

**Chapter 390-16 WAC**  
**((FORMS FOR)) CAMPAIGN ((FINANCING)) FINANCE REPORTING ((CONTRIBUTIONS))**

NEW SECTION

**WAC 390-16-001 Campaign finance disclosure.** Pursuant to chapter 42.17A RCW, candidates, political committees and other persons participating in elections are subject to reporting requirements with the public disclosure commission. This chapter provides information on how to meet those requirements. To provide the public with full and immediate disclosure, electronic filing is preferred and sometimes required. The executive director may waive the electronic filing requirement and allow for the use of another written format on the basis of hardship. Links to electronic filing systems, forms and the instructions for filing can be found on the PDC web site.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-011 ((Forms)) Registration statement for political committees.** The official form for providing the statement of organization by political committees for designating a campaign treasurer and depository and for reporting information required to qualify for mini campaign finance reporting is designated "C-1pc." ~~((Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8-1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 12-01-047, filed 12/14/11, effective 1/14/12)

**WAC 390-16-011A ((Sponsor of a)) Sponsored political committee.**  
(1) "Sponsored political committees," "sponsors of political committees," and "authorized committees," as those terms are used in the act and these rules, are defined in RCW 42.17A.005. This rule applies to political committees that are not authorized ~~((committees. This rule does not apply to political committees that filed final C-4 reports as of December 31, 2011.~~

~~(2) "Sponsor" of a political committee is defined under RCW 42.17A.005 (42) (b).~~

~~(3)) by a candidate, or by the public official against whom recall charges have been filed.~~

(2) A sponsored political committee ((that registers on or after January 1, 2012,)) shall include on its C-1pc the name of at least one sponsor in the committee's name.

~~((4) A political committee registered before January 1, 2012, shall amend its registration by January 31, 2012. A sponsored political committee shall include on its amended C-1pc the name of at least one sponsor in the committee's name.~~

~~(5)) (3) To determine if a political committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 ((42)(b)(i)):~~

~~(a) A political committee not organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received January 1, 2011, through the date of filing the amended C-1pc.~~

~~(b) A political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.~~

~~(6)) (46), the political committee organized to support or oppose a particular candidate or ballot proposition shall consider all contributions received by the committee in the previous twelve months.~~

~~(4) A sponsored political committee must amend its C-1pc sixty days before an election in which it participates if the committee's name on its most recently filed C-1pc does not include at least one current sponsor. To determine if the committee received eighty percent or more of its contributions from a person or from the person's members, officers, employees, or shareholders under RCW 42.17A.005 ((42)(b)(i)) (46) at the time of the amendment:~~

~~(a) A political committee not organized to support or oppose a particular candidate or ballot proposition ((will)) shall consider all contributions received in the previous twelve months through the date of filing the amended C-1pc.~~

~~(b) A committee organized to support or oppose a particular candidate or ballot proposition ((will)) shall consider all contributions received from the time the committee was organized or filed its initial C-1pc, whichever is earlier.~~

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-012 ((Forms--))Registration statement for candidates.**

The official form for providing the statement of organization by candidates and ~~((candidate's))~~ candidate committees, for designating a campaign treasurer and depository, and for reporting information required to qualify for mini campaign finance reporting is designated "C-1." ~~((Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8-1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-031** (~~(Forms for)~~) **Statement of contributions deposit.** The official form for statement of contributions deposit, as required by RCW 42.17A.235, is designated "C-3." (~~(Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8-1/2" x 11" white paper.)~~)

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-032** (~~(Forms—)~~) **Auction report.** The official form for reporting items donated and sold at auctions, as required by RCW 42.17A.240(2) (~~(b)~~), is designated "Attachment Au." This attachment shall accompany each C-3 which reports the receipt of funds from an auction. (~~(Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington.)~~)

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-033** **Earmarked contributions—**(~~(Reporting Form)~~) **How to report.** The official form for reporting the details surrounding an earmarked contribution, as required by RCW 42.17A.270, is designated "Special Report E." This report shall be filed within two business days of receiving a contribution earmarked for another candidate or committee. (~~(Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington.)~~)

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

**WAC 390-16-034** **Additional contribution reporting requirements.** Pursuant to RCW 42.17A.240, each report required under RCW 42.17A.235 shall disclose, in addition to the name and address of each person who has made one or more contributions in the aggregate amount of more than one hundred dollars, (~~(the)~~) their occupation, and the name and address of (~~(the person's)~~) their employer.

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

**WAC 390-16-037 Purpose of campaign expenditures—((Reporting))**

**How to report.** (1) Any person required to report the "purpose" of an expenditure under RCW 42.17A.240(6), or 42.17A.255 (5)(b) shall identify any candidate(s) or ballot proposition(s) that are supported or opposed by the expenditure unless such candidate(s) or ballot proposition(s) have been previously identified in a statement of organization of the person required to be filed under RCW 42.17A.205 (2)(f) and (g);

(2) Whenever an expenditure is made to a candidate or a political committee pursuant to an agreement or understanding of any kind regarding how the recipient will use the expenditure, the report shall describe in detail that agreement or understanding(~~;~~ and

~~(3) Describe in detail)) and the goods and/or services to be provided ((by the recipient of the expenditure)).~~

Example A: If an expenditure is made directly to a vendor for ((a)) get-out-the-vote ((campaign)) (GOTV) phone calls or robocalls, the purpose shall include the following details:

Vendor Name	Purpose	Amount
((XYZ Consulting)) <u>ABC Robocall</u>	GOTV—phone bank 28th and 29th Legislative districts	\$1,000

Example B: If an expenditure is made directly to a vendor for printing, the purpose shall include the following details:

Vendor Name	Purpose	Amount
ABC Printing	5,000 brochures	\$3,000

~~((Example C: If an expenditure is for broadcast political advertisements, the purpose shall include the following details:~~

Vendor Name	Purpose	Amount
Media King	Television ads	\$50,000
	WZUB-TV	\$30,000
	WXXX-TV	\$10,000
	WCRB-TV	\$10,000))

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

**WAC 390-16-039 Total contributions and expenditures—((Reporting))**

**How to report.** (1) A continuing political committee which is not organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures based on a calendar year, or upon the basis of a fiscal year if the commission expressly authorizes this method. The report filed by such a continuing political committee covering January (or the first month thereafter for which a report would be required by RCW 42.17A.225 and

42.17A.235) shall contain in summary the following items remaining at the end of the year:

- (a) Funds on hand;
- (b) The total of outstanding pledges;
- (c) Unpaid loans and outstanding obligations;
- (d) Pledges given to others but not yet paid.

(2) Each candidate, each political committee and each continuing political committee organized to support or oppose a particular candidate or ballot proposition shall report total contributions and expenditures for the period beginning at the time the person becomes a candidate or when the committee is organized, whichever is earlier, and ending when the candidacy or committee is terminated.

(3) This rule shall not require a report unless such report would otherwise be required by chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-041 ((Forms—)) Summary of total contributions and expenditures.** ((+1)) The official form for reports of contributions and expenditures by candidates and political committees who use the "full" reporting option is designated "C-4," and includes Schedule A, Schedule B, Schedule C, and Schedule L.

~~((2) Copies of these forms are available on the commission's web site, [www.pdc.wa.gov](http://www.pdc.wa.gov), and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8-1/2" x 11" white paper.))~~

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

**WAC 390-16-042 Debts and obligations—Contingent liabilities—((Reporting)) How to report.** (1) Pursuant to RCW 42.17A.240 and 42.17A.005, "promise," "promise to pay," "debt" and "obligations" mean:

(a) Any oral or written order or agreement placed for goods, services, or anything else of value;

(b) Any offer to purchase advertising space, broadcast time, or other written, broadcast or digital advertising-related product or service;

(c) Any contractual contingent liability; or

(d) Provided that the amount of the debt or obligation in (a), (b), or (c) of this subsection owed to a vendor is more than seven hundred fifty dollars, and the vendor has not been paid in full for the goods received, invoices submitted, or services performed within the time periods specified below:

(i) For reports due within thirty days of an election, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than five business days as of the last day of the reporting period.

(ii) For reports due during any other reporting period, debts or obligations of more than seven hundred fifty dollars must be reported if the debt or obligation has been outstanding for more than ten business days as of the last day of the reporting period.

