

NEW SECTION

WAC 390-05-002 Mission and purpose. (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.

(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.

NEW SECTION

WAC 390-05-005 Definition—Public disclosure commission. The "public disclosure commission" is the commission appointed by the governor pursuant to RCW 42.17A.100. The public disclosure commission shall hereinafter be referred to as the commission.

NEW SECTION

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 an executive director and such other employees as are necessary.

(2) Mailings to the commission should be addressed as follows: Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-010 Purpose. The purpose of these (~~regulations~~) rules is to implement the provisions of chapter 42.17A RCW (Initiatives 276 and 134), (~~hereinafter~~) referred to throughout as the (~~Public Disclosure Act or~~) 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 Order 62, filed 8/26/75)

WAC 390-05-020 General administrative policy. Whereas the ((Public Disclosure)) act was adopted by the people for the general betterment of local and state government, it shall be the policy of the ((public disclosure)) commission to carry out and effectuate that policy to the full extent of its delegated powers, through efficient administration, appropriate regulations and rulings, and through strict, vigorous, uniform and fair enforcement of the provisions of the act.

AMENDATORY SECTION (Amending Order 77, filed 6/2/76)

WAC 390-05-050 Commission status under SEPA. (1) The public disclosure commission recognizes its responsibilities under RCW 43.21C.120 to adopt rules pertaining to the State Environmental Policy Act (SEPA) as that act relates to activities under the commission's jurisdiction. The commission has reviewed SEPA and its own programs and concludes that all actions which the commission is authorized to undertake are exempt ((by virtue of WAC 197-10-040(2), 197-10-150 through 197-10-190)). The commission, as an administrative agency, has statutory authority for information gathering, recordkeeping, and investigative and hearing procedures with respect to elected officials, candidates, political committees, and persons and entities involved in lobbying activities. None of these activities are potentially subject to the environmental impact statement requirements of RCW 43.21C.030.

(2) In accordance with WAC ((197-10-800)) 197-11-904(4), the commission adopts this statement in compliance with the requirements of chapter 43.21C RCW.

NEW SECTION

WAC 390-05-100 Public disclosure commission—Organization and structure—Officers—Terms. The officers of the public disclosure commission shall be chair and vice chair. Their terms shall be one year or until a successor is elected. Elections to fill commission offices shall be held annually at the regular June meeting of the commission, or at a special election called for that purpose between May 1st and June 30th of the calendar year in which the new terms will commence. Vacancies in said offices may be filled by a vote of the commission at any regular meeting or any special meeting called for that purpose.

NEW SECTION

WAC 390-05-120 Public disclosure commission—Role of the executive director. (1) The executive director acts as the commission's

chief administrative officer and is accountable to the commission for agency administration. In addition, the executive director will:

(a) Act as the appointing authority for agency staff, including the authority to hire, set salaries, promote, assign work, evaluate, take corrective action and, where appropriate, terminate staff.

(b) Propose agency budgets for commission approval and oversee fiscal management of the agency.

(c) Exercise such other management oversight, decision-making and administrative action to provide timely and meaningful public access to accurate information about the financing of political campaigns, lobbyist expenditures, and the financial affairs of public officials and candidates, and to ensure compliance with and equitable enforcement of the act.

(d) Determine when appropriate and authorize enforcement alternatives set out in chapter 390-37 WAC to resolve complaints filed with the commission.

(e) Act as liaison between the commission and other public agencies.

(f) Research, develop, and draft policy positions, administrative rules, interpretations and advisory options for presentation to the commission.

(g) Enter into contracts and agreements on behalf of the commission.

(2) The executive director may delegate authority to subordinates, consistent with agency delegation of authority protocols as adopted by the commission, to act for the executive director as needed and appropriate.

