

(2) Electronic communications to the commission should be sent to pdc@pdc.wa.gov. Mailings to the commission should be addressed as follows: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-010 Purpose of rules.** The purpose of these rules is to implement the provisions of chapter 42.17A RCW (~~((Initiatives 276 and 134))~~), referred to throughout as the act, by declaring the policies of the commission, particularly with regard to the interpretation and enforcement of the act by the commission.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-205 Definition—Consumable.** (~~(In RCW 42.17A.005 (13)(a),~~) The definition of contribution in the act excludes the actual cost of consumables furnished at a ticketed fund-raising event. This exclusion applies to the amount paid for food, beverages, preparation, catering or entertainment furnished at the event. For this purpose of (~~(RCW 42.17A.005)~~) the act and these rules, the term "con-

sumable" includes the amount paid for food, beverages, event preparation, catering or entertainment cost furnished at the event.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-210 Definition—Contribution.** (1) The term "contribution" as defined in the act and used in these rules shall be deemed to include, among other things, furnishing services, property or rights on an unequal basis or at less than their fair market value as defined in WAC 390-05-235, for the purpose of assisting any candidate or political committee. When such in-kind contribution is provided, it shall be reported at its fair market value per WAC 390-05-235 and, pursuant to RCW 42.17A.405 and 42.17A.410, the fair market value is the amount of the contribution to be allocated to the contributor in determining compliance with the contributor's contribution limit.

(2) ***Duplicating political advertising.*** The financing by a person of the dissemination, distribution, or republication, in whole or in part, of broadcast, written, graphic, digital, or other form of political advertising prepared by a candidate, a political committee, or the authorized agent of a candidate or political committee, is a contribution to the candidate or political committee.

(3) ***Consulting with a ((state, local or judicial)) candidate.*** An expenditure made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, or the candidate's authorized committee or agent, is a contribution to such candidate. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, or the candidate's authorized committee or agent, when:

(a) Any arrangement, coordination, or direction by the candidate, or the candidate's authorized committee or agent, is given to the expending person prior to the publication, distribution (digital or otherwise), display or broadcast, of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that candidate or opposing one or more of that candidate's opponents; ((or))

(b) An expenditure is made based on information about the candidate's plans, projects, or needs provided to the expending person by the candidate, or the candidate's authorized committee or agent, with a view toward having an expenditure made; ((or))

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the candidate's authorized committee; or

(d) An expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the candidate, or the candidate's authorized committee or agent. However, there is no presumption that an expenditure is made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a candidate, or the candidate's authorized committee or agent, when a person performs only ministerial functions

for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(4) **Consulting with a caucus political committee.** An expenditure (~~(that does not qualify)~~), not otherwise qualifying as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, is a contribution to such caucus political committee. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when:

(a) Any arrangement, coordination, or direction by the caucus political committee, its agent, or another political committee financed, controlled or operated by the caucus, is given to the expending person prior to the publication, distribution, display, or broadcast of political advertising or electioneering communications, or prior to an expenditure being made by that person supporting that caucus political committee, or one or more of the candidates supported by it, or opposing one or more of those candidates' opponents; ((~~or~~))

(b) An expenditure is made based on information about the caucus political committee's plans, projects, or needs provided to the expending person by the caucus political committee, its agent, or another political committee financed, controlled, or operated by the caucus with a view toward having an expenditure made; ((~~or~~))

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the caucus political committee or another political committee financed, controlled, or operated by the caucus; or

(d) The expenditure is made by or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the caucus political committee, its agent, or another political committee financed, controlled, or operated by the caucus. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a caucus political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(5) **Consulting with a bona fide political party.** An expenditure (~~(that does not qualify)~~), not otherwise qualifying as a contribution to a candidate under subsection (3) of this section, made by a person in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party or its agent, is a contribution to such bona fide political party. An expenditure is presumed to be made in cooperation, consultation, concert or collaboration with, or at the request or suggestion of a bona fide political party, when:

(a) Any arrangement, coordination or direction by the bona fide political party, its agent, or a political committee financed, controlled or operated by the party is given to the expending person prior to the publication, distribution, display, or broadcast of political advertising or electioneering communications or prior to an expenditure being made by that person supporting that bona fide political party, or one or more of the candidates supported by it, or opposing one or more of those candidates' opponents; ((~~or~~))