(2) A contractual contingent liability (e.g., an additional fee to be paid to a political consultant or other person ((whose services are used by a candidate who wins)) conditioned upon the candidate winning the election) is reportable as a debt or obligation ((~~on Form C-4, Schedule B,~~)) from the time the contract or agreement is entered into until the liability is voided, paid or otherwise satisfied.

(3) Regularly recurring expenditures, of the same type and same or similar amount that have been reported at least once, need not be reported as debt unless they are past due as of the last day of the reporting period. Examples of recurring obligations that can be reported as recurring expenditures rather than debt include rent, utilities, insurance, cellular phone costs, and payments to campaign staff.

(4) There is no requirement for a candidate or political committee to report any debt owed by a third party such as a consultant or vendor provided that the obligation or expenditure to the third party has already been reported by the candidate or political committee.

#### NEW SECTION

**WAC 390-16-043 Candidates and political committees—Public inspection of books of account.** (1) RCW 42.17A.005 defines "books of account" for candidates and political committees as "a ledger or similar listing of contributions, expenditures, and debts, such as a campaign or committee is required to file regularly with the commission, current as of the most recent business day."

(2) RCW 42.17A.225 and 42.17A.235 require that candidates and political committees participating in an election as defined in RCW 42.17A.005, must make their books of account available for public inspection. The public inspection of books of account is not intended to be an exhaustive audit of all contributions received and expenditures made.

(3) Any individual who requests to publicly inspect the books of account of a candidate or political committee, must make the request during the period beginning ten calendar days before a primary, general, or special election, by contacting the filer's email address listed on the C-1 report for a candidate, or the C-lpc report for a political committee.

(4) The inspection of the books of account may occur on weekdays, unless the treasurer for the candidate or committee agrees otherwise, beginning on the eighth day before the election, excluding legal holidays, for at least two consecutive hours between 9:00 a.m. and 5:00 p.m. at a location that is agreed upon by the treasurer and the individual requesting the inspection. The inspection must be allowed within forty-eight hours of the date and time the request was made at the agreed-upon location, provided that if the request is not made by 3:00 p.m. on the third day preceding an election, the candidate or political committee need only make best efforts to accommodate the request.

(5) The treasurer for the candidate or committee may make the books of account available electronically, in lieu of scheduling an

in-person inspection, or if a location cannot be agreed upon by both parties. If the campaign's only copy of its books of account is maintained electronically with security protections, the person requesting the inspection must be given sufficient instruction to allow the inspection to proceed.

(6) The books of account, ledger and other supporting documentation must be maintained by the treasurer and kept current within one business day. The books of account of a candidate or political committee include the following: A ledger, spreadsheet, or similar listing of contributions, expenditures, loans, debts and obligations to substantiate the information disclosed on the PDC campaign finance reports. If a ledger is not sufficiently kept, the books of account must include the underlying source documents such as receipts, invoices, copies of contribution checks, copies of canceled checks for expenditures, notes or other documentation concerning expenditures, orders placed, and loans. In the absence of those types of source documents, the campaign or committee must make the check register available. The campaign or committee is not required to provide the name and address of contributors who gave twenty-five dollars or less in the aggregate in total contributions.

(7) The candidate or political committee is not required to make copies of its books of account for the requestor. Videotaping, photographing or photocopying of the records is not required to be permitted but may be agreed to by both parties during or in advance of the inspection.

(8) At the time of making the appointment, the person requesting to inspect the books of account must provide the name(s) and contact information for all individuals who will be in attendance for the inspection. The requestor(s) must show photo identification prior to the inspection beginning, and the candidate or political committee may deny the inspection from occurring if photo identification is not provided.

(9) The records required by this section shall be available for audit or examination by the PDC at any time upon request from the PDC.

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

**WAC 390-16-049 Out-of-state political committees** (~~Implementation of RCW 42.17A.250~~). (1) RCW 42.17A.250 governs campaign reporting in Washington state by committees located outside of Washington. (~~The statute directs that an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state (and that is not otherwise required to report as an in-state committee) reports the information listed in RCW 42.17A.250 on a C5 form (WAC 390-16-050).~~) The committee begins reporting (~~on a C5 form~~) when it makes an expenditure supporting or opposing a Washington state candidate or political committee.

(2) To file as an out-of-state political committee, all the criteria in (a) and (b) of this subsection must be satisfied:

(a) **Out-of-state.** First, the committee must be located out-of-state. It must (~~be maintaining~~) maintain its office or headquarters in another U.S. state or the District of Columbia, and (~~has~~) have no

office, street address or corporate registered agent in Washington state. If there is no office or headquarters in another state or the District of Columbia, and no corporate registered agent in Washington state, the political committee is deemed out-of-state if its treasurer resides in another U.S. state or the District of Columbia.

(b) **Organizational purpose and campaign activities.** Second, the committee must also be currently organized primarily for engaging in campaign activities in another state. Therefore, to qualify as a current out-of-state committee, the committee must also:

(i) Be currently registered and actively filing campaign disclosure reports in one or more other states and has been so filing for the preceding two years; and

(ii) Have organizational documents showing it was originally formed and is currently organized for the purpose of making expenditures in another state or soliciting contributions for use in another state's election campaigns; and

(iii) Have spent less than twenty percent of its aggregate expenditures for all political campaign activity nationwide at any point in any calendar year to support and/or oppose Washington candidates for state, local and judicial office, Washington ballot measures and/or Washington political committees.

(3) A committee that does not satisfy the criteria in subsection (2) of this section shall file as an in-state committee under chapter 42.17A RCW, including RCW 42.17A.205 through 42.17A.240.

(4) Out-of-state political committees reporting under RCW 42.17A.250 are also subject to reporting pursuant to RCW 42.17A.260 (political advertising independent expenditures) and RCW 42.17A.305 through 42.17A.315 (electioneering communications).

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-050 Forms for contributions and expenditures of out-of-state political committees.** The official form for the report required by RCW 42.17A.250 of contributions and expenditures of an out-of-state political committee organized for the purpose of supporting or opposing candidates or ballot propositions in another state, that is not otherwise required to report under RCW 42.17A.205 through 42.17A.240, is designated "C-5." (~~Copies of this form are available on the commission's web site, [www.pdc.wa.gov](http://www.pdc.wa.gov), and at the Commission Office, Olympia, Washington. Any paper attachments shall be on 8 1/2" x 11" white paper.~~)

NEW SECTION

**WAC 390-16-058 Independent expenditure—Definition and application.** (1) "Independent expenditure," as that term is used in chapter 42.17A RCW and in these rules, except RCW 42.17A.255, means an "expenditure" as defined in RCW 42.17A.005 that has each of the following elements:

(a) It is made in support of or in opposition to a candidate for public office subject to the filing requirements in chapter 42.17A RCW, by a person who is not:

(i) A candidate for that office;

(ii) An authorized committee of that candidate for that office;

(iii) A person who has received the candidate's encouragement or approval to make the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office.

(b) It is made in support of any or in opposition to a candidate for office by a person with whom the candidate has not collaborated for the purpose of making the expenditure, if the expenditure pays in whole or in part for any political advertising supporting that candidate or promoting the defeat of any other candidate or candidates for that office;

(c) The expenditure pays in whole or in part for any political advertising that either specifically names the candidate supported or opposed, or clearly and beyond any doubt identifies the candidate without using the candidate's name;

(d) The expenditure, alone or in conjunction with another expenditure or other expenditures of the same person in support of or opposition to that candidate, has a value equal to or greater than one-half the contribution limit from an individual per election. A series of expenditures, each of which is under one-half the contribution limit from an individual per election, constitutes one independent expenditure if their cumulative value is equal to or greater than one-half the contribution limit from an individual per election; and

(e) The expenditure is not a contribution as defined in RCW 42.17A.005 and clarified by WAC 390-05-210.

(2) Exempt activities. The following activities are not considered independent expenditures for purposes of RCW 42.17A.255, 42.17A.630, or 42.17A.320:

(a) Ordinary home hospitality;

(b) A news item, feature, commentary, or editorial, or communications with journalists or editorial staff designed to elicit the same, in a regularly scheduled news medium that is of primary interest to the general public, that is in a news medium controlled by a person whose business is that news medium, and that is not controlled by a candidate or a political committee;

(c) Participation in the creation of a publicly funded voters' pamphlet statement in written or video form;

(d) An internal political communication primarily limited to:

(i) The members of or contributors to a political party organization or political committee;

(ii) The officers, management staff or stockholders of a corporation or similar enterprise; or

(iii) The members of a labor organization or other membership organization.