(3) The executive director may perform other duties as authorized by chapter 42.17A RCW, Title 390 WAC, or as prescribed or delegated by the commission.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-190 ((Agent))Definition-Agent. "Agent," as that term is used in chapter 42.17A RCW and Title 390 WAC, means a person, whether the authority or consent is direct or indirect, express or implied, oral or written, who:

(1) Is authorized by another to act on ((his or her)) their behalf; or

(2) Represents and acts for another with the authority or consent of the person represented((; or

~~(3) Acts for or in place of another by authority from him or her)).~~

NEW SECTION

WAC 390-05-192 Definition-Aggregate. The term "aggregate," as used in the act and in these rules, means, for purposes of:

(1) A candidate for state or local office subject to contribution limits under RCW 42.17A.405, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the election cycle;

(2) A candidate for local office not subject to contribution limits under RCW 42.17A.405 or judicial office, the total amount of contributions received by the candidate, an agent of the candidate and any political committee affiliated with the candidate from the beginning of the candidate's campaign;

(3) A bona fide political party or caucus political committee, the total amount of contributions received by the committee from January 1st of the current calendar year;

(4) A political committee, the total amount of contributions received by the committee from the date of organization;

(5) A continuing political committee, the total amount of contributions received by the committee from January 1st of the current calendar year;

(6) A contributor, the total amount of all contributions received from a person, and any person affiliated with the person, to any one candidate or political committee;

(7) A person making independent expenditures with respect to a candidate and the reporting and disclosure provisions of RCW 42.17A.255, 42.17A.630, and 42.17A.320, an independent expenditure made by a person in support of a candidate that shall be added to any independent expenditure by the same person in opposition to one or more of the candidate's opponents; and, for purposes of a person making independent expenditures with respect to a ballot proposition, an independent expenditure made by a person in support of a ballot proposition that shall be added to any independent expenditure by the same person in opposition to the ballot proposition or in support of an alternative ballot proposition;

(8) The special reports required by RCW 42.17A.265 and 42.17A.625, the total amount of contributions received or expenditures made by a single person or entity during the special reporting period;

(9) An employer of a registered lobbyist, the total amount of all contributions made to a political committee supporting or opposing a candidate for state office, or to a political committee supporting or opposing a statewide ballot proposition during the preceding calendar year;

(10) The sponsor of a grass roots lobbying campaign, the total amount of contributions received since the beginning of the campaign and the total amount of expenditures made during the time frames specified in RCW 42.17A.640(1);

(11) RCW 42.17A.570, the total amount of all time and demand deposits in each financial institution on December 31st;

(12) RCW 42.17A.755, the total amount of monetary penalty that the commission may impose for multiple violations of the act.

AMENDATORY SECTION (Amending WSR 17-01-159, filed 12/21/16, effective 1/21/17)

WAC 390-05-195 ((Application of RCW 42.17A.140(1)).) Date of receipt of mailed items. (1) While the commission strongly encourages

the use of electronic filing to promote full and timely disclosure, in accordance with RCW 42.17A.140(~~(1)~~), the date of receipt of any properly addressed mailed application, report, statement, notice, (~~or~~) payment, or other item required under the provisions of chapter 42.17A RCW is the date shown by the post office cancellation mark on the envelope. (~~The commission frequently receives mailed items that do not bear a post office cancellation mark.~~)

(2) The commission frequently receives mailed items that do not bear a post office cancellation mark. Any (~~report~~) item mailed to the commission under the provisions of chapter 42.17A RCW is presumed to be filed timely if received within five business days of the due date provided for in chapter 42.17A RCW.

(3) A mailed (~~report~~) item may not be substituted for (~~a report~~) an item required to be electronically filed under the provisions of chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-200 Definition—Candidates for public office—Time of filing. The following circumstances shall give rise to presumption that an individual is a "candidate" as that term is defined in RCW 42.17A.005(~~(7)~~):

(1) The existence of a political committee promoting the election of such individual for public office with the knowledge and consent of that individual; or

(2) A public declaration of candidacy by an individual even if the candidacy is conditioned on a future occurrence; or

(3) Meeting the requirements set forth in WAC 390-16-230 (~~(1) or (2)~~).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-205 Definition (~~of term "~~)—Consumable. (~~"~~) In RCW 42.17A.005 (13)(a), the definition of contribution 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 (~~the~~) this purpose of RCW 42.17A.005 (~~(13)(a)(iv)~~) the term "consumable" includes the amount paid for food, beverages, event preparation, catering or entertainment cost furnished at the event.