(b) An expenditure is made based on information about the bona fide political party's plans, projects, or needs provided to the expending person by the bona fide political party or its agent with a view toward having an expenditure made; ((~~o~~))

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the bona fide political party or a political committee financed, controlled, or operated by the bona fide political party; or

(d) An expenditure is made by, through, or in consultation with, any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the bona fide political party, its agent, or a political committee financed, controlled, or operated by the bona fide political party. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of the bona fide political party, a political committee financed, controlled, or operated by a bona fide political party or their agents, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

(6) **Consulting with other political committees.** An expenditure made by a person in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a political committee is a contribution to such political committee. An expenditure is presumed to be made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a political committee when:

(a) Any arrangement, coordination, or direction by the political committee, its agent, or another political committee financed, controlled, or operated by the committee is given to the expending person prior to the publication, distribution (digital or otherwise), display, or broadcast of political advertising, or prior to an expenditure being made by that person benefiting that political committee; ((~~o~~))

(b) An expenditure is made based on information about the political committee's plans, projects, or needs provided to the expending person by the political committee or its agent with a view toward having an expenditure made; ((~~o~~))

(c) An expenditure is made by, through, in consultation with, or with the assistance of, including the fund-raising assistance of, any person who, during the twelve months preceding the expenditure, is or has been an officer of the political committee or another political committee financed, controlled or operated by the committee; or

(d) An expenditure is made by, through, or in consultation with any person who, during the twelve months preceding the expenditure, is or has been receiving any form of campaign-related compensation or reimbursement from the political committee, its agent, or another political committee financed, controlled, or operated by the committee. However, there is no presumption that an expenditure is made in cooperation, consultation, concert, or collaboration with, or at the request or suggestion of a political committee or its agent, when a person performs only ministerial functions for two or more candidates or political committees pursuant to RCW 42.17A.005 and WAC 390-05-243.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-215 Receipt of a campaign contribution.** "Receipt" of a campaign contribution, as that term is used in the act and in these rules, shall be deemed to occur as follows:

(1) For online or credit card contributions, the contribution is considered received at the time the transfer is made from the merchant account to a candidate or political committee account, except that a contribution made to a candidate who is a state official or legislator outside the restriction period established in RCW 42.17A.560, but transferred to the candidate's account within the restricted period, is considered received outside of the restriction period.

(2) For all other contributions, receipt shall be deemed to occur at the earliest date of the following:

(a) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson, or agent obtains possession of the contribution; ~~(( $\oplus$ ))~~

(b) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson, or agent is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary or conduit ~~(( $\tau$ ))~~ has possession of the contribution; or

(c) The date that the contribution becomes available for use by the candidate or committee.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-220 Definition—Consideration.** "Consideration" as that term is used in the act and in these rules shall be deemed to include anything of value promised ~~(( $\oplus$ ))~~, paid, or transferred in return for a person's property or services rendered or to be rendered, including but not limited to reimbursement for traveling or other expenses.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-235 Definition—Fair market value.** (1) "Fair market value" as used in this act and in these rules means the amount of money which a purchaser willing, but not obliged, to buy would pay a seller willing, but not obliged, to sell, for property, goods, or services.

(2)(a) In reference to real property, "fair market value" or "value," as used in the act and in these rules is the ~~((amount in cash which))~~ present cash value that a well-informed buyer or lessee, willing but not obliged to buy or lease that property, would pay, and ~~((which))~~ that a well-informed seller, or lessor, willing but not ob-

ligated to sell or lease it, would accept, taking into consideration all uses to which the property is adapted and might in reason be applied.

(b) If, in determining "fair market value" or "value," the amount a buyer would pay and the amount a seller would accept would be based on varying standards, then the fair market value of the contribution shall be based on the amount the contributor would ordinarily accept for selling the property, rather than the amount the candidate or political committee would ordinarily pay. For example, if a contributor who sells property in the ordinary course of their business at a wholesale price donates such property to a candidate or political committee who would ordinarily pay the retail price as a consumer, then the fair market value of the contribution shall be the wholesale price.

(3)(a) Any person who donates an item for sale, raffle, auction or awarding at a fund-raising event is making a contribution to the recipient candidate or political committee in an amount equal to the fair market value of the item donated.

(b) Any person who buys a donated item makes a contribution equal in value to the difference between the purchase or auction price and the fair market value of the donated item.