(e) Messages in the form of reader boards, banners, or yard or window signs displayed on a person's own property or the property occupied by a person. However, a facility used for such political advertising for which a rental charge is normally made shall be reported as an in-kind contribution at its fair market value and counts toward any applicable contribution limit of the person providing the facility; or

(f) The rendering of personal services of the sort commonly performed by volunteer campaign workers or incidental expenses personally

incurred by volunteer campaign workers not in excess of two hundred fifty dollars personally paid by the worker.

NEW SECTION

**WAC 390-16-059 Electioneering communication reporting threshold.**

(1) A "sponsor" of an electioneering communication is defined in RCW 42.17A.005(46).

(2) For the purposes of RCW 42.17A.005(22), an electioneering communication is reportable by the sponsor to the commission when the communication, alone or in combination:

(a) Identifies the same candidate in one or more communications satisfying RCW 42.17A.005 (22) (a) (i) and (ii) or these rules;

(b) Is made by the same sponsor of one or more of the communications;

(c) When it, either alone, or in combination with one or more communications identifying the candidate by the same sponsor during the sixty days before an election, has a fair market or aggregate value of one thousand dollars or more; and

(d) Is not a communication exempted from reporting under RCW 42.17A.005(23) or commission rule.

(3) When the electioneering communication or communications (including radio or television transmissions, mailings, billboards, newspapers and/or periodicals) reach the one thousand dollar threshold, the sponsor shall electronically report to the commission as required by RCW 42.17A.305 within twenty-four hours of, or on the first working day after, the date the electioneering communication is first broadcast, transmitted, erected, distributed, or otherwise published.

(4) Once the one thousand dollar threshold is reached, all subsequent electioneering communications by the sponsor identifying the same candidate are reportable as provided in RCW 42.17A.305 and this rule.

(5) When more than one sponsor pays for the electioneering communication, the entire fair market value of the communication is attributable to all sponsors. All sponsors of the same communication are responsible for reporting once the one thousand dollar threshold is met. A failure to report by one joint sponsor is not attributable to all joint sponsors of a specific communication or communications if the remaining sponsors have reported properly.

(6) Consistent with WAC 390-16-060 and the requirements of PDC Form C-6, a prorated portion of independent expenditure and electioneering communications expenditures shall be attributed to each candidate or ballot proposition identified in the advertisement or communication. That proration shall be based on a reasonable, good faith estimate of the value of the portion of the advertisement or communication relating to each candidate or proposition identified.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-060** (~~(Forms for report of)~~) **Independent expenditures and electioneering communications—How to report.** (~~((+1))~~) The official form for reports of independent expenditures and electioneering communications as required by RCW 42.17A.255, 42.17A.260 and 42.17A.305 is designated "C-6." (~~(Copies of this form are available at the Commission Office, Olympia, Washington and online at www.pdc.wa.gov. Any paper attachments shall be on 8 1/2" x 11" white paper.~~

~~(2) The C-6 report may be filed electronically consistent with WAC 390-19-040 by using an electronic filing alternative provided or approved by the commission. C-6 reports of electioneering communications shall be filed electronically as provided in RCW 42.17A.305.)~~

AMENDATORY SECTION (Amending WSR 14-12-012, filed 5/22/14, effective 6/22/14)

**WAC 390-16-063** **Additional information regarding independent expenditures and C-6 report filing.** (1) RCW 42.17A.255 requires a person not otherwise subject to the disclosure requirements of Chapter 42.17A RCW to disclose an independent expenditure of one hundred dollars or more that supports or opposes a candidate or ballot measure. RCW 42.17A.260 requires the disclosure of political advertising with a fair market value of one thousand dollars or more that is presented to the public within twenty-one days of an election, that supports or opposes a candidate or ballot measure, and that qualifies as an independent expenditure.

(a) **Prorating and attributing independent expenditures that support or oppose multiple candidates or ballot measures.** Whether to disclose an independent expenditure that supports or opposes multiple candidates or ballot measures is determined by prorating and attributing the cost of the expenditure among all candidates or ballot measures that are the subject of the expenditure. Disclosure is required when:

(i) The pro rata cost for a single candidate or ballot measure reaches or exceeds the statutory threshold and none of the subject candidates are seeking election to the same office and none of the subject ballot measures are competing measures; or

(ii) The sum of the pro rata costs attributable to all candidates seeking election to the same office or the sum of the pro rata costs attributable to competing ballot measures reaches or exceeds the statutory threshold.

Example 1 (prorating): A mailer/postcard supports one candidate and one ballot measure at a total cost of \$3,200. One side of the postcard is entirely devoted to the ballot measure. The other side is split evenly between the candidate and the ballot measure. The ballot measure's pro rata share is \$2,400 (75%) and the candidate's pro rata share is \$800 (25%).

Example 2 (prorating and attributing): An independent expenditure ad appears in the newspaper two weeks before the election. The ad

costs \$1,000; 50% of the ad supports a candidate and the other 50% opposes the candidate's opponent. The independent expenditure is disclosed under RCW 42.17A.260 because the sum of the pro rata share for the two candidates who seek the same office is \$1,000.

(b) **Disclosing independent expenditures that support or oppose multiple candidates or ballot measures.** When a pro rata, attributable cost reaches or exceeds the statutory threshold, the entire independent expenditure must be disclosed. Include the amounts attributable to all candidates and ballot propositions supported or opposed by the expenditure.

(c) **Other applications of prorating and attributing independent expenditures.** Use the prorating and attribution steps explained in (a)(i) and (ii) of this section to determine when an independent expenditure as defined in RCW 42.17A.005(~~((26))~~) must comply with the "no candidate authorized this ad" sponsor identification and, if applicable, the "top 5" contributors required by RCW 42.17A.320(~~((2))~~) and WAC 390-18-010.

(2) A political committee reporting pursuant to RCW 42.17A.225, 42.17A.235 and 42.17A.240 is exempt from providing on a C-6 form (~~(itemized information concerning its)~~) the sources of any funds (giving in excess of two hundred fifty dollars) received by the committee for an electioneering communication, unless the committee received funds that were (~~(requested or)~~) earmarked or otherwise designated for the communication.

(3) An out-of-state political committee shall report pursuant to RCW 42.17A.305 if it sponsors an electioneering communication defined in RCW 42.17A.005.

(4) The sponsor of an electioneering communication shall report pursuant to RCW 42.17A.305 and (~~(commission)~~) these rules regarding electioneering communications, even if the expenditure also satisfies the definition of independent expenditure in RCW 42.17A.005 or 42.17A.255. Persons in compliance with this subsection are deemed in compliance with RCW 42.17A.255 or 42.17A.260.

(5) Any person making an expenditure that is reportable under RCW 42.17A.640, grass roots lobbying campaigns, that also satisfies the definition of electioneering communication in RCW 42.17A.005, shall file pursuant to RCW 42.17A.305 and (~~(commission)~~) these rules regarding electioneering communications.

AMENDATORY SECTION (Amending WSR 17-22-071, filed 10/27/17, effective 11/27/17)

**WAC 390-16-071 Annual report of major contributors and persons making independent expenditures.** RCW 42.17A.630 requires that:

(1) Any person, other than an individual (a) who made contributions to state office candidates and statewide ballot proposition committees totaling more than the aggregate amount during the preceding calendar year for contributions referenced in WAC 390-05-400, (~~(code section .180(1),)~~) or (b) who made independent expenditures regarding state office candidates and statewide ballot propositions totaling more than the aggregate amount during the preceding calendar year for independent expenditures referenced in WAC 390-05-400, (~~(code section .180(1),)~~) shall file with the commission an annual report (~~(required pursuant to RCW 42.17A.630)~~). This report shall not be required

of a lobbyist employer filing an annual L-3 report pursuant to RCW 42.17A.630 or of a candidate's authorized committee or a political committee provided the information has been properly reported pursuant to RCW 42.17A.235 and 42.17A.240.

