



## State of Washington PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112  
Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

TO: Members, Public Disclosure Commission  
FROM: Nancy Krier, General Counsel  
Andrea McNamara Doyle, Executive Director  
DATE: February 21, 2013  
SUBJECT: Possible Updates to Interpretation 04-02 *Guidelines for Local Government Agencies in Election Campaigns* - Scheduling Campaign Events on Agency Calendars – February 28, 2013 Meeting

### Agenda Item

This memorandum concerns the statutory restriction on the use of public agency facilities to assist campaigns. The Commission has issued Interpretation 04-02 (Guidelines for Local Government Agencies in Election Campaigns) to provide information and guidance about the statute. In August, the Commission updated the Guidelines to provide information about agency uniforms and campaign advertising.

Since then, another suggestion has been made to provide more guidance on use of agency calendars when officials and other public employees need to schedule campaign events so as to avoid conflicts with their scheduled agency events and duties.

Therefore, staff is providing background information for discussion on that topic at the February 28 Commission meeting. Staff will await further direction from the Commission before proceeding.

### Background

**Statutes.** RCW 42.17A.555 restricts local agency employees from using public facilities to assist a campaign. It was formerly codified at RCW 42.17.130. The counterpart restriction for state employees is codified in the State Ethics Act at RCW 42.52.180.

**PDC Case No. 95-126.** In an enforcement action several years ago involving the Attorney General (when state employees were still under the jurisdiction of the Commission with respect to the prohibition on the use of agency resources), the Commission received a Stipulation stating that:

The PDC staff acknowledges that it is legitimate for an elected official's scheduler to place campaign related events on their calendars. For business and security purposes, it is important that Ms. Gregoire's staff know where she is at all times. However, to go beyond such ministerial acts and actually arrange and plan a campaign event is a violation of state law.

**PDC Case No. 09-083.** In a brief enforcement action involving a local government employee who was a first-time candidate in 2008, the employee had used his county computer to maintain 12 appointments on his agency electronic calendar that were related to his campaign. See summary of brief hearing and enclosed Order.

The appointments were not confined to when he would be out of the office but included other campaign reminders and activities. They included a meeting with his campaign consultant, candidate interviews with local organizations, a deadline date for submitting a candidate questionnaire, planned campaign doorbelling, and meetings with local labor organizations that appeared to have been campaign-related.

The Respondent stated that he believed the campaign-related events were present on his agency's electronic calendar because of the synching of his personal digital assistant (PDA) with his work computer. He stated that he used two different PDAs during the relevant times, and that he commonly synched his PDA with his work computer in order to pull agency-related appointments from his calendar. He said that he proactively tried to ensure that campaign-related appointments on his PDA did not cross over to his work computer during this process.

The Presiding Officer found a violation and assessed a penalty.

**PDC Case No. 13-021.** More recently, a local official and his assistant were charged with violating RCW 42.17A.555 when their activities were similarly determined to go beyond ministerial activities of placing campaign events on the local official's calendar. The campaign events involved a statewide initiative. See attached excerpt from the summary of the brief hearing and enclosed Order (with Stipulation).

The Stipulation's Paragraph 5 references two letters from the Executive Director of the Seattle Ethics and Elections Commission in 2008, describing local limitations on use of public facilities with respect to calendaring campaign events.

The Presiding Officer found a violation and assessed a penalty.

**Executive Ethics Board.** The Executive Director of the Executive Ethics Board has noted that questions concerning use of agency calendars and scheduling campaign activities have also been raised by state employees receiving training about the restrictions in RCW 42.52.180. She has inquired about how the Commission has provided guidance for the similar restriction in RCW 42.17A.555. Staff has described that the Commission has addressed such calendaring activities impacting public facilities on a case-by-case basis, including in cases such as those listed above.

### **Draft Amendments to Guidelines for Discussion**

The enclosed draft proposes amending the Guidelines, if the Commission is interested in providing more information about agency calendaring activities with respect to RCW 42.17A.555's restrictions. The draft amendments are highlighted in yellow.

The draft amendments address when local public officials, appointees and public agency staff can place campaign events on an individual's agency calendar in order to avoid scheduling conflicts, and to ensure the agency knows the individual's location and contact information when he or she is away from the office.

The draft creates a new category in the Guidelines titled "Agency Calendars." See pages 27-28. The draft also provides cross references in other sections of the Guidelines, directing readers to this new category when they seek information about agency calendaring. See pages 9, 10, 11, 13.