WAC 390-05-210 Definition—Contribution. (1) The term "contribution" as defined in ((RCW 42.17A.005)) the act and these rules shall be deemed to include, among other things, furnishing services ((~~or~~)), property or rights on ((~~a discriminatory~~)) 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 ((~~of goods or services~~)) 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, 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, the candidate's authorized committee or agent when:

(a) Any arrangement, coordination or direction by the candidate, 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, 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) ((The)) 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, 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, 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((~~r~~)) that does not qualify 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 ((7)) that does not qualify 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; 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 bona fide political party or a political committee financed, controlled or operated by the bona fide political party; or

(d) ~~((The))~~ 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; or

(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; 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 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 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-215 Receipt of a campaign contribution. "Receipt" of a campaign contribution, as that term is used in ~~((chapter 42.17A~~

RCW) the act and in these rules, shall be deemed to occur ((at the earliest of the following)) 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 ((similarly situated campaign official)) agent obtains possession of the contribution((7)); or

((2)) (b) The date that the candidate, treasurer, deputy treasurer, campaign manager, campaign chairperson or ((similarly situated campaign official)) agent is informed of the contribution, or becomes aware that the campaign, or in the case of an earmarked contribution, the intermediary or conduit, has possession of the contribution((7)); or

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

AMENDATORY SECTION (Amending WSR 85-15-020, filed 7/9/85)

WAC 390-05-220 Definition—Consideration. ((The term)) "Consideration" as that term is used in the act and in these rules shall be deemed to include anything of value promised or 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 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-222 Definition—Domestic partner ((—Definition)). "Domestic partner" or "domestic partners," as those terms are used in ((chapter 42.17A RCW and Title 390 WAC)) the act and in these rules, means "state registered domestic partners" as defined in RCW 26.60.020 ((1)).

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-225 Registered voters—Count or number of. In accordance with RCW 29A.08.130, ((for purposes of chapter 42.17A RCW and

~~Title 390 WAC,~~) the count or number of registered voters, as used in the act or in these rules, shall not include inactive voters.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-235 Definition—Fair market value. (1) "Fair market value" 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 obligated, to sell, for property, goods or services.

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

~~((2))~~ (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.

~~((3))~~ (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.

~~((4))~~ (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 per telephone per calendar day or part thereof.

(b) If toll calls are permitted, the toll 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 ((30)) thirty days of making the toll calls.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-243 Ministerial functions by persons holding administrative offices. ((For the purposes of RCW 42.17A.005 and 42.17A.205:)) As used in the act and in these rules:

(1) "Ministerial functions" means the activities and duties of an administrative office that satisfy RCW 42.17A.005 ((-13) and (-33)) and require:

(a) Data entry for a candidate or political committee;

(b) Filing reports that have been reviewed and approved for filing by the candidate or political committee officer;

(c) Maintaining campaign finance and other similar records including making them available for inspection upon direction by the candidate or political committee officer;

(d) Writing and depositing checks at the direction of the candidate or political committee officer;

(e) Communications related to ministerial functions (to respond to questions about data entry, to discuss or review a candidate or committee's bank account balance, to schedule times to receive contribution checks at events, to review reports with the candidate or committee prior to filing, and similar communications) but do not involve attending strategy or campaign planning meetings or portions of meetings with candidates or political committee officers or their agents; or

(f) Other similar campaign finance activities and duties.

(2) "Administrative office" means a person performing campaign finance related clerical support or recordkeeping activities on behalf of candidates and political committees, when, for the purposes of RCW 42.17A.005 ((-13) and (-33)), those activities:

(a) Are directed by the candidate or political committee officer and require performance of activities by the administrative office in a prescribed manner;

(b) Are approved by the candidate or political committee officer for whom the services are performed;

(c) Do not involve the exercise of personal judgment or discretion, including authorizing expenditures;

(d) Do not involve the disclosure, except as required by law, of any information regarding a candidate or committee's plans, projects, activities or needs, or regarding a candidate's or committee's contributions or expenditures that is not already publicly available, or otherwise engage in activity that is a contribution; and

(e) Do not involve the performance of functions other than ministerial functions.