(2) The report is entitled "Special Political Expenditures" and is designated "C-7." (~~Copies of this form are available on the commission's web site, www.pdc.wa.gov, and at the Commission Office, Olympia, Washington. Any attachments shall be on 8-1/2" x 11" white paper.~~)

AMENDATORY SECTION (Amending WSR 14-12-010, filed 5/22/14, effective 6/22/14)

**WAC 390-16-105 Mini campaign reporting—Eligibility.** (1) A candidate or candidate's authorized committee, as those terms are defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 (~~when~~), if the committee selects the mini reporting option on its registration and meets both of the following conditions ((are present)):

(a) Neither aggregate contributions nor aggregate expenditures exceed the amount of the candidate's filing fee provided by law plus a sum not to exceed five thousand dollars; and

(b) No contribution or contributions from any person other than the candidate exceed five hundred dollars in the aggregate. However, a bona fide political party may pay the candidate's filing fee provided by law without that payment disqualifying that candidate from eligibility under this section.

(2) A political committee, as that term is defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 (~~when~~), if the committee selects the mini reporting option on its registration and meets both of the following conditions ((are present)):

(a) Neither aggregate contributions nor aggregate expenditures exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(3) A continuing political committee, as that term is defined in RCW 42.17A.005, is not required to comply with the provisions of RCW 42.17A.225 through 42.17A.240, except as otherwise prescribed in WAC 390-16-038, 390-16-115, and 390-16-125 (~~when~~), if the committee selects the mini reporting option on its registration and meets both of the following conditions ((are present)):

(a) Neither aggregate contributions nor aggregate expenditures during a calendar year exceed five thousand dollars; and

(b) No contribution or contributions from any person exceed five hundred dollars in the aggregate.

(4) A candidate or political committee that exceeds one or both of the thresholds set out in either subsection (1), (2), or (3) of this section after registering as a mini reporting campaign shall no longer qualify for the mini reporting option and shall comply with the provisions of chapter 42.17A RCW, including, but not limited to, dis-

closure of contributions and expenditures, disclosure of last minute contributions, applicable contribution limits, false political advertising, sponsor identification and public inspection of campaign books of account.

(5) Candidates and political committees eligible for mini campaign reporting are required to comply with all applicable provisions of chapter 42.17A RCW including, but not limited to, false political advertising, sponsor identification and public inspection of campaign books of account unless specifically exempted under subsections (1) through (3) of this section.

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

**WAC 390-16-111 Mini campaign reporting—Special fund-raising events.** The term "any person" as used in WAC 390-16-105 does not mean a fund-raising activity conducted pursuant to RCW 42.17A.225. Candidates and committees using mini reporting as ~~((provided in chapter 390-16 WAC))~~ permitted under WAC 390-16-105 shall not be limited to receiving five hundred dollars from a fund-raising event provided that the payments from any person do not exceed five hundred dollars from all fund raising conducted during a campaign or calendar year ~~((as provided in WAC 390-16-105))~~.

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

**WAC 390-16-115 Mini campaign reporting—~~((Conditions for granting use))~~ Registration and recordkeeping.** The exemptions allowed in WAC 390-16-105 shall be granted to a candidate or political committee, including a continuing political committee, only upon compliance with the following conditions~~((-))~~:

(1) A candidate shall~~((-))~~ file a C-1 registration with the commission within fourteen days of first:

(a) Receiving contributions, making expenditures, reserving space or facilities or purchasing commercial advertising space or broadcast time to promote his or her candidacy;

(b) Giving his or her consent to another person to take on behalf of the candidate any of the action in (a) of this subsection; or

(c) Announcing publicly or filing a declaration of candidacy with the appropriate elections official~~((- file the C-1 registration statement with the commission. The statement must declare that the candidate will not exceed the contribution or expenditure limits set out in WAC 390-16-105))~~.

(2) A political committee shall~~((-))~~ file a C-1pc registration with the commission within fourteen days after its organization or after the date when it first has the expectation of receiving contributions or making expenditures in any election campaign, whichever is earlier~~((- file the C-1pc registration statement with the commission))~~.

(3) The statement filed under subsections (1) and (2) of this section shall declare that the political committee will not exceed the contribution or expenditure limits set out in WAC 390-16-105.

(4) In addition to complying with subsections (2) and (3) of this section, a continuing political committee shall also file a C-1pc between January 1<sup>st</sup> and January 31<sup>st</sup> for each year in which the committee intends to use the mini reporting system. Failure to file a new registration statement during January will automatically terminate the committee's entitlement to use the mini reporting system until such time as a new C-1pc is filed.

(5) A candidate or political committee using the mini reporting option shall keep current records in sufficient detail to allow the candidate or political committee to make reports otherwise required by RCW 42.17A.205 through 42.17A.240 in the event that the filing of such reports becomes necessary as a result of exceeding the contribution or expenditure limitation pursuant to the provisions of WAC 390-16-125.

(6) ((A)) ~~The candidate or political committee treasurer shall ((, during the eight days immediately preceding the date of the election, maintain records of contributions and expenditures current within one business day. These records shall be open for public inspection during the hours designated on the registration statement at the principal campaign headquarters or, if there is no campaign headquarters, at a local address of the campaign treasurer or such other place as may be authorized by the commission.~~

~~(7) The records of contributions and expenditures shall be available for audit or examination by representatives of the public disclosure commission at any time upon request from the commission))~~ comply with the requirements for public inspection of campaign books pursuant to WAC 390-16-043.

AMENDATORY SECTION (Amending WSR 89-20-068, filed 10/4/89, effective 11/4/89)

**WAC 390-16-121 Mini reporting committees—Last minute committee(s) registration.** For purposes of compliance with WAC 390-16-115 (~~and 390-16-120~~), a political committee organized within the last three weeks before an election and having the expectation of receiving contributions or making expenditures during and for that election, shall file the registration statement within three business days after its organization or when it first has the expectation of receiving contributions or making expenditures in the election campaign.

AMENDATORY SECTION (Amending WSR 14-12-010, filed 5/22/14, effective 6/22/14)

**WAC 390-16-125 Mini campaign reporting—Exceeding limitations.**  
(1) A candidate or political committee wishing to change from mini to full reporting must apply in electronic writing to the ~~((commission))~~ PDC for authorization to change reporting options before the limita-

tions specified in WAC 390-16-105 are exceeded. A complete application shall include all of the following documents:

(a) An amended registration statement (Form C-1 for candidates, Form C-1pc for political committees) selecting the full reporting option as provided in RCW 42.17A.225 through 42.17A.240;

(b) PDC forms C-3 and C-4 with relevant schedules and attachments disclosing all contributions and expenditures to date reportable under RCW 42.17A.240 for the election campaign, or in the case of continuing political committees, for the calendar year; and

(c)(i) If the applicant is a candidate, a statement affirming that all candidates registered with the ~~((commission))~~ PDC for the office being sought have been notified personally in writing of the application, and the manner and date of such notification;

(ii) If the applicant is the treasurer of a political committee supporting or opposing a ballot proposition, a statement affirming that all treasurers of all political committees registered with the commission as supporting or opposing the proposition have been notified personally in writing of the application, and the manner and date of such notification; or

(iii) If the applicant is the treasurer of a county or legislative district party committee, a statement affirming that the treasurer of that party committee's counterpart in any other major political party has been notified personally in writing of the application, and the manner and date of such notification.

(2) An application that is submitted without the required documents described in subsection (1) of this section is incomplete and will not be processed or approved. If the applicant provides the missing documents, the application will be determined to be complete on the date the documents are received by the commission.

(3) If a complete application is received by the ~~((commission))~~ PDC on or before August 31st for the general election or thirty business days prior to the date of ~~((an election other than the general))~~ other elections, the executive director will approve the application. ~~((An application to change reporting options before the general election must be received by the commission on or before August 31.))~~

(4) If a complete application is received by the commission ~~((on or after))~~ after the deadlines set out in subsection (3) of this section, the executive director will approve the application only if one or more of the following factors are present:

(a) ~~((The applicant's campaign had its respective C-1 or C-1pc on file with the commission when notice of the upcoming application deadline to change reporting options was sent and the commission staff did not send to the applicant's campaign in a timely and proper manner, either electronically or by other mail delivery service, a notice that the deadline for unrestricted changes in reporting options is approaching. To be timely and proper, this notice must be sent at least two weeks before the application deadline to the campaign's electronic mail address or postal service mailing address specified on the registration statement;~~

~~((b))~~) The applicant is a candidate and, after the application deadline, a write-in opponent has filed for office in accordance with chapter 29A.24 RCW;

~~((c))~~) (b) After the application deadline, an independent expenditure as defined in RCW 42.17A.005 is made in support of the applicant's opponent or in opposition to the applicant; or

~~((d))~~) (c) When a candidate or political committee on one side of an election campaign or proposition has been approved to change re-

porting options under this section, each opponent of that candidate or political committee is approved to change options as of the date that opponent's complete application is received by the ((commission.