Enclosures: Results of Brief Enforcement Hearing & Order – PDC No. 09-083  
Results of Brief Enforcement Hearing & Letter to Attorney General's Office  
and Order with attached Stipulation – PDC No. 13-201  
Possible Draft Amendments to Interpretation 04-02 – *Agency Calendars*



STATE OF WASHINGTON

## PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

### Results of Brief Enforcement Hearings – October 22, 2009

**2008 Scott White Campaign:** Scott White was a first-time candidate seeking the office of State Representative for the 46<sup>th</sup> Legislative District in 2008. It is alleged that the 2008 Scott White Campaign violated: 1) RCW 42.17.080 and .090 by failing to timely disclose orders-placed, debts or obligations as required on Campaign Summary Receipts and Expenditures Reports (PDC Form C-4); and 2) RCW 42.17.640 by spending 2008 general election contributions prior to the August 19, 2008 primary election.

**PDC Case No: 09-049**

**Results:** The Presiding Officer found that that the 2008 Scott White Campaign violated the following:

- 1) RCW 42.17.080 and .090 by failing to timely disclose orders-placed, debts or obligations totaling \$30,962, which represented 17.8 percent of all campaign expenditures. The orders placed were reported as campaign expenditures between 14 and 63 days late; and
- 2) RCW 42.17.640 by spending 2008 general election contributions prior to the August 19, 2008 primary election during the 3-day period of August 16-18, 2008. The campaign improperly spent between \$4,494 and \$6,269 of the general election contributions on the primary election.

**Assessed Penalty:** The Presiding Officer: 1) assessed a \$100 civil penalty against the 2008 Scott White Campaign, and stated that the \$100 penalty is paid within 30 days of the date of the order and; 2) dismissed the remaining two allegations regarding the failure to timely report campaign contributions and improperly attributing contributions for the primary election and exceeding contribution limits.



**Scott White:** Scott White was a first-time candidate seeking the office of State Representative for the 46<sup>th</sup> Legislative District in 2008. It is alleged that Scott White violated RCW 42.17.130 on several occasions by using the facilities of King County Department of Transportation (DOT) to assist his candidacy for State Representative for the 46<sup>th</sup> Legislative District in 2008.

**PDC Case No: 09-083**

**Results:** The Presiding Officer found that that Scott White violated RCW 42.17.130 as follows:

- 1) Using the fax machine in the King County Executive's Office to transmit a candidate withdrawal form to the King County Auditor's Office;
- 2) Maintaining entries for twelve appointments related to his campaign for state representative on his electronic calendar on his King County DOT computer; and
- 3) Evidence indicated that nine spreadsheets or word processing documents related to his campaign were maintained and had been opened at some point on his King County DOT computer.

**Assessed Penalty:** The Presiding Officer assessed a \$500 civil penalty against Scott White, and suspended \$400 of the penalty on the condition that no further violations of RCW 42.17 are committed within 2 years of the date of the order, and the \$100 non-suspended portion of the penalty is paid within 30 days of the date of the order.



STATE OF WASHINGTON

PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm 206, PO Box 40908 \* Olympia, Washington 98504-0908 \* (360) 753-1111 \* Fax (360) 753-1112  
Toll Free 1-877-601-2828 \* E-mail: pdc@pdc.wa.gov \* Website: www.pdc.wa.gov

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

SCOTT WHITE  
9009 27<sup>TH</sup> AVENUE NE  
SEATTLE WA 98115

In Re the Matter of	)	PDC Case No. 09-083
Scott White	)	Findings of Fact,
	)	Conclusions of Law and
Respondent.	)	<b>Order Imposing Fine</b>
_____	)	

A brief enforcement hearing (brief adjudicative proceeding) was held October 22, 2009, in the Evergreen Plaza Building, 711 Capitol Way, Room 206, Olympia, Washington, to consider whether the Respondent violated RCW 42.17.130 on multiple occasions by using the facilities of King County to assist his candidacy for State Representative for the 46<sup>th</sup> Legislative District in 2008.

The hearing was held in accordance with Chapters 34.05 and 42.17 RCW and Chapter 390-37 WAC. Commission Chair Jim Clements was the Presiding Officer. The Commission staff was represented by Kurt Young, Compliance Officer. Scott White appeared by telephone conference and presented testimony to the Presiding Officer.

Brief enforcement hearing notice was sent to the Respondent on October 9, 2009. Having considered the evidence, the Presiding Officer finds as follows:

FINDINGS OF FACT

1. The Respondent was a first-time candidate who sought election to the office of State Representative for the 46<sup>th</sup> Legislative District in 2008. He filed a Candidate Registration (PDC Form C-1) on September 10, 2007.
2. The Respondent was employed as a Special Projects Manager for the Facilities Management division of King County. In February of 2008, he joined the staff of the King County Department of Transportation (DOT) to work on regional transportation planning, and he left that position with King County DOT in August of 2008.
3. While employed by King County DOT, the Respondent visited the King County Executive's Office on June 12, 2008. He asked a King County employee to use the

office fax machine to transmit a facsimile for him to the King County Records and Elections Office.