(c) If the purchase or auction price is the same as the fair market value, the buyer's contribution is zero. If the purchase or auction price is less than the fair market value, the buyer's contribution is zero and the donor's contribution is reduced to the amount of the sale or auction price.

(4) The value of any in-kind contribution donated to any candidate or political committee subject to contribution limits pursuant to RCW 42.17A.405 or 42.17A.410 shall not, when combined with other contributions to that candidate or political committee, exceed the donor's applicable contribution limit as set forth in RCW 42.17A.405 or 42.17A.410. The value of an in-kind contribution donated as an exempt contribution to a bona fide political party committee or other political committee eligible to receive exempt funds is only subject to the limit imposed by RCW 42.17A.420.

(5)(a) Except as provided in WAC 390-16-207, if a person permits a candidate, a candidate's authorized committee, or a political committee to use the telephones of a business, union, organization or other entity without charge for the purpose of making local campaign-related calls, the telephone usage is an in-kind contribution and shall be valued at its fair market value or, if no fair market value is ascertainable, (~~(\$1)~~) one dollar per telephone per calendar day or part thereof.

(b) If (~~(\$1)~~) calls are permitted with assessed charges, the (~~(\$1)~~) charges are also an in-kind contribution unless the candidate, the candidate's authorized committee, or the political committee reimburses the person in full within thirty days of making (~~the~~) such calls.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-290 Political advertising definitions.** (1) "Mass communication," as that term is used in the act and in these rules,

means a communication, digital or otherwise, intended to reach a large audience through any of the following methods:

- (a) Advertising displays, newspaper advertising, billboards, signs;
- (b) Brochures, articles, tabloids, fliers, periodicals;
- (c) Radio or television presentations;
- (d) Sample ballots (see WAC 390-17-030);
- (e) Online or other electronic transmission methods;
- (f) One hundred or more letters, emails, text messages or similar communications that are identical or substantially similar in nature, directed to specific recipients, and sent within a thirty-day period; and

(g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or Title 390 WAC.

(2) "Online" means disseminating through a network of interconnected computers or devices, such as the internet or similar systems enabling electronic dissemination or exchange of communications. Examples include, but are not limited to, internet web sites, social media, and other digital platforms, emails, and text messages.

(3) "Political advertising" (~~is defined under RCW 42.17A.005~~ ~~to~~) as that term is defined in the act and used in these rules includes a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

~~((4))~~ Political advertising does not include letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, web site or blog, or on a radio or television broadcast where payment for the space or time is not normally required.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-300 Suspension of reporting requirements for small jurisdictions.** (~~From the effective date of RCW 42.17A.135,~~) The following reporting requirements ((are suspended)) do not apply in jurisdictions with fewer than ~~((one))~~ two thousand registered voters, as of the date of the most recent general election in the jurisdiction:

(1) The F-1 financial reports of public officials required by RCW 42.17A.700 and WAC 390-24-010, 390-24-020 and 390-24-025;

(2) The L-5 public agency lobbying reports required by RCW 42.17A.635 and WAC 390-20-120;

(3) The C-1 through C-4 campaign finance reports required for ballot issues by RCW 42.17A.205 through 42.17A.240 and 42.17A.425, and WAC 390-16-011, 390-16-031, 390-16-036, 390-16-041, and independent campaign expenditure reports (C-6) required for ballot issues by RCW 42.17A.255 and WAC 390-16-050 (~~is provided, that reporting requirements shall be reinstated by order of the commission at its next regular or special meeting if:~~

~~(a) A certified "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or~~

~~(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspension with respect to elected officials, candidates and ballot propositions for the jurisdiction.~~

~~If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports. Such individuals and committees shall be ordered to file the required statements within thirty days of the commission order).~~

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-305 Petition for disclosure—Form.** ~~((1))~~ The registered voters of a jurisdiction where reporting requirements are suspended may petition the commission to reinstate the reporting requirements suspended in jurisdictions with fewer than two thousand registered voters, as provided under RCW 42.17A.135 and this section.

(1) The commission shall reinstate the reporting requirements in a jurisdiction with fewer than two thousand registered voters at its next regular or special meeting, if:

(a) A certified "petition for disclosure" containing the valid signatures of fifteen percent of the number of registered voters of the jurisdiction as of the date of the most recent general election in the jurisdiction is filed with the commission; or

(b) The jurisdiction has by ordinance, resolution or other official action petitioned the commission to void the suspension with respect to elected officials, candidates and ballot propositions for the jurisdiction.