~~(5) Exceeding the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 without complying with the provisions of this section constitutes one or more violations of chapter 42.17A RCW or 390-17 WAC.~~

~~(6-)) PDC.~~

(5) The executive director may approve an application to change reporting options after the aggregate contributions or aggregate expenditures specified in WAC 390-16-105 have been exceeded only if the applicant (a) meets the deadlines provided in subsection (3) of this section; ~~((and)) (b) acknowledges the violation and demonstrates compliance with WAC 390-16-105(4) ((. Approval of an application under this subsection does not absolve a candidate or political committee from liability for any violation or violations of subsection (5) of this section)); and (c) takes any other action required by the PDC to address the violation.~~

AMENDATORY SECTION (Amending WSR 04-01-128, filed 12/18/03, effective 1/18/04)

**WAC 390-16-205 Expenditures by agents ~~((, employees Reporting)) and agents' subvendors—How to report.~~**

(1) Expenditures made on behalf of a candidate or political committee by any person, agency, consultant, firm, organization, etc., employed or retained for the purpose of organizing, directing, managing or assisting the candidate's or committee's efforts shall be deemed expenditures by the candidate or committee. In accordance with WAC 390-16-037, such expenditures shall be reported by the candidate or committee as if made or incurred by the candidate or committee directly.

(2) If any person, agency, consultant, firm, organization, etc., employed or retained by the candidate or political committee, subcontracts or otherwise has an agreement with a subvendor or other third party to provide or perform services, the expenditures paid to that subvendor or other third party must also be disclosed.

(3) Fees paid to consultants or other agents must be disclosed by candidates or political committees as an expenditure. In addition, when subvendors are used, the candidate or political committee must disclose any portion of the expenditure retained by the consultant or other agent.

Example A: If a ~~((campaign))~~ candidate or political committee pays a consultant \$5,000 to prepare and mail a political advertising brochure, all costs associated with the project shall be itemized by identifying each service provided, ~~((vendor utilized))~~ subvendor(s) used and amount attributable to each:

Vendor Name	Purpose	Amount
Jones Consulting	Jones Consulting (fee)	\$500
	ABC Graphics	\$1,200
		<del>\$(5,000)</del>
		5,500

<b>Vendor Name</b>	<b>Purpose</b>	<b>Amount</b>
	XYZ Printing Co. (5,000 pieces)	\$3,000
	Your Mailhouse	\$800

Or, if Jones Consulting completes the project through a combination of services provided by its principals or employees and (~~subcontractors~~) its subvendors:

<b>Vendor Name</b>	<b>Purpose</b>	<b>Amount</b>
Jones Consulting	Jones Consulting (fee)	\$500
	Jones Consulting (graphic design)	\$1,200
	XYZ Printing Co. (5,000 pieces)	\$3,000
	Your Mailhouse	\$800

Example B: If a (~~campaign~~) candidate or political committee pays a consultant or other agent directly to perform tasks such as fund-raising, survey design or campaign plan development, and the consultant does not (~~subcontract with other vendors~~) use subvendors, the expense shall be reported as follows:

<b>Vendor Name</b>	<b>Purpose</b>	<b>Amount</b>
Jones Consulting	Fund-raising, survey design, campaign plan development	\$5,000

Example C: If an expenditure is made directly to a vendor to purchase broadcast political advertisement, the purpose shall include the following details for both the vendor and commercial advertiser:

<b>Vendor Name</b>	<b>Purpose</b>	<b>Amount</b>
Media King	Television ads	\$51,000
	WZUB TV	\$30,000
	WXXX TV	\$10,000
	WCRB TV	\$10,000
	Media King (fee)	\$1,000

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

**WAC 390-16-206 Ratings and endorsements.** (1) Any person making a measurable expenditure of funds to communicate a rating, evaluation, endorsement or recommendation for or against a candidate or ballot proposition shall report such expenditure including all costs of preparation and distribution in accordance with chapter 42.17A RCW. Howev-

er, rating, endorsement or recommendation expenditures governed by the following provisions are not reportable: The news media exemptions provided in RCW 42.17A.005 (~~((13))~~) (16)(b)(iv) and (~~((19))~~) (22)(b)(iii), and WAC 390-16-313 (~~((2)-(b))~~), and the political advertising exemption in WAC 390-05-290.

(2) A candidate or sponsor of a ballot proposition who, or a political committee which, is the subject of the rating, evaluation, endorsement or recommendation shall not be required to report such expenditure as a contribution unless the candidate, sponsor, committee or an agent thereof advises, counsels or otherwise encourages the person to make the expenditure.

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

**WAC 390-16-207 In-kind contributions—Explanation and reporting.**

(1) An in-kind contribution must be reported on the C-4 report. An in-kind contribution, as that term is used in the act and these rules, occurs when a person provides goods, services or anything of value, other than money or its equivalent, to a candidate or political committee free-of-charge or for less than fair market value, unless the item or service given is not a contribution according to RCW 42.17A.005 or WAC 390-17-405.

~~((2))~~ An in-kind contribution (~~(also occurs when a person makes)~~) includes an expenditure that:

- Supports or opposes a candidate or a ballot measure;
- Meets the definition of contribution in RCW 42.17A.005 or WAC 390-05-210; ~~((and))~~
- Is an electioneering communication that is a contribution as provided in RCW 42.17A.310; and
- Is other than a monetary contribution made directly to a candidate or political committee.

For example, an in-kind contribution occurs when a person, after collaborating with a candidate or a candidate's agent, purchases space in a newspaper for political advertising supporting that candidate or opposing that candidate's opponent.

~~((3) An in-kind contribution also occurs when a person makes an electioneering communication that is a contribution as provided in RCW 42.17A.310.~~

~~(4))~~ (2) According to RCW 42.17A.430 and WAC 390-16-238, a candidate may not use his or her campaign funds to make a contribution, including an in-kind contribution, to another candidate or a political committee. However, under RCW 42.17A.430, a candidate may use surplus funds as defined in RCW 42.17A.005 to make a contribution to a political party or caucus political committee.

~~((5))~~ (3) Valuing in-kind contributions.

(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235 Definition—Fair market value.

(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate

or political committee is the portion of the expense that benefits the candidate or political committee.

**(4) In-kind contributions to recipients who have limits under RCW 42.17A.405 or 42.17A.410.**

(a) If a candidate receives in-kind contributions from any person valued at more than ~~((\\$25))~~ twenty-five dollars in the aggregate for an election, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405 or 42.17A.410.

(b) If a bona fide political party or legislative caucus committee receives in-kind contributions from any person valued at more than ~~((\\$25))~~ twenty-five dollars in the aggregate during a calendar year, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limit provided in RCW 42.17A.405.

(c) If an elected official against whom recall charges have been filed or a political committee supporting the recall of an elected official receives in-kind contributions from any person valued at more than ~~((\\$25))~~ twenty-five dollars in the aggregate during a recall campaign, the contribution is reportable by the giver and the recipient pursuant to chapter 42.17A RCW and is subject to the applicable contribution limits provided in RCW 42.17A.405 or 42.17A.410.

~~((+6))~~ **(5) Political committees that make in-kind contributions.** Except as provided for in subsection (5) of this section, a political committee that makes in-kind contributions to a candidate or political committee totaling more than ~~((\\$50))~~ fifty dollars in the aggregate during a reporting period must identify the recipient and the amount of the contribution as part of its C-4 report covering that period.

If the in-kind contribution is in the form of an expenditure that has been obligated, but not yet paid, the identity of the recipient candidate or political committee, along with a good faith estimate of the value of the contribution, must be disclosed in part 3 of Schedule B, in addition to the other information required by the ~~((form))~~ C-4 report. When the expense is paid, the recipient's name and the amount of the contribution must be disclosed on Schedule A, ~~((along with))~~ in addition to the other information required by the ~~((form))~~ C-4 report.