4. The employee transmitted the fax without reviewing the content of the facsimile, but knew it was being sent to another branch of King County government. The document faxed to the King County Records and Elections Office on behalf of the Respondent was a candidate withdrawal form.
5. The Respondent was attempting to withdraw as a candidate for State Representative for the 46<sup>th</sup> Legislative District. While it appeared his campaign was about to end because he was withdrawing, the use of King County public facilities nevertheless assisted the Respondent's campaign, because it fulfilled an administrative function related to his candidacy.
6. The Respondent was ill and had taken sick leave on June 12, 2008, but was in the King County Executive's Office to meet with the Executive's Chief of Staff, Kirk Triplett. He said that he reimbursed the Executive's Office a few days later, and provided staff with an undated receipt from the King County Executive's Office listing a \$1.50 payment for "Fax cost."
7. The Respondent also maintained an electronic calendar on his DOT office computer that contained entries for 12 campaign-related appointments. The campaign-related activities included a meeting with his campaign consultant, candidate interviews with local organizations, a deadline date for submitting a candidate questionnaire, planned campaign doorbelling, and meetings with local labor organizations that appeared to have been campaign-related.
8. The Respondent stated at an interview with the King County Ombudsman's Office that he believed the campaign-related events were present on his DOT electronic calendar because of the synching of his personal digital assistant (PDA) with his work computer. He stated that he used two different PDAs during the relevant times, and that he commonly synched his PDA with his work computer in order to pull DOT-related appointments from his calendar. He said that he proactively tried to ensure that campaign-related appointments on his PDA did not cross over to his work computer during this process.
9. PDC staff reviewed evidence indicating that nine spreadsheets or word processing documents related to the Respondent's campaign were opened at some point on his DOT computer. The Respondent downloaded a Microsoft Word template of the Declaration of Candidacy form from the Web site of the Washington Secretary of State. A shortcut was automatically created to the template of the Declaration of Candidacy form on his DOT computer 20 minutes after it had been downloaded.
10. Other than the Declaration of Candidacy, staff was unable to determine the duration of time that any of the other campaign-related files were opened on the Respondent's

DOT computer. The Respondent maintained that, other than this instance, he never performed work on any campaign document on his DOT computer.

11. Mr. White apologized and took responsibility for the violations. He stated that, with regard to the fax, he had pneumonia on that date and was attempting to withdraw from the race. He said that with all of the "press" he received about sending the fax, it would be hard for him to say that it "assisted" his campaign. He said that during the course of his campaign, he was attempting to "synch" his new Blackberry with his office calendar on his DOT computer to try to keep his schedules straight.
12. Mr. White said there were hundreds of campaign-related activities or appointments on his Blackberry, and only 12 of the entries ended up on his DOT work calendar. Finally, with regard to the campaign-related documents being stored on his DOT computer, he said that other than the Declaration of Candidacy, the other documents were maintained on his Blackberry and were likely transferred to his DOT work computer due to the "synching issue."

#### CONCLUSIONS OF LAW

Based on the above facts, as a matter of law, the Presiding Officer concluded as follows:

1. This matter was duly and properly convened and all jurisdictional, substantive and procedural requirements have been satisfied.
2. The Respondent violated RCW 42.17.130 on three occasions by using the facilities of King County to assist his 2008 candidacy for State Representative for the 46<sup>th</sup> Legislative District.

#### ORDER

ON the basis of the foregoing Findings of Fact and Conclusions of Law,

**IT IS HEREBY ORDERED that the Respondent is assessed a \$500 civil penalty, of which \$400 of the penalty is suspended on the condition that no further violations of RCW 42.17 are committed within two years of the date of the order, and that the \$100 non-suspended portion of the penalty is paid within 30 days of the date of the order.**

This is an **Initial Order** of the Public Disclosure Commission. There are two ways the Respondent may appeal this order to the Commission. Once the order becomes a final order, it may also be appealed to Superior Court.

#### REVIEW OF INITIAL ORDER - COMMISSION

- a. The Respondent may request a review of this Initial Order by the entire Commission.