(2) If reporting requirements are reinstated by petition, the commission shall promptly notify all known affected candidates and incumbent elected officials of their duty to file disclosure reports, and order such persons to file the required statements within thirty days of the commission order.

(3) A petition for disclosure shall be filed electronically using the means provided by the PDC, or if an electronic method has not been provided the petition shall be filed on legible, on 8-1/2 x 11" paper(~~, and shall~~). The petition must include the following information:

(a) The name of the jurisdiction;

(b) A request that public disclosure be required;

(c) The names and addresses of all known candidates and ballot proposition committees in the jurisdiction who will be required to report;

(d) The legibly printed name and address and the legal signature of at least fifteen percent of the number of registered voters in the jurisdiction as of the date of the most recent general election in the jurisdiction.

~~((2))~~ (4) The petition shall be verified and certified by the auditor or elections officer of the county or counties in which the jurisdiction is located. The signatures shall be verified by comparing the signatures on the petition to the signatures on the voter registration roll. The auditor shall place (~~his~~) the auditor's seal on

each verified page of the petition in order to certify it to the commission.

~~((3))~~ (5) A suggested form for petition is:

"We, the undersigned citizens and registered voters of (name of jurisdiction), request that the Public Disclosure Commission order disclosure in (name of jurisdiction)."

~~((4))~~ (6) A suggested form for the petition of a jurisdiction by ordinance, resolution or other official action is:

"We, the (governing board) of (name of jurisdiction) request that the Public Disclosure Commission order disclosure in (name of jurisdiction). This request is made pursuant to RCW 42.17A.135 and WAC 390-05-305."

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-400 Changes in dollar amounts.** Pursuant to the ~~((requirement))~~ authority in RCW 42.17A.125 that the commission ~~((biennially))~~ may revise the ~~((dollar amounts found in Initiative 134 and RCW 42.17A.410))~~ monetary contribution limits and reporting thresholds and code values of the act to reflect changes in economic conditions, the previous and current amounts are:

Code Section	Subject Matter	Previous	Current
.005	<del>((Definition of))</del> <u>Reporting threshold for "Independent Expenditure" for political advertising</u>	\$950	<del>((*))</del> <u>\$1,000</u>
<u>.255</u>	<u>Reporting threshold for "Independent Expenditure" not otherwise reported</u>	<u>\$100</u>	<u>\$100</u>
.445(3)	Reimbursement of candidate for loan to own campaign	\$5,500	\$6,000
.630(1)	Report— Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$19,000 \$950	\$20,000 \$1,000
.405(2)	Contribution Limits— Candidates for state leg. office Candidates for county office Candidates for other state office Candidates for special purpose districts Candidates for city council office Candidates for mayoral office Candidates for school board office Candidates for hospital district	\$950 \$950 \$1,900 \$1,900 \$950 \$950 \$950 \$950	\$1,000 \$1,000 \$2,000 \$2,000 \$1,000 \$1,000 \$1,000 \$1,000
.405(3)	Contribution Limits—		

Code Section	Subject Matter	Previous	Current
	State official up for recall or pol comm. supporting recall—		
	State Legislative Office	\$950	\$1,000
	Other State Office	\$1,900	\$2,000
.405(4)	Contribution Limits—		
	Contributions made by political parties and caucus committees		
	State parties and caucus committees	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to a candidate	.50 per voter	.50 per registered voter
.405(5)	Contribution Limits—		
	Contributions made by pol. parties and caucus committees to state official up for recall or committee supporting recall		
	State parties and caucuses	.95 per voter	\$1.00 per registered voter
	County and leg. district parties	.50 per voter	.50 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.50 per voter	.50 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	\$950	\$1,000
	To political party	\$5,000	\$5,500
.410(1)	Candidates for judicial office	\$1,900	\$2,000
.475	Contribution must be made by written instrument	\$95	\$100
.710	<u>Code values for statement of personal financial affairs - See WAC 390-24-301</u>		

(\*) Chapter 304, Laws of 2018 amended the definition of independent expenditure, changing the dollar threshold element of that definition to one-half the contribution limit from an individual per election.)

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-505 Electioneering communication exclusions.** ((-1)) "Electioneering communication," as ((used)) defined in the act and used in these rules, does not include communications ((listed in RCW 42.17A.005 (22) (b)).