If a political committee provides equipment, property or anything else of value owned, leased or controlled by it to a candidate or political committee, the contributing committee must attach a statement to its C-4 report showing the name of the candidate or political committee to whom the contribution was made and the date, description and fair market value of the in-kind contribution.

~~((+7))~~ **(6) Reporting by recipients.** Except as provided in subsection (5) of this section, in-kind contributions from one source are not reportable by the recipient candidate or political committee until the aggregate value of all in-kind contributions received from that source during a reporting period is more than ~~((\\$50))~~ fifty dollars. If this threshold is met, the in-kind contributions must be reported in part 1 of Schedule B to the C-4 report covering that reporting period.

~~((+8))~~ **(8) Valuing in-kind contributions.**

~~(a) For purposes of determining the value of goods or services provided as in-kind contributions, refer to WAC 390-05-235, Definition - Fair market value.~~

~~(b) If an expenditure that constitutes an in-kind contribution is made, the value of the in-kind contribution to a particular candidate~~

~~or political committee is the portion of the expense that benefits the candidate or political committee.~~

~~(9))~~ (7) **Application of RCW 42.17A.420—Last-minute contributions.**

(a) If an expenditure that constitutes an in-kind contribution is made no later than twenty-two days before a general election and written notice of the in-kind contribution is in the possession of the recipient candidate committee or political committee twenty-two or more days before that general election, the contribution is not subject to the respective ~~((\$5,000 or \$50,000))~~ five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

(b) If an in-kind contribution is in the form of personal services donated to a campaign for the duration of the twenty-one days before a general election, and if written notice of the value of this donation is in the possession of the recipient candidate or political committee twenty-two or more days before the election, that in-kind contribution is not subject to the respective ~~((\$5,000 or \$50,000))~~ five thousand dollars or fifty thousand dollars maximum amounts specified in RCW 42.17A.420.

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

**WAC 390-16-226 Loans.** (1) Only loans which are recorded in a written loan agreement executed at the time of the loan and properly reported may be repaid by a candidate or political committee. Surplus campaign funds under RCW 42.17A.005 and 42.17A.430 may only be used to return a contribution to the candidate if the contribution was properly reported as a loan from the candidate, as described in subsections (2) and (3).

(2) If any person gives or loans the candidate funds in connection with his or her campaign, the funds are not considered personal funds of the candidate. See WAC 390-17-305. Such funds are considered a contribution from the original source of the contribution under chapter 42.17A RCW and, unless the loan meets the exemption provided in RCW 42.17A.465(3) and this subsection, the contribution is subject to the contribution limits provided in chapter 42.17A RCW.

(a) If a candidate or candidate's own political committee or campaign or authorized committee receives a loan from a commercial lending institution, the loan is exempt from the contribution limits of RCW 42.17A.405 and WAC 390-16-310 only if all the following criteria are met:

- (i) The loan is not guaranteed by any other person;
- (ii) The loan is made in the regular course of business; and,
- (iii) The loan is made on the same terms ordinarily available to the public.

(b) A commercial loan to a candidate's own committee or campaign or authorized committee is presumed to be guaranteed by the candidate. The presumption is rebuttable by clear, cogent and convincing evidence.

(3) The amount of campaign contributions which may be used to repay a loan made by the candidate to the candidate's own political committee or campaign, or to repay a commercial loan to a candidate's own

political committee or campaign where the candidate is the borrower or guarantor, is limited to the loan repayment limit in RCW 42.17A.445(3) as adjusted by WAC 390-05-400. For purposes of the loan repayment limit, these loans are aggregated for each primary, general, special or recall election and must be designated accordingly by the candidate at the time the loan is made.

(4) If a candidate makes documented out-of-pocket campaign expenditures on behalf of (~~his or her~~) their campaign expecting repayment (not intending to make an in-kind contribution), the campaign committee must repay the candidate within (~~(21)~~) twenty-one days of the expenditure or the candidate will be deemed to have made a loan to his or her campaign committee which must qualify for repayment under subsections (1) and (2) in order for the candidate to be repaid. Undocumented out-of-pocket campaign expenditures by the candidate are in-kind contributions not eligible for repayment.

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

**WAC 390-16-230 Surplus campaign funds—Use in future.** (1) If (~~at any time in the future or~~) after the last day of the election cycle for candidates as defined in RCW 42.17A.005(~~(+7)~~) any contribution is received or an expenditure is made from surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or political committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or political committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240; and (b) a statement of organization and initial report for the new campaign as provided by RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus funds may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." All augmentations to and all expenditures made from the retained surplus funds after the last day of the election cycle shall be reported in detail as to source, recipient, purpose, amount and date of each transaction.

(2) For candidates as defined in RCW 42.17A.005(~~(+7)~~), if at any time after the last day of the election cycle, any contribution is received or expenditure is made from such surplus funds for any purpose which would qualify the recipient or person who made the expenditure as a candidate or authorized committee, it will be presumed the recipient or person who made the expenditure of such funds has initiated a new candidacy or committee. Surplus funds may only be expended for a new candidacy if the candidate is seeking the same office sought at his or her last election. Within fourteen days of the day such contribution is received or expenditure is made, such candidate or authorized committee shall file (a) a final report for the previous campaign as provided in RCW 42.17A.235 and 42.17A.240; and (b) a statement of organization and initial report for the new campaign as provided by

RCW 42.17A.205, 42.17A.235 and 42.17A.240. The surplus funds as of the last day of the election cycle may be carried forward to the new campaign, reported as one sum and listed as a contribution identified as "funds from previous campaign." "Funds from previous campaign" carried forward by a candidate to his or her new campaign are not subject to contribution limits set forth in RCW 42.17A.405.

(3) A political committee formed to support or oppose a particular ballot proposition or particular candidates which retains surplus funds to use in support or opposition of other candidates or of other ballot propositions has become a continuing political committee and must thereafter register and report in accordance with chapter 42.17A RCW.

AMENDATORY SECTION (Amending WSR 17-01-160, filed 12/21/16, effective 1/21/17)

**WAC 390-16-236 Surplus funds accounts—Disclosure. (1) Registering a surplus funds account.**

(a) Any person who opens an account into which surplus funds will be deposited shall register the account by filing PDC Form C-1, Candidate Registration with the (~~public disclosure~~) commission. The committee name on the C-1 will be the name used by the campaign committee that raised the surplus funds followed by the designation, "surplus funds account." The C-1 must identify by name the treasurer of the account and the bank or depository where the account is held.

(b) The C-1 must be filed within two weeks after the date the account is opened.

**(2) Depositing surplus funds.**

(a) After a surplus funds account is established, a candidate may deposit into the account all surplus funds from subsequent campaigns.

(b) Only surplus funds may be deposited in a surplus funds account.

(c) A candidate who deposits surplus funds into a surplus funds account discloses an expenditure of campaign funds with the description "transfer to surplus funds account," the amount transferred, and the date the transfer occurred.

**(3) (~~Disclosing~~) Reporting surplus funds expenditures.**

(a) The treasurer shall file with the commission a report on the tenth day of each month detailing expenditures made in the preceding calendar month. This report need only be filed if the total expenditures made since the last such report exceeded two hundred dollars. The report shall be on PDC Form C-4, Campaign Summary Receipt & Expenditures.

(b) The treasurer shall file reports as required by (a) of this subsection until the account is closed, at which time a final report shall be filed.

(c) All reports filed disclosing expenditures from the surplus funds account shall be certified as correct by the treasurer.

**WAC 390-16-238 Personal use of contributions—Standard.** (1) Except as specifically allowed by chapter 42.17A RCW, any expenditure of a candidate's campaign funds that is not directly related to the candidate's election campaign is a personal use of campaign funds prohibited under RCW 42.17A.445.

(2) An expenditure of a candidate's campaign funds shall be considered personal use if it fulfills or pays for any commitment, obligation or expense that would exist irrespective of the candidate's election campaign.

(3) If an activity or expenditure is both personal and campaign-related, the campaign may pay no more than the fair market value of its share of the activity or expenditure. For example, if a candidate uses a personal vehicle for campaign purposes, the campaign may reimburse the candidate for:

(a) The prorated share of documented gasoline, maintenance and insurance costs directly related to the campaign's usage of the vehicle; or

(b) The standard mileage rate established by the Internal Revenue Service for those documented miles directly related to the campaign's usage.