- b. The request may be made orally or in writing, and must be received at the Public Disclosure Commission office within **21 business days** after the postmark date of this Initial Order. The Respondent must state the reason for the review, and identify what alleged errors are contained in the initial order.
- c. If the Respondent requests a review, no penalty need be paid until after the Commission rules on the request.
- d. By law, a request for review of the initial order is deemed to have been denied if the Commission does not make a disposition of the matter within 20 business days after the request is submitted.
- e. If the Commission is unable to schedule a meeting to consider the Respondent's request for review within 20 business days, the Initial Order becomes a Final Order and the matter will automatically be treated as a request for reconsideration of a final order unless the Respondent advises the Commission otherwise. The matter will be scheduled before the full Commission as soon as practicable.
- f. A request for reconsideration must be in writing. Therefore, if the request for review of the Initial Order was made orally and deemed to have been denied because it could not be scheduled for consideration within 20 business days, the request must now be put in writing. (See Reconsideration of Final Order below.)
- g. If no request for review is received within 21 business days, this order will automatically become a **Final Order** of the Commission, and the Respondent will be legally obligated to pay the penalty unless reconsideration has been sought or the matter has been timely appealed to Superior Court. (RCW 42.17.395, RCW 34.05.470 and RCW 34.05.570).

#### **RECONSIDERATION OF FINAL ORDER - COMMISSION**

- a. Any party may ask the Commission to reconsider a final order. The request must be in writing and must include the specific grounds or reasons for the request. Grounds for reconsideration shall be limited to:
  - i) A request for review was deemed denied in accordance with WAC 390-37-144(4);
  - ii) New facts or legal authorities that could not have been brought to the commission's attention with reasonable diligence. If errors of fact are alleged, the requester must identify the specific evidence in the prior proceeding on which the requester is relying. If errors of law are alleged, the requester must identify the specific citation; or
  - iii) Significant typographical or ministerial errors in the order.
- b. The request must be delivered to the Public Disclosure Commission office within **21 business days** after the postmark date of this order.
- c. The Public Disclosure Commission is deemed to have denied the request for reconsideration if, within 20 business days from the date the request is filed, the Commission does not either dispose of the petition or serve the parties with written notice specifying the date by which it will act on the petition. (RCW 34.05.470).

- d. The Respondent is not required to ask the Public Disclosure Commission to reconsider the final order before seeking judicial review by a superior court. (RCW 34.05.470).


#### **FURTHER APPEAL RIGHTS – SUPERIOR COURT**

- a. A **final order** issued by the Public Disclosure Commission is subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW. (RCW 42.17.395(5)). The procedures are provided in RCW 34.05.510 - .598.
- b. The petition for judicial review must be filed with the superior court and served on the Public Disclosure Commission and any other parties within **30 days** of the date that the Public Disclosure Commission serves this Final Order on the parties. (RCW 34.05.542(2)).
- c. Service is defined in RCW 34.05.010(19) as the date of mailing or personal service.

#### **ENFORCEMENT OF FINAL ORDERS**

- a. If there is no timely request for review or reconsideration, this Initial Order becomes a Final Order. The Respondent is legally obligated to pay any penalty assessed.
- b. The Commission will seek to enforce a final order in superior court under RCW 42.17.395 - .397, and recover legal costs and attorney's fees, if the penalty remains unpaid and no petition for judicial review has been timely filed under chapter 34.05 RCW. This action will be taken without further order by the Commission.

Entered this 5<sup>th</sup> day of November, 2009.

  
\_\_\_\_\_  
Public Disclosure Commission  
Vicki Rippie, Executive Director



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX  
(360) 753-1112 • Toll Free 1-877-601-2828 • E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

**Results of Brief Enforcement Hearings – January 18, 2013**

**PDC Case No: 13-021**

**Pete Holmes, Seattle City Attorney, and Kim Garrett, City of Seattle employee:**

A 45-day citizen action letter (Citizen Action Complaint) was filed on October 24, 2012, alleging that the City of Seattle, Pete Holmes, (Seattle City Attorney), Kim Garrett (Specials Assistant to Pete Holmes), and City of Seattle staff (Kimberly Mills and John Schochet) violated RCW 42.17A.555 by using the city email network and paid city staff to write and transmit email communications for the purpose of promoting Initiative 502, a 2012 statewide ballot measure concerning the legalization and regulation of marijuana that was presented to voters in the November 6, 2012 general election.

**Pete Holmes and Kim Garrett** - Mr. Holmes was a sponsor of I-502, and was active with New Approach Washington (NAW), the political committee formed to support passage of I-502. PDC staff found that Pete Holmes forwarded, from his private email address to the city email address of Kimberly Mills or Kim Garrett, or to his own work address, information concerning Mr. Holmes' schedule. The evidence indicated that the purpose of Mr. Holmes' emails was to keep his public schedule free from conflicts, and to register his location at the times he would be engaged in campaign activity. Kim Garrett, Mr. Holmes' scheduler, responded to the majority of these emails by passively recording information concerning the campaign-related appointment on Mr. Holmes' public calendar. However, on two occasions, Ms. Garrett proactively contacted persons outside city government to schedule or discuss the logistics of Mr. Holmes' participation in campaign activity. On a third occasion, she used her city computer to research a magazine in order to vet Mr. Holmes' participation in a campaign-related interview. Ms. Garrett acted under the direction and with the authorization of Mr. Holmes, for what they believed to be a legitimate city purpose. In the three instances where Ms. Garrett's scheduling activities went beyond the passive, ministerial placement of campaign-related events on Mr. Holmes' official calendar, staff found that the violations were inadvertent and unintentional, and resulted in little or no cost to the public.

