



State of Washington
PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission
From: Nancy Krier, General Counsel
Lori Anderson, Communications & Training Officer
Date: January 15, 2013
Re: Public Hearing – Rules – January 24, 2013 Meeting

A January 24, 2013 public hearing is scheduled, during which the following proposed rules will be presented to the Commission for consideration and possible adoption:

- **New WAC 390-37-182 Penalty Factors.** The proposed rule describes factors the Commission may consider when assessing a penalty. The Commission approved proposed language in December 2012.
- **Amend WAC 390-05-400 Changes in Dollar Amounts.** Adjusts contribution limits for school board candidates to an amount in effect for other candidates when the new limits were enacted in 2012. The Commission approved proposed language in June 2012 when the Commission adopted an identical amendment on an emergency basis.

The proposals were filed with the Code Reviser along with notice of the January 24, 2013 public hearing. No comments have been received.

Action by the Commission. Staff requests the Commission adopt proposed new WAC 390-37-182 and the proposed amendment to WAC 390-05-400. Once adopted, the rules are effective 31 days after filing with the Code Reviser.

Enclosures: Proposed New WAC 390-37-182
Proposed Amended WAC 390-05-400

[NEW SECTION] (Proposed language was filed 12/10/12).

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

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

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

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

(c) Shall assess successively increased penalties for succeeding violations of the same rule.

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

(a) The respondent's compliance history, including whether the non-compliance was isolated or limited in nature, indicative of systematic or on-going problems, or part of a pattern of violations by the respondent;

(b) The impact on the public, including whether the non-compliance deprived the public of timely or accurate information during a time-sensitive period;

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

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

(e) Whether the non-compliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances;

(g) Whether the respondent or anyone else benefitted economically from the non-compliance;

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

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

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

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

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

(m) Good faith efforts to comply, including consultation with commission staff prior to initiation of enforcement action and cooperation with commission staff during enforcement action;

(n) Penalties imposed in factually similar cases; and,

(o) Other factors relevant to a particular case.

(4) The commission, and the presiding officer in brief adjudicative proceedings, may consider the factors in (1) - (3) in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

(5) The presiding officer in brief adjudicative proceedings may consider whether any of the factors in (1) - (3) are factors that warrant directing a case to the full commission.

AMENDATORY SECTION (Amending WSR 12-10-041, filed 4/27/12, effective 5/28/12)

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

Code Section	Subject Matter	Amount Enacted or Last Revised	2012 Revision
.005	Definition of "Independent Expenditure"	\$800	\$900
.445(3)	Reimbursement of candidate for loan to own campaign	\$4,700	\$5,000
.630(1)	Report-- Applicability of provisions to Persons who made contributions Persons who made independent expenditures	\$16,000 \$800	\$18,000 \$900
.405(2)	Contribution Limits-- Candidates for state leg. office Candidates for county office Candidates for other state office Candidates for special purpose districts Candidates for city council office Candidates for mayoral office <u>Candidates for school board office</u>	\$800 \$800 \$1,600 \$1,600 \$800 \$800 <u>\$800</u>	\$900 \$900 \$1,800 \$1,800 \$900 \$900 <u>\$900</u>
.405(3)	Contribution Limits-- State official up for recall or pol comm. supporting recall-- State Legislative Office Other State Office	\$800 \$1,600	\$900 \$1,800
.405(4)	Contribution Limits-- Contributions made by political parties and caucus committees State parties and caucus committees County and leg. district parties Limit for all county and leg. district parties to a candidate	.80 per voter .40 per voter .40 per voter	.90 per registered voter .45 per registered voter .45 per registered voter
.405(5)	Contribution Limits-- Contributions made by pol. parties and caucus committees to state official up for recall or		

Code Section	Subject Matter	Amount Enacted or Last Revised	2012 Revision
	committee supporting recall		
	State parties and caucuses	.80 per voter	.90 per registered voter
	County and leg. district parties	.40 per voter	.45 per registered voter
	Limit for all county and leg. district parties to state official up for recall or pol. comm. supporting recall	.40 per voter	.45 per registered voter
.405(7)	Limits on contributions to political parties and caucus committees		
	To caucus committee	\$800	\$900
	To political party	\$4,000	\$4,500
.410(1)	Candidates for judicial office	\$1,600	\$1,800
.475	Contribution must be made by written instrument	\$80	\$90