(4) Examples of expenditures presumed to be for personal use include, but are not limited to:

(a) Mortgage, rent, utility, telephone, or maintenance expenses for personal living accommodations;

(b) Clothing purchases and maintenance expenses not related to the campaign;

(c) Automobile expenses not related to the campaign;

(d) Travel expenses not related to the campaign;

(e) Household food items;

(f) Restaurant expenses except for in-person fund-raising or campaign organizational activities;

(g) Tuition payments not related to the campaign;

(h) Admission to sporting events, concerts, theaters, or other forms of entertainment unless the event is primarily related to the candidate's campaign;

(i) ~~((Country))~~ Club membership fees, dues and payments;

(j) Health club or recreational facility membership fees, dues and payments;

(k) Social, civic, fraternal, or professional membership dues, fees and payments unless the expenditure occurs during an election year and membership is required to gain access to the organization's mailing list for campaign purposes or other facilities for the candidate's campaign;

(l) Home or business internet service provider costs;

(m) Home or business newspaper and periodical subscriptions;

(n) Greeting cards to persons who would customarily receive such cards (e.g., family, friends and business associates).

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

**WAC 390-16-240 Earmarked contributions—Definition and use.** (1) Earmarked contributions, as that term is used in RCW 42.17A.270 and 42.17A.460, means any contribution given to an intermediary or conduit, either a political committee, candidate or third party, with a designation, instruction, or encumbrance, whether direct or indirect, express or implied, oral or written, which is intended to result in or which does result in all or any part of the contribution being made to or for the promotion of a certain candidate, state official, or ballot proposition.

(2) For purposes of RCW 42.17A.405 and 42.17A.410, an earmarked contribution is deemed to be for the promotion of, and attributable to any limit applicable to the candidate, authorized committee, bona fide political party, caucus of the state legislature or political committee designated by the original contributor.

(3) If an earmarked contribution is given to an intermediary or conduit to be spent on behalf of a candidate and the entire amount given is not used for this purpose, the remainder of the contribution shall be given to the designated candidate unless its use is redesignated by the original contributor. If the conduit or intermediary exercises any direction or control over the use of the remainder of the contribution, then the amount of the remainder shall be considered a contribution from the original contributor and the conduit or intermediary to the recipient.

(4) The intermediary or conduit receiving the earmarked contribution shall notify the candidate or political committee for whose use or benefit the contribution is designated within two business days after receipt of the contribution.

(5) If an earmarked contribution is refused by the designated recipient candidate or political committee, the earmarked contribution must be returned by the intermediary or conduit to the original contributor within five business days of refusal.

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

**WAC 390-16-245 Pledges.** (1) "Pledge," as that term is used in the act and these rules, means a promise to make a future contribution. A pledge shall not be made or redeemed within twenty-one days of an election specified in RCW 42.17A.420 if the amount of the pledge or redemption exceeds the maximum amount provided in RCW 42.17A.420. However, if payment of a pledge is in the possession of the recipient twenty-two or more days before the election, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220.

(2) If a pledge is made in an election campaign subject to the contribution limits provided in RCW 42.17A.405 and 42.17A.410:

(a) Except as provided in WAC 390-17-302, a pledge made with respect to the primary election shall not be made or redeemed after the date of the primary; however, if the payment of a pledge is made on or

before the date of the primary, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220; and

(b) A pledge made with respect to the general election shall not be made or redeemed after the final day of the applicable election cycle; however, if the payment of a pledge is made on or before the final day of the election cycle, that payment may be deposited into the campaign account within five business days of receipt in accordance with RCW 42.17A.220.

(3) During the time limit specified in RCW 42.17A.560, a state official or a person employed by or acting on behalf of a state official shall not solicit or accept a pledge or the redemption of a pledge for any purpose specified in RCW 42.17A.560.

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

**WAC 390-16-307 Contributions by controlled entities.** (1) **Corporations.** Two or more entities are treated as a single entity if one of the two or more entities is a subsidiary, branch or department of a corporation that is participating in an election campaign or making contributions.

(2) A corporation is participating in an election campaign if it:

(a) Makes either a monetary or an in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication;

(c) Endorses a candidate prior to contributions being made by a subsidiary, branch or department of the corporation with respect to a candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a subsidiary, branch or department of the corporation; or

(e) Directly or indirectly collaborates or consults with its subsidiary, branch or department on matters relating to the support of or opposition to a candidate, including the amount of a contribution, when a contribution should be given, or what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

(3) **Trade associations, labor unions, collective bargaining organizations.** Two or more entities are treated as a single entity if one of the two or more entities is a local unit or branch of a trade association, labor union or collective bargaining association that is participating in an election campaign or making contributions.

(4) A trade association, labor union or collective bargaining organization is participating in an election campaign if it:

(a) Makes either a monetary or in-kind contribution to a candidate;

(b) Makes an independent expenditure or electioneering communication;

(c) Endorses a candidate prior to contributions being made by a local unit or branch of the association, union or organization with respect to a candidate or that candidate's opponent;

(d) Makes a recommendation regarding whether a candidate should be supported or opposed prior to a contribution being made by a local unit or branch of the association, union or organization; or

(e) Directly or indirectly collaborates or consults with its local unit or branch on matters relating to the support of or opposition to a candidate, including the amount of a contribution, when a contribution should be given, or what assistance, services or independent expenditures, or electioneering communications, if any, will be made or should be made in support of or opposition to a candidate.

AMENDATORY SECTION (Amending WSR 02-03-018, filed 1/4/02, effective 2/4/02)

**WAC 390-16-308 Identification of source of contribution.** Any person who makes a contribution shall inform the candidate or treasurer, at the time the contribution is made, of the true and actual source of funds from which the contribution is made. To identify the source of a contribution received by check or other written instrument in the absence of other information, a candidate or treasurer shall apply the following:

Provided, that in cases where the source of the contribution is known and differs from the guidelines set forth below, the known source of the contribution shall be reported;

Provided further, that contributions made through an intermediary or conduit or transmitted by an intermediary shall identify the true and actual source of the funds.

(1) A contribution drawn upon a single account shall be attributed to the account holder as identified by the name printed on the face of the check or negotiable instrument.

(2) A contribution drawn upon a joint account shall be attributed in equal proportion to each of the account holders as identified by the names printed on the face of the check or negotiable instrument unless the candidate or treasurer is notified in writing that the contribution should be allocated in different proportions.

(3) A contribution made by a sole proprietor or drawn upon the account of a business which is a sole proprietorship shall be attributed to the owner of the business entity.

(4) A contribution drawn upon the account of a partnership shall be attributed to the partnership as a separate entity except that ~~((+))~~ any check drawn upon the partnership account but which is to be paid from the capital account of one or more individual partners shall identify at the time of transmittal to the candidate or treasurer the name(s) of the contributing partner(s) and shall be attributed to the contributing partner(s).

(5) A contribution drawn upon the account of a corporation, union, association or other organization shall be attributed to the corporation, union, association or other organization as a separate entity unless that entity is affiliated with another entity pursuant to WAC 390-16-309 in which case a contribution from one of those entities is attributed to both entities.

**WAC 390-16-309 Identification of affiliated entities.** (1) Two or more entities are treated as a single person and share one contribution limit under RCW 42.17A.405 and 42.17A.410 if one of the entities is:

(a) A corporation and the other is a subsidiary, branch or division of the corporation;

(b) A national or international labor union, or state body of such national or international labor union, and the other is a local union or other subordinate organization of such national or international labor union or state body;

(c) A trade association or state body of such trade association and the other is a branch or local unit of such trade association;

(d) A national or state collective bargaining organization and the other is a branch or local unit of such national or state collective bargaining organization;

(e) A national or international federation of labor unions, or a state federation of labor unions, and the other is a local body of such federation;

(f) A membership organization and the other is a local unit or branch of such membership organization;

(g) Any entity referenced in (a) through (f) above and a political committee established, financed, maintained or controlled by that entity.

(2) For purposes of RCW 42.17A.405 and 42.17A.410, two entities shall not be treated as a single entity solely because one of the entities is a dues paying member of the other entity.