**Kimberly Mills** - Staff found that on two occasions, Kimberly Mills, Mr. Holmes' Communications Director, received media inquiries regarding I-502 and forwarded them to Mr. Holmes. In one of these instances, Ms. Mills informed the reporter that as a city

employee, she could do nothing more than forward the inquiry to Mr. Holmes. PDC staff found no evidence that Ms. Mills used city facilities for the promotion of I-502, or in any other manner prohibited by RCW 42.17A.555.

**John Schochet** - Assistant City Attorney John Schochet was implicated in the complaint and the attached evidence only in the sense that his private email address was listed as a recipient on an email sent by Alison Holcomb of NAW. PDC staff found no evidence that Mr. Schochet used public facilities in a manner prohibited by RCW 42.17A.555.

**City of Seattle** - The Citizen Action Complaint alleged that the City of Seattle violated RCW 42.17A.555 by using its facilities for the promotion of I-502. The prohibitions in RCW 42.17A.555 apply to elective officials, their employees, and persons appointed to or employed by public agencies, not to entities, such as the City of Seattle. The complaint included no allegation that any other city official or employee violated RCW 42.17A.555, and PDC staff found no evidence of other violations.

**Results & Penalty:** The Presiding Officer accepted a Stipulation of Facts, Violations and Penalty from PDC Staff and Respondents Pete Holmes and Kim Garrett that provided for a waiver of any monetary penalty as allowed by RCW 42.17A.755(5) for first-time violations. **See attached Stipulation.**

The Presiding Officer dismissed the allegations regarding alleged improper use of City of Seattle facilities for the promotion of I-502 by Kimberly Mills, John Schochet, and the City of Seattle. The Presiding Officer agreed to recommend that the Attorney General and Prosecuting Attorney take no further action concerning this matter.



State of Washington  
**PUBLIC DISCLOSURE COMMISSION**

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: [pdc@pdc.wa.gov](mailto:pdc@pdc.wa.gov) • Website: [www.pdc.wa.gov](http://www.pdc.wa.gov)

January 25, 2013

The Honorable Robert Ferguson  
Attorney General  
Washington State Office of the Attorney General  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100

RE: Washington State Public Disclosure Commission Recommendation Following Staff Report of Investigation on Citizen Action Letter Concerning the City of Seattle, City Attorney Pete Holmes, and City staff, PDC Case No. 13-021

Dear General Ferguson:

On October 24, 2012, your office received a citizen action letter submitted by Arthur West, pursuant to RCW 42.17A.765, filed against the City of Seattle, its City Attorney Pete Holmes, and city staff alleging misuse of public facilities for the purposes of supporting Initiative 502, a 2012 statewide ballot measure concerning the legalization and regulation of marijuana. The Attorney General's Office referred Mr. West's letter to the PDC for review and possible investigation or action. This letter provides the results of the Commission's investigation, enforcement action, and recommendations to you.

At a brief enforcement hearing held on January 18, 2013, the Commission, acting through its Chair, accepted a stipulation of facts, violations, and penalty, signed by Pete Holmes, Kim Garrett, special assistant to Mr. Holmes, and Commission staff. In accepting the stipulation, the Commission found that Mr. Holmes violated RCW 42.17A.555 by authorizing use of City of Seattle facilities in a manner that assisted the campaign in support of I-502; and that Kim Garrett violated RCW 42.17A.555 by using City of Seattle facilities in a manner that assisted Mr. Holmes' work supporting I-502. Under the facts and circumstances as stipulated, the Commission waived any monetary penalty as allowed by RCW 42.17A.755(5).


January 25, 2013  
Robert Ferguson  
Attorney General  
Page 2

The Commission also accepted PDC staff's recommendation to dismiss the remaining allegations regarding improper use of City of Seattle facilities for the promotion of I-502 by Kimberly Mills, John Schochet, and the City of Seattle.

A copy of the report of investigation is being provided to your office, along with the notice of administrative charges and an executive summary and staff analysis. A copy of the Commission's Findings of Fact, Conclusions of Law, and Order, with the attached Stipulation, is enclosed with this letter.

