

**State of Washington  
PUBLIC DISCLOSURE COMMISSION**

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**MINUTES – Regular Meeting**

9:30 a.m. | June 22, 2017

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

**Commission Members participated via conference call**

Anne Levinson, Chair; John Bridges, Vice-Chair; Jack Johnson, Member; Katrina Asay, Member; David Ammons, Member

**Staff Present**

Peter Lavallee, Executive Director; Penny Allen, Assistant Attorney General; Chad Standifer, Assistant Attorney General; Kim Bradford, Communications and Outreach Director; Kurt Young, Compliance Officer; Fox Blackhorn-Delph, Compliance Coordinator; Jennifer Hansen, Filer Specialist; Jana Greer, Administrative Officer

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The regular meeting of the Public Disclosure Commission was called to order by Commission Chair Anne Levinson at 9:32 a.m.

Commission members participated via telephone, PDC and AAG staff participated in person, and the commission meeting room was open to the public for participation. [Audio](#) of the meeting was streamed live via YouTube.

**Public Comments | [PDC Meeting Audio](#)**

Glen Morgan commented on complaints he filed regarding violations of C-5 filing requirements.

Mr. Morgan noted that in his research and review of [RCW 42.17A.250](#) (Out-of-state political committees—Report), there are a large number of committees that fail to register in Washington state. He suggested that the Commission consider seeking legislation to reform the statute to help improve compliance.

In addition, Mr. Morgan noted that regarding **WAC 390.32.030** (Complaint publication—Fair Campaign Practices Code—Alternative to investigation or adjudicative proceeding), he finds limited value in this WAC, specifically regarding filing a complaint. It is unclear to him what value this provides to the public in transparency and openness and suggests that the Commission consider eliminating it.

Commissioner Levinson noted that the Commission’s legislative agenda for this past session included a proposal to make the campaign disclosure and contribution requirements for political committee reporting uniform - so that all political committees would follow the same rules regardless of whether they are located or incorporated in-state or out-of-state. (HB 2561, SB 6208).

*Next Steps/Follow-up:*

- Executive Director Lavallee will report back to the Commission as to whether possible modification to the amendments proposed last session for out-of-state committees could provide additional enforcement and compliance authority.
- Deputy Director BG Sandahl will add to the rules list the Commission uses to regularly consider possible rule changes: review and consideration of elimination, WAC 390.32.030, Complaint

publication—Fair Campaign Practices Code—Alternative to investigation or adjudicative proceeding.

**Meeting Minutes** | [PDC Meeting Audio](#)

Meeting minutes from May 25, 2017, regular Commission meeting.

**Motion 17-034** Moved by Commissioner Ammons, seconded by Commissioner Bridges that:

**The Commission approve the May 25, 2017, regular meeting minutes as presented.**

The motion passed.

**Election of 2017-2018 Officers** | [PDC Meeting Audio](#)

The Commission rules for how officers are elected are set in [WAC 390.12.170](#), Public disclosure commission—Organization and structure—Officers—Terms. The terms are for one year, or until a successor is elected.

Chair Levinson asked Commission members for nominations of 2017-2018 officers.

Commissioner Johnson asked Commissioner Bridges for confirmation that due to geographical distance from his home to Olympia, Commissioner Bridges does not want to be a nominee for the Chair or Vice-Chair position at this time.

Commissioner Bridges confirmed that this was correct.

Commissioner Johnson nominated Commissioner Anne Levinson to be the 2017-2018 Commission Chair.

Commissioner Ammons nominated Commissioner Jack Johnson to be the 2017-2018 Commission Vice-Chair.

**Motion 17-035** Moved by Commissioner Ammons, seconded by Commissioner Bridges that:

**The Commission appoint Commissioner Levinson as the Chair for 2017-2018.**

The motion passed.

**Motion 17-036** Moved by Commissioner Bridges, seconded by Commissioner Ammons that:

**The Commission appoint Commissioner Johnson as the Vice-Chair for 2017-2018.**

The motion passed.

**Reporting Modification Request** | [PDC Meeting Audio](#)

[Jenny A Durkan](#)

Application Rules - Personal Residence: [WAC 390-28-100\(d\)](#); and Attorney: [WAC 390-28-100\(1\)\(e\)\(i\)](#).

Jennifer Hansen presented Seattle Mayoral candidate Jenny Durkan's reporting modification request.

Jenny Durkan requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, on her Personal Financial Affairs Statement for the previous 12 months. As a former federal prosecutor, Ms. Durkan's residence is part

of the state's Address Confidentiality Program, and she would like to continue to have her address remain undisclosed for safety.