(3) A person performing only ministerial functions on behalf of two or more candidates or political committees is not:

(a) Considered an agent so long as (~~he or she has~~) they have no authority to authorize expenditures or make decisions on behalf of the candidate or committee; or

(b) An officer pursuant to WAC 390-05-245. However, that person's name, address and title must be reported on the C-1 or C-1pc registration form.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-245 ~~Definition—Officer of a candidate's committee or of a political committee~~(~~—Definition~~)). (~~For purposes of chapter 42.17A RCW and Title 390 WAC~~) As used in the act and in these rules, "officer of a candidate's authorized committee," or "officer of a candidate's committee" or "officer of a political committee" includes the following persons: Any person designated by the committee as an officer on the C-1 or C-1pc registration statement and any person who alone or in conjunction with other persons makes, directs, or authorizes contribution, expenditure, strategic or policy decisions on behalf of the committee.

AMENDATORY SECTION (Amending WSR 17-03-028, filed 1/6/17, effective 2/6/17)

WAC 390-05-255 ~~Definition ((of terms —))—"Day" and "business day."~~ (1) "Day" as that term is used in (~~chapter 42.17A RCW and Title 390 WAC~~) the act and in these rules, unless otherwise specified, means a calendar day, including Saturday, Sunday and legal holidays.

(2) "Business day" as used in (~~chapter 42.17A RCW and Title 390 WAC~~) the act and in these rules, means a calendar day, excluding Saturday, Sunday and legal holidays defined in WAC 357-31-005.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-271 ~~General applications of RCW 42.17A.555.~~ (1) RCW 42.17A.555 does not restrict the right of any individual to express (~~his or her~~) their own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.

(2) RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-273 Definition ((ef))—Normal and regular conduct.

Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17A.555, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-274 Party affiliation, party preference, etc. (1)

"Party affiliation," as ~~((that term is used in chapter 42.17A RCW and Title 390 WAC))~~ used in the act and in these rules, means the candidate's party preference as expressed on ~~((his or her))~~ their declaration of candidacy. A candidate's preference does not imply that the candidate is nominated or endorsed by that party, or that the party approves of or associates with that candidate.

(2) A reference to "political party affiliation," "political party," or "party" on disclosure forms adopted by the commission and in Title 390 WAC refers to the candidate's self-identified party preference.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-275 Definition—Party organization.

"Party organization," as that term is used in ~~((chapter 42.17A RCW and Title 390 WAC))~~ the act and in these rules, means a bona fide political party as defined in RCW 42.17A.005 and applied in WAC ~~((390-05-196))~~ 390-05-210.

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

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 (~~commission rule~~) 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, (~~web-based social media (such as Facebook, Twitter, and other electronic publishing platforms),~~) social media and other digital platforms, emails, and text messages.

(3) "Political advertising" is defined under RCW 42.17A.005 to include 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, or on a radio or television broadcast where payment for the space or time is not normally required.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-300 Suspension of reporting requirements. From the effective date of RCW 42.17A.135, the following reporting requirements are suspended in jurisdictions with (~~less~~) fewer than one 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: 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 92-05-080, filed 2/18/92, effective 3/20/92)

WAC 390-05-305 Petition for disclosure—Form. (1) A petition for disclosure shall be filed electronically using the means provided by the PDC, or shall be legible, on 8-1/2 x 11" paper, and shall 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) 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 seal on each verified page of the petition in order to certify it to the commission.

(3) 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) 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 ((42.17.405)) 42.17A.135 and WAC 390-05-305 ((4))."