If you have any questions, please contact me at (360) 664-2735. Thank you.

Sincerely,



Andrea McNamara Doyle  
Executive Director

C: Linda Dalton, Sr. Assistant Attorney General  
John Gerberding, King Co. Sr. Deputy Prosecuting Attorney

Enclosure: Findings of Fact, Conclusions of Law, and Order, with attached Stipulation



STATE OF WASHINGTON  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908 • (360) 753-1111 • FAX (360) 753-1112 Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON

PETE HOLMES, CITY ATTORNEY  
CITY OF SEATTLE  
PO BOX 94769  
SEATTLE WA 98124-4769

KIM GARRETT  
CITY OF SEATTLE  
PO BOX 94769  
SEATTLE WA 98124-4769

In Re Compliance with RCW 42.17A

Pete Holmes and  
Kim Garrett

Respondents.

PDC Case No. 13-021

Findings of Fact,  
Conclusions of Law, and  
Order

A brief enforcement hearing (brief adjudicative proceeding) was held January 18, 2013, in Room 206, Evergreen Plaza Building, 711 Capitol Way, Olympia, Washington to consider administrative charges in this case. The administrative charges concerned allegations in a complaint<sup>1</sup> that Respondent Pete Holmes, Seattle City Attorney, violated RCW 42.17A.555 by authorizing the use of City of Seattle facilities for the promotion of Initiative 502, a statewide initiative on the November 6, 2012 general election ballot; and, that Respondent Kim Garrett, City of Seattle employee and Special Assistant to Mr. Holmes, violated RCW 42.17A.555 by using City of Seattle facilities for the promotion of Initiative 502. The hearing was also convened to determine whether the remaining allegations in the complaint should be dismissed.

A brief enforcement hearing notice concerning the administrative charges was sent to Respondents Holmes and Garrett on January 11, 2013. They agreed to waive the required 10-day notice for an enforcement hearing.

<sup>1</sup> The complaint was a 45-day letter citizen action complaint submitted by Arthur West and received by the Washington State Attorney General on October 24, 2012 and later by the King County Prosecuting Attorney. The

The hearing was held in accordance with Chapters 34.05 and 42.17A RCW and Chapter 390-37 WAC. Commission Chair Amit Ranade was the Presiding Officer. The Commission staff was represented by Tony Perkins, Lead Political Finance Specialist. The Respondents participated by telephone. The hearing was open to the public and recorded.

The Presiding Officer was provided with a Notice of Administrative Charges dated January 11, 2013; a Report of Investigation dated January 11, 2013 (and exhibits); an Executive Summary and PDC Staff Analysis; and, a proposed Stipulation as to Facts, Violations, and Penalty (Stipulation) dated January 16, 2013.

Mr. Perkins addressed the Presiding Officer. He summarized the investigation and described the PDC staff recommendation to take appropriate enforcement action against Respondents Holmes and Garrett by accepting the proposed Stipulation; to dismiss the allegations in the complaint concerning Kimberly Mills, John Schochet, and the City of Seattle regarding the use of city facilities for the promotion of Initiative 502; and, to recommend the Attorney General and the Prosecuting Attorney take no further action with respect to the allegations in the complaint.

The Respondents addressed the Presiding Officer, also requesting that the proposed Stipulation be accepted.

The Presiding Officer accepted the Stipulation. Having considered the evidence and presentations of the parties, the Presiding Officer finds and concludes as follows:

#### FINDINGS

1. The Jurisdiction, Facts, Violation and Penalty are as provided in the Stipulation, which is hereby attached and incorporated by reference.
2. The Stipulation appropriately provides that under the facts of this case and governing law, no monetary penalty should be imposed on either Respondent and the Commission should waive any monetary penalty as allowed by RCW 42.17A.755(5).
3. The remaining allegations in the complaint concerning other city employees (Kimberly Mills and John Schochet) and an entity (City of Seattle) have no basis in law or fact and therefore should be dismissed.
4. The Attorney General and Prosecutor should be provided a recommendation that they take no further action with respect to the allegations in the complaint.

#### CONCLUSIONS OF LAW

Based on the above findings, as a matter of law, the Presiding Officer concluded as follows:

1. This matter was duly and properly convened and all jurisdictional, substantive and procedural requirements have been satisfied.



2. As provided in the Stipulation, Respondent Holmes violated RCW 42.17A.555 by authorizing use of City of Seattle facilities in a manner that assisted the campaign in support of I-502. Respondent Garrett violated RCW 42.17A.555 by using City of Seattle facilities in a manner that assisted Mr. Holmes' work supporting I-502.
3. As provided in the Stipulation, RCW 42.17A.755(5) authorizes waiver a penalty for first-time violations.