Ms. Durkan is a partner of Quinn Emanuel Urquhart & Sullivan, LLP, an international law firm and requested a reporting modification that would exempt her from listing the business and governmental customers that made payments of \$12,000 or more to the law firm during the previous 12 months. Listing all the reportable clients would create a hardship due to the numerous office locations, the way in which the clients are typically listed, disparate client references across attorney profiles on the firm's website and an inability to sort the list of clients.

Ms. Hansen noted that Seattle Ethics and Elections Commission (SEEC) granted part of Ms. Durkan's modification request filed with the SEEC. The SEEC granted her the request to not disclose her address and did not yet decide on the application request regarding the clients.

SEEC will meet again and decide on the latter request once the PDC has made a determination on the requested reporting modification.

Staff recommended approval.

Chair Levinson noted for the record that she has worked with Ms. Durkan in the past and does not believe this will inhibit her ability to participate impartially in the matter. She asked Ms. Hansen to share the information regarding the Secretary of State's Address Confidentiality Program.

**Staff Report/Follow-up on SEEC Modification Process Comparison and Secretary of State Address Confidentiality Program | [PDC Meeting Audio](#)**

In response to the Commission's request for statistics on PDC filers who request a modification to not disclose their residential address, Jennifer Hansen reported that in 2016 there were 60 applicants in total who requested a PDC reporting modification to not disclose residential addresses. About 1/3 of the applicants were granted a modification; the majority of these requests were sitting Judges or judicial candidates.

Ms. Hansen noted that she had spoken with Wayne Barnett, SEEC Director, and discussed the modification process they have in place. The SEEC has an administrative rule that allows them to review the request, grant, or deny in a similar way that the PDC does. The SEEC does not hear modification requests as often as the PDC does.

There is a section within the SEEC rule that allows the SEEC to grant a modification solely on the fact that the applicant has received a PDC modification.

Kim Bradford added information regarding the Secretary of State's (SOS) address confidentiality program. The program is available to survivors of harassment and abuse as well as certain criminal justice officials. Participants must have recently relocated and the address must not be in current public records. The SOS uses an Olympia mailbox, and then the mail is forwarded to the participant.

King County elections consulted with the SOS and verified that Ms. Durkan was a participant. Ms. Durkan was permitted not to disclose her personal address when she filed for office.

Commissioner Ammons asked for clarification on the term and renewal period of the address program. He asked if this is a status for life, even though Ms. Durkan has left her position as a US attorney.

PDC staff will contact SOS and ask for clarification.

Commissioner Johnson discussed that this reporting obligation was for her candidacy and the Commission's consideration regarding required disclosures would perhaps involve a different balancing were she making this request as an elected official.

**Motion 17-037** Moved by Commissioner Johnson, seconded by Commissioner Asay that:

**The Commission grant the partial reporting modification as requested, finding that literal application of the law would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the act.**

**A future request for renewal of the modifications in this matter must come back to the full Commission rather than a single presiding officer for consideration.**

The motion passed.

Ms. Hansen was asked to advise Ms. Durkan that the Commission is granting this request only for her candidate filing, and were she to be elected to the position of Mayor, she would need to make a separate reporting modification request prior to the next F-1 filer deadline in April, 2018.

***Next Steps/Follow-up:***

Kim Bradford will contact SOS and ask for clarification regarding the term and renewal period of the address program.

**Policy | [PDC Meeting Audio](#) [PDC Meeting Audio](#)**

Executive Director Lavalley presented a proposed policy on Staff Political Activity, Appearance of Fairness, and Use of Social Media to the Commission for consideration and possible approval.

Staff made the revisions identified at the May meeting, and has circulated the draft policy to the staff for input. Further advice was received from the Attorney General's Office and incorporated into the proposed policy and form that the PDC staff would be required to sign.

The intent of the policy is to ensure compliance with, and equitable enforcement of, Washington state's campaign finance and disclosure laws, reflecting the duty of Commissioners and staff of the Public Disclosure Commission (PDC) to make their decisions and implement their responsibilities in a fair and impartial manner. Actions that reflect, or appear to reflect, bias or prejudice can undermine public trust in the PDC. Commissioners are subject to the requirements of [RCW 42.17A.100](#); this policy sets forth the requirements and guidance for PDC staff.

A Conflict of Interest Statement is included as an addendum to the policy. This statement allows staff to disclose any potential conflict of interest. PDC staff will receive this form to sign at the time of hiring and then annually thereafter.

**Motion 17-038** Moved by Commissioner Bridges, seconded by Commissioner Ammons that:

**The Commission adopt the policy as presented.**

The motion passed.

**T-1 Filing | [PDC Meeting Audio](#)**

Kim Bradford and Compliance Coordinator Fox Blackhorn-Delph presented the updates made to the Treasurer's Annual Statement (T-1) form to the Commission for consideration and possible approval.