(2) "Electioneering communication" also does not include:

(a) Letters to the editor or comparable communications to news media described in RCW 42.17A.005 (22) (b) (iii);

(b) Communications conveyed through web sites, emails, telephone calls, or in-person leaflet/pamphlet drops at street addresses; or

(c) Communications conveyed in a manner not specified in RCW 42.17A.005(22)) expressly excluded from the definition in the act,

such as communications conveyed through web sites, emails, telephone calls, or in-person leaflet/pamphlet drops at street addresses.

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-507 Definition—Funding sources for electioneering communications.** (1) "Source of funds" for purposes of reporting a payment of promise to pay for an electioneering communication means a person who contributes anything of value for the communication, including a loan, gift, advance, payment, pledge, or personal or professional services for less than full consideration.

(2) Goods, services, property or rights other than money or its equivalent are deemed to have a monetary value equivalent to their fair market value.

~~((3) "Source of funds" does not include those things of value specified in RCW 42.17A.005 (16) (a) (i).))~~

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-515 ((Member.)) Exclusion from contributions, independent expenditures, and electioneering communications—Communications within membership organizations.** (1) In determining whether ~~((a)) an organization's political communications ((is to a "member" as that term is used in RCW 42.17A.005 and 42.17A.255, and for the purposes of RCW 42.17A.405, 42.17A.410 and 42.17A.420:~~

~~(1)) are limited to its "members" for purposes of communications that are excluded from the definitions of a contribution, independent expenditure, or electioneering communication, as provided in RCW 42.17A.005 of the act and used in these rules, the commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and ((whether it has)) formal organizing documents, membership criteria, and services it provides its members. An organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."~~

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account ~~((such factors as)):~~

(a) Whether the members affirmatively accept membership ((and));

(b) The rights and obligations conferred on members by the organization, including whether members have the right to vote for:

~~((a)) (i) Election of directors or officers; ((or~~

~~(b)) (ii) Changes to the articles or bylaws; or~~

~~((e))~~ (iii) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution~~((-))~~; and

(c) A required payment of a predetermined amount of membership dues ~~((is also a factor; however, an organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."))~~.

(3) If ~~((a membership))~~ an organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider ~~((the organization and its members as qualifying for the exemption in RCW 42.17A.005-16)(b)(v) and (22)(b)(vii), unless the communication was not sent primarily to members. However,))~~ these FEC criteria ~~((are not the only))~~ as indicators of legitimate membership organizations or valid members~~((, a determination that will be made by the commission on a case-by-case basis as necessary))~~.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

#### NEW SECTION

**WAC 390-05-518 Definition—Nonreimbursed public office related expense.** A "nonreimbursed public office related expense" is an expenditure incurred by an elected or appointed official, or a member of the official's immediate family, solely because of being an official.

AMENDATORY SECTION (Amending WSR 13-12-017, filed 5/24/13, effective 6/24/13)

**WAC 390-05-520 Definition—Periodical.** For electioneering communications and other political advertising, "periodical" means a digital or paper publication ~~((on paper))~~ that is serial in nature and appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months. ~~((For all other political advertising, "periodical" means a publication that is serial in nature and appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months.))~~

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

**WAC 390-05-525 Definition—Public service announcement.** (1) "Public service announcement," as used in the act and in these rules,

means a communication that ((meets)) is all of the following ((~~criteria. The communication is~~)):

(a) Designed to benefit or promote the community's health, safety or welfare or nonprofit community events;

(b) Not selling a product or service;

(c) Sponsored by an organization with a history of routinely providing the community such outreach public service messages in the service area of the organization;

(d) Of primary interest to the ((~~general~~)) public and is not targeted to reach only voters or voters in a specific jurisdiction;

(e) Not coordinated with or controlled or paid for by a candidate's authorized committee or political committee;

(f) Subject to the policies for public service announcements of the entity broadcasting, transmitting, mailing, erecting, distributing, digitally communicating, or otherwise publishing the communication including policies regarding length, timing and manner of distribution; and

(g) One for which the arrangements to include a reference or depiction of the candidate or candidates in the communication were made at least six months before the candidate became a candidate.

(2) Examples of public service announcements include but are not limited to communications regarding nonprofit community events, outreach, or awareness activities.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 390-05-195

Date of receipt of mailed items.