ORDER

On the basis of the foregoing findings and conclusions:

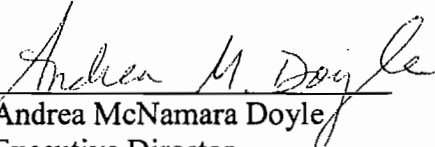
**IT IS HEREBY ORDERED that:**

1. **The Stipulation is accepted.**
2. **No monetary penalty is imposed. Any monetary penalty that might otherwise be imposed against Respondents Pete Holmes and Kim Garrett is waived.**
3. **The remaining allegations in the complaint concerning Kimberly Mills, John Schochet and the City of Seattle are dismissed.**

This is an **Initial Order** of the Public Disclosure Commission.

Entered this 25<sup>th</sup> day of January, 2013.

Public Disclosure Commission

  
Andrea McNamara Doyle  
Executive Director

Attachment: Stipulation dated January 16, 2013

Enclosure: Information about Appeal Rights

**BEFORE THE PUBLIC DISCLOSURE COMMISSION  
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action  
Against:

Pete Holmes and Kim Garrett

Respondents.

Case No. 13-021

**STIPULATION AS TO FACTS,  
VIOLATION AND PENALTY**

The parties to this Stipulation, namely, the Public Disclosure Commission Staff, through its Executive Director, Andrea McNamara Doyle, and Respondents Pete Holmes and Kim Garrett, submit this Stipulation as to Facts, Violations and Penalty in this matter. The parties agree that the Commission has the authority to accept, reject or modify the terms of this Stipulation. The parties further agree that in the event that the Commission suggests modification to any term of this agreement, each party reserves the right to reject that modification. In the event either party rejects a modification, this matter will proceed to hearing before the Commission.

**JURISDICTION**

The Public Disclosure Commission has jurisdiction over this proceeding pursuant to RCW 42.17/42.17A, the Public Disclosure Act; RCW 34.05, the Administrative Procedure Act; and WAC 390.

**FACTS**

1. Respondent Pete Holmes is the Seattle City Attorney. He was elected to office in the November 3, 2009 General Election.
2. Respondent Kim Garrett is a City of Seattle employee, and serves as Special Assistant to Mr. Holmes.
3. Initiative 502 (I-502) was an initiative to the Washington State Legislature, proposing the reform of state marijuana laws. I-502 was placed before voters in the November 6, 2012 General Election, where it was approved by approximately 56 percent of

votes cast. Mr. Holmes was a sponsor of I-502, and was active with New Approach Washington, the political committee formed to campaign for the initiative.

4. During the 2012 election, Mr. Holmes authorized a City of Seattle staff person to place appointments related to the I-502 campaign on his public calendar, in order to keep his public schedule free from conflicts, and to register his location at the times he would be engaged in campaign activity.
5. Mr. Holmes believed that such authorization complied with oral guidance he received from Wayne Barnett, Executive Director of the Seattle Ethics & Elections Commission, at the time Mr. Holmes became a sponsor of I-502. In an April 14, 2005 and June 11, 2008 letter from Mr. Barnett, expressing the same guidance, Mr. Barnett advised city officials, "*[W]hen your scheduler's actions are limited to those necessary to ensure that your public schedule is complete and accurate, and that your whereabouts are known at all times, the primary beneficiary of your scheduler's actions is the City[.]*" The April 14 letter further advised, "*Campaign scheduling must be performed by campaign personnel, who can and should coordinate scheduling with your City staff to ensure that you are not double-booked and can be reached on important City matters. Your staff can and should communicate with the campaign regarding open time slots on your public schedule (to be sure you aren't double-booked), and to place campaign events on your public schedule (to ensure you can be reached). Scheduling campaign events, however, cannot be done on City time or using City resources.*" The June 11 letter clarifies that, "*You may include the name of the event, the address of the event, and duration of the event, and a contact telephone number.*" It also states that "*[d]etails such as how you will be transported to the event, the format of the event, and other event attendees may not appear on your public calendar.*"
6. Mr. Holmes believed it was consistent with Mr. Barnett's guidance to use city facilities to contact persons outside city government to schedule certain of his I-502 campaign-related appointments to avoid his being double-booked with city duties.

During the 2012 election, Mr. Holmes authorized Kim Garrett, his Special Assistant, to use city facilities for this purpose.