(3) In addition to (~~paragraph (1) above~~) subsection (1) of this section, two or more entities shall be treated as one entity and share a contribution limit under RCW 42.17A.405 and 42.17A.410 if one of the entities is established, financed, maintained or controlled by the other, as evidenced by any one or more of the following factors:

(a) Whether one entity owns a controlling interest in the voting stock or securities of another entity; or

(b) Whether one entity has authority or the ability to direct or participate, other than through a vote as a member, in the governance of another entity through provisions of constitution, bylaws, contract or other formal or informal procedure or has authority or the ability to hire, appoint, demote or otherwise control, other than through a vote as a member, the officers or other decision making employees or members of another entity; or

(c) Whether (i) one entity has a common or overlapping membership with another which indicates either a formal or ongoing relationship between the two organizations or the creation of a successor entity; and (ii) the entity has an active or significant role in the formation of the other entity; and (iii) the entities have similar patterns of contributions or contributors which indicate a formal or ongoing relationship between the entities; or

(d) Whether one entity provides, causes or arranges, funds, services or goods in a significant amount or on an ongoing basis, through direct or indirect means to the other entity, for less than full consideration. Full consideration includes the payment of membership dues.

**WAC 390-16-310 Limitations on contributions.** The limitations on contributions as provided in RCW 42.17A.420, 42.17A.405, and 42.17A.410 shall be as follows:

(1)(a) The limitation on contributions in RCW 42.17A.405 or 42.17A.410 shall not apply to a "candidate" as that term is defined in RCW 42.17A.005 when the candidate is contributing to his or her own campaign using his or her own personal funds as defined in WAC 390-17-305.

(b) The limitation on contributions in RCW 42.17A.420, 42.17A.405, or 42.17A.410 shall apply to contributions to the candidate from the candidate's spouse, domestic partner or other immediate family members.

(2) Contributions by (~~a husband and wife~~) spouses are considered separate contributions. Contributions by domestic partners are considered separate contributions.

(3) Emancipated minor children (children under 18 years of age) may make contributions which do not exceed the limitations on contributions and the contribution is properly attributed to the emancipated minor child if:

(a) The decision to contribute is made knowingly and voluntarily by the emancipated minor child;

(b) The funds, goods, or services contributed are owned or controlled exclusively by the emancipated minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(c) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another person.

Contributions by emancipated minor children which do not meet these requirements and contributions by unemancipated minor children shall be considered contributions by the child's parents. Fifty percent of the contributions will be attributed to each parent, or in the case of a single custodial parent, the total amount is attributed to that parent.

(4) Contributions from a business organized as a sole proprietorship and contributions from the owner of the sole proprietorship shall be aggregated for purposes of determining the limitations of contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410.

(5) The limitations on contributions shall apply separately to the contributions made by a partnership, limited liability partnership and limited liability corporation from the contributions made by an individual partner or member. However, contributions made from or charged against the capital account of an individual partner, or member of a limited liability partnership or limited liability corporation shall be aggregated with the partner's or member's individual contributions for purposes of determining the limitations on contributions under RCW 42.17A.420, 42.17A.405, or 42.17A.410.

(6) The limitations on contributions in RCW 42.17A.420, 42.17A.405, and 42.17A.410 shall apply separately to the contributions made by an entity (corporation, subsidiary or branch, national union and local unions, collective bargaining organizations and local units, membership organizations and local units and other organizations and

their local units) unless the criteria in RCW 42.17A.455 and WAC 390-16-309 are met.

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

**WAC 390-16-312 Handling contributions of uncertain origin.** No contribution shall be deposited by any candidate or treasurer who believes, from the face of the contribution instrument or for any other reason, the contribution was made in a fictitious name, by one person through an agent, relative, political committee, or any other person so as to conceal the source of the contribution or to exceed the contribution limits provided in RCW 42.17A.420, 42.17A.405, or 42.17A.410 or otherwise violate the act. The candidate or treasurer shall return such contributions within ten days to the original contributor if his or her identity is known. Otherwise, the contribution instrument shall be endorsed and made payable to "Washington state treasurer" and the contribution sent to the (~~public disclosure~~) commission for deposit in the state's general fund.

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

**WAC 390-16-320 Candidates in small political subdivisions—Reporting.** (1) According to RCW 42.17A.200 and 42.17A.135(7), a candidate for election in any political subdivision must report pursuant to chapter 42.17A RCW and Title 390 WAC if the candidate receives five thousand dollars or more in contributions or expects to receive five thousand dollars or more in contributions during an election cycle.

(2) It is presumed the candidate "expects to receive" five thousand dollars or more when any one of the following first occurs:

(a) The candidate or candidate's authorized committee receives at least five thousand dollars in aggregate contributions, including contributions from the candidate;

(b) The candidate is seeking the same office last sought, the candidate's election is in the current calendar year, and his or her campaign contributions in the previous election for the same office were five thousand dollars or more in the aggregate;

(c) The contributions received on or before March 31<sup>st</sup> of the election year total one thousand two hundred fifty dollars or more;

(d) The contributions received on or before June 30<sup>th</sup> of the election year total two thousand five hundred dollars or more;

(e) The contributions received on or before September 30<sup>th</sup> of the election year total three thousand seven hundred fifty dollars or more; or

(f) The candidate otherwise anticipates that five thousand dollars or more will be received during the election cycle.

(3) Surplus funds carried over from a candidate's previous campaign are not contributions to the candidate's new campaign and do not count toward the five thousand dollar reporting threshold.

(4) A candidate or candidate's authorized committee that receives, or expects to receive, five thousand dollars or more shall:

(a) Within two weeks of the date the reporting obligation begins under subsection (1) or (2) of this section, file:

(i) A candidate registration, PDC form C-1;

(ii) A personal financial affairs statement, PDC form F1 and, if relevant, the F1 Supplement; and

(iii) Contribution and expenditure reports, PDC forms C3 and C4 with appropriate attachments and schedules; and

(b) Otherwise comply with the campaign finance reporting and other provisions of chapter 42.17A RCW and Title 390 WAC.

#### NEW SECTION

**WAC 390-16-325 Dissolution of committees.** (1) Dissolution is the process by which a committee officially ceases doing business, pursuant to RCW 42.17A.225 and 42.17A.235. Dissolution does not relieve the candidate, elected official, or officers from any obligations to address violations that occurred before the committee was dissolved.

(2) To initiate dissolution, the committee must file a notice of intent to dissolve.

(3) The official form for filing a notice of intent to dissolve a committee is designated "D-1." The D-1 must be filed using the electronic filing system provided by the commission. The commission is required to post each committee's notice of intent to dissolve on the commission web site upon receipt.

(4) On the D-1 form, the candidate or authorized committee officer must attest to the following:

(a) The committee has concluded its activities in all respects and has ceased to function and intends to dissolve;

(b) The committee has no outstanding debts or obligations, will not make any expenditure other than those related to the dissolution process, and will not engage in any political activity or any other activity that generates additional reporting requirements;

(c) The committee has filed a final report;

(d) No complaint or court action under chapter 42.17A RCW is pending against the committee and it has not been informed by the commission of any possible violations or technical corrections which remain unresolved;

(e) The committee has no outstanding penalties under chapter 42.17A RCW as assessed by the commission or a court;

(f) The committee accepts an ongoing obligation to maintain compliance with these conditions and an affirmative duty to notify the commission of any noncompliance;

(g) The committee understands that the committee's bank account may not be closed before the political committee has dissolved; and

(h) The treasurer is obligated to preserve books of account, bills, receipts, and all other financial records for five years, or as otherwise required by chapter 42.17A RCW.

(5) If, sixty days after a committee has filed its D-1, the committee is in compliance with the above requirements and has not notified the commission in writing that it revokes its intent to dissolve, the committee shall be deemed to be dissolved.

(6) The executive director will promptly acknowledge by electronic writing the committee's dissolution. The acknowledgment of dissolution will be posted on the commission's web site when sent to the committee.

(7) If the committee has not met the requirements for dissolution, the executive director will promptly notify the committee by electronic writing that it is not eligible to dissolve, and explain the reasons for its ineligibility. The committee may initiate the process again once it has come into compliance with the requirements.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |                                                     |
|----------------|-----------------------------------------------------|
| WAC 390-16-038 | Definition—Aggregate.                               |
| WAC 390-16-313 | Independent expenditure—Definition and application. |