Mr. Blackhorn-Delph noted that staff consulted with the Attorney General's Office to incorporate the changes suggested during the Commission meeting on May 25, 2017.

Staff recently received 79 new T-1 filings. Ms. Bradford reported on the outreach that has been made to out-of-compliance filers. An issue staff is running into is that the smaller jurisdictions have relationships with the counties in which the counties manage the funds for them, and therefore the filing obligation rests with the county. Because those reporting relationships can change, staff will continue notifying every jurisdiction responsible. Staff requested approval to implement the updated T-1 form as presented.

Commissioner Asay asked if there was any penalty structure in place for violators.

Mr. Blackhorn-Delph noted that he is not aware of any specific penalty set forth in the penalty schedule. Chad Standifer, AAG, stated that a violator would be subject to enforcement but there is not currently a specific penalty in the schedule.

Commissioner Johnson stated that if the form is adopted an update to the penalty schedule would need to follow. Commissioners also discussed the need for a minor technical amendment.

**Motion 17-039** Moved by Commissioner Ammons, seconded by Commissioner Bridges that:

**The Commission adopt the T-1 form as presented.**

The motion passed.

#### ***Next Steps/Follow-up:***

Kim Bradford and Fox Blackhorn-Delph will move forward with the implementation of the revised T-1 form, with the technical amendment noted. Staff will work with AAG to determine what is needed to revise the penalty schedule and bring the proposed revised schedule back to the Commission.

#### **Executive Director Report | [PDC Meeting Audio](#)**

##### Legislative and Budget Report

Budget update – the agency will end FY17 slightly in the “black,” thanks in part to a lower than expected fiscal yearend bill from the AGO. Deputy Director Sandahl and Executive Director Lavallee will continue to monitor this as we are coming to the end of the fiscal year.

The Legislature has entered a third special session and it is Director Lavallee's sense that there is a fair amount of pessimism this year, compared to years past, and the deadline is approaching to pass the budget. There is still a chance that the budget will come together by the deadline.

Worst case scenario is that there will be a shut-down starting July 1, 2017. The PDC has notified staff of the possibility.

Director Lavallee recognized staff members Ladelle Fuquay, Scott Haley, Toni Lince, and Bill King for their dedication and work to manage a large volume of C-1s filed since filing week.

##### Enforcement Report

Kurt Young reported on compliance cases and complaint status.

- 23 new complaints received, the majority for alleged C-1 and F-1 violations. Staff is in the process of contacting filers with a warning letter reminding them to comply.

- Six complaints filed with the PDC alleging that contributions made by the contributor were from Out-of-State Committees, which would be required to file C-5 reports.
- Eight new 45-Day Citizen Action complaints received against Candidates, Officials, Political Committees and Party Organizations.
- 21 New 45-Day Citizen Action Complaints received concerning C-5 Reports for contributions made in WA State by Out-of-State Committees.
- Two Complaint Return Letters After Initial Review (Allegations unfounded or frivolous, and no evidence that a material violation may have occurred) – WAC 390-37-060(1)(a).
- Two Complaint Return Letters with Reminder (Evidence of minor or technical violations, usually for a first-time candidate or committee; no evidence of a material violation).
- One Complaint Return Letter with Formal Written Warning (after Initial Review or after Formal Investigation) – WAC 390-37-060(1)(b).

### **Communications and Outreach Report** | [PDC Meeting Audio](#)

Ms. Bradford also praised the extra efforts and work of the customer service team and IT to complete the C-1 processing. Filer Assistance Specialists and Customer Service staff also have been handling a huge increase in help-deck tickets, and the compliance team has assisted with some of the more complex questions.

There was a 30% increase in emails to the help-desk over the past month. As a result, helpdesk response time has increased.

### Training Videos

TVW filmed PDC staff presenting the ORCA and Compliance training classes. The video will be available on the PDC web page for users to access at anytime. Videos will be available July 1, 2017.

### Guidance and Reference

Online guidance and reference has been added to the PDC website regarding the use of surplus funds for non-reimbursable public office expenses and the threshold for F-1 reporting of membership on other governmental bodies.

### **Information and Technology Report** | [PDC Meeting Audio](#)

CIO Gutholm reported on interns starting telework with the PDC. They are working two days a week. They have been working on back-end coding, as part of the InfoSearch project IT is currently working on.

Mr. Gutholm discussed the OCIO policy on open-data planning/implementation to make information more available and transparent. The office recently evaluated agencies on their open-data planning, and the PDC was the only agency so far to reach Level 5, in which we are checking in with stakeholders to gauge the efficacy of our plan.

### **Additional meeting items/notes**

#### *Next Steps/Follow-up:*

Chair Levinson asked staff to add and hyperlink RCWs or WACs on agenda items for the public's easy reference.

Meeting adjourned at 11:24 a.m.