AMENDATORY SECTION (Amending WSR 16-04-080, filed 1/29/16, effective 2/29/16)

WAC 390-05-400 Changes in dollar amounts. Pursuant to the requirement in RCW 42.17A.125 that the commission biennially revise the dollar amounts found in Initiative 134 and RCW 42.17A.410 to reflect changes in economic conditions, the ~~((following revisions))~~ current amounts are ~~((made))~~:

Code Section	Subject Matter	((Amount Enacted or Last Revised))	((2016 Revision))
		Previous	Current
.005	Definition of "Independent Expenditure"	\$950	(((\$1,000)))*
.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— State official up for recall or pol comm. supporting recall— State Legislative Office Other State Office	\$950 \$1,900	\$1,000 \$2,000
.405(4)	Contribution Limits— Contributions made by political parties and caucus committees State parties and caucus committees County and leg. district parties Limit for all county and leg. district parties to a candidate	.95 per voter .50 per voter .50 per voter	\$1.00 per registered voter .50 per registered 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 County and leg. district parties Limit for all county and leg. district parties to state official up for recall or pol. comm.	.95 per voter .50 per voter	\$1.00 per registered voter .50 per registered voter

Code Section	Subject Matter	((Amount Enacted or Last Revised))	((2016 Revision))
		Previous	Current
	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

* 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 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-500 Definition—Debate or forum. "Debate or forum" means qualifying events under RCW 42.17A.005 (~~((19)(b)(ii))~~) where candidates are invited based upon predefined objective criteria, including where only one candidate in an uncontested race participates.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-505 Electioneering communication exclusions. (1) "Electioneering communication," as used in the act and in these rules, does not include communications listed in RCW 42.17A.005 (~~((19))~~) (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 (~~((19))~~) (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 (~~((19))~~) (22).

NEW SECTION

WAC 390-05-507 Definition—Funding sources for electioneering communications. (1) "Source of funds" 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 06-11-132, filed 5/23/06, effective 6/23/06)

WAC 390-05-510 ~~Definition—General treasury funds.~~ "General treasury funds," as used in the act and in these rules, means a collective designation of all of the assets of an organization which furnish the means for defraying the necessary, usual, ordinary running and incidental expenses of an organization. General treasury funds are typically not derived from a special solicitation, effort, or receipt, but derive from regular, planned for, and ongoing revenue streams or sources.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-515 **Member.** In determining whether a communication 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) 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.

(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 whether the members affirmatively accept membership and the rights and obligations conferred on members by the organization including whether members have the right to vote for:

(a) Election of directors or officers; or

(b) Changes to the articles or bylaws; or

(c) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution.

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 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 (~~((13))~~) (16) (b) (v) and (~~((19))~~) (22) (b) (vii), unless the communication was not sent primarily to members. However, these FEC criteria are not the only indi-

cators 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.

AMENDATORY SECTION (Amending WSR 12-03-002, filed 1/4/12, effective 2/4/12)

WAC 390-05-522 ~~Definition—Place of business~~(~~—Definition~~)). "A place of business in the state of Washington" as that term is used in RCW 42.17A.250 (1)(f) means the business is headquartered in or has a primary place of business in Washington state.

For example, if a national corporation headquartered outside of Washington state has retail outlets in Washington and that national corporation contributes two hundred fifty dollars to an out-of-state political committee that is subject to reporting under RCW 42.17A.250, the out-of-state committee is not required to disclose the national corporation as a contributor under RCW 42.17A.250 (1)(f).

AMENDATORY SECTION (Amending WSR 06-11-132, filed 5/23/06, effective 6/23/06)

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 all 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 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 (~~such as: Breast cancer screening, heart disease, domestic violence, organ donation, emergency or other~~

~~disaster relief for organizations such as the Red Cross, programs designed to encourage reading by school children, childhood safety, fund drives for charitable programs such as United Way, and similar matters).~~

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 390-05-040	Public Disclosure Act—Violation of other law.
WAC 390-05-250	Definition—Public disclosure commission.
WAC 390-05-295	Definition—Promise or promise to pay.
WAC 390-05-530	Funding sources for electioneering communications.