7. The Public Disclosure Commission has previously found that *“it is legitimate for an elected official’s scheduler to place campaign related events on their calendars. For business and security purposes, it is important to know that [the official’s] staff know where [the official] is at all times. However, to go beyond such ministerial acts and actually arrange and plan a campaign event is a violation of state law.”* PDC Case No. 95-126 (re: Chris Gregoire).
8. The Commission Staff has investigated allegations that Mr. Holmes’ and Ms. Garrett’s I-502 campaign-related activities constitute violations, and has received full and open cooperation from Mr. Holmes and Ms. Garrett with that investigation. The investigation yields the following relevant incidents, where Ms. Garrett, at Mr. Holmes’ direction, used paid city time, and Ms. Garrett’s city telephone, computer, and email account to work on the following campaign-related appointments for Mr. Holmes:
  - a. On February 1, 2012, Ms. Garrett sent an email from her city email address to two documentary filmmakers, following a request by New Approach Washington for Mr. Holmes’ participation in a video interview about I-502. Mr. Holmes understood that the interview would not be released until after the election and therefore would not be used to support or oppose the ballot measure or to influence the election in any way. In her email to the filmmakers, Ms. Garrett states, *“Riley & Nils—Feel free to call me directly at your convenience to set up time to meet with Pete—I’d be happy to assist with this!”* Ms. Garrett then received a call from one of the filmmakers, on her city phone during city business hours, and scheduled their interview with Mr. Holmes. Under these circumstances, Ms. Garrett did not commit a violation by scheduling the interview.
  - b. On February 21, 2012, Ms. Garrett exchanged emails with Mr. Holmes at his city email address, and discussed a request to Mr. Holmes for an I-502 interview with the magazine *City Living Seattle*. Although Mr. Holmes states he merely wanted Ms. Garrett to accept the appointment if he was available in his work schedule during the requested times, Ms. Garrett construed Mr. Holmes’ request to “pls

check this out” as a request to visit the magazine’s website to verify its existence. Ms. Garrett interpreted this as a valid request to ensure that Mr. Holmes’ schedule would not include a false appointment. This research, while undertaken based on a misunderstanding, went beyond mere calendaring and thus was an inappropriate use of public facilities.

- c. On July 31, 2012, at Mr. Holmes’ direction to schedule a campaign appointment with a campaign photographer, Ms. Garrett sent an email to an independent photographer retained by the New Approach Washington campaign offering to schedule a photographic portrait sitting for Mr. Holmes for use on the I-502 campaign website. In the email to the campaign photographer, Ms. Garrett states, *“Mychal—Please contact me at the number below and I’d be happy to schedule time for you to meet with Pete Holmes.”* Ms. Garrett then received a call from the campaign photographer on her city phone during city business hours, and scheduled the photo shoot for Mr. Holmes. Because Ms. Garrett acted proactively to schedule a campaign-related appointment, rather than recording the date and time of a previously arranged event, there was a violation.
  - d. Prior to August 6, New Approach Washington asked Mr. Holmes to participate in a panel discussion on marijuana legalization with *High Times* magazine. The goal of the event was “to have a fact-based, respectful, informative discussion of I-502 and other issues related to marijuana and the law,” and Mr. Holmes directed Kim Garrett to schedule the appointment. On August 6, 7, and 8, 2012, Ms. Garrett exchanged emails with David Bienenstock, an editor of High Times magazine. In an August 6, 2012 email to Mr. Bienenstock, Ms. Garrett relayed Mr. Holmes’ availability but also went into logistics: *“Pete Holmes is interested and available to take part as a panelist in High Times’ Medical Cannabis Cut [sic] on September 15 – 16 at Fremont Studios. Please include me in any logistical and follow up information concerning this event.”* Following this, Ms. Garrett and Mr. Bienenstock exchanged one email discussing access to the event, arrival times, and the number of tickets Mr. Holmes would need. Ms. Garrett confirmed that this exchange took place during city business hours, through her city email address. She stated that her intent was to gain information to ensure that Mr. Holmes’ calendar included relevant information as to time, place and access. Because Ms. Garrett’s involvement in scheduling went beyond the ministerial act of placing the event on Mr. Holmes’ calendar, and also included logistics and access to the event, there was a violation.
9. In every case, Ms. Garrett acted under the direction and with the authorization of Mr. Holmes, for what they believed to be a legitimate city purpose: ensuring that Mr.

Holmes was available, that his public schedule was complete and accurate, and that his whereabouts were known at all times. In the three instances where Ms. Garrett's scheduling activities went beyond the passive, ministerial placement of campaign-related events on Mr. Holmes' official calendar, the violations were inadvertent and unintentional, and resulted in little or no cost to the public.

10. Although Mr. Holmes authorized Ms. Garrett to perform the scheduling work described above, he did so because he believed such activity was part of the normal and regular conduct of his office. He instructed Ms. Garrett that her scheduling work was city business, and separate from the I-502 campaign.
11. Mr. Holmes' and Ms. Garrett's efforts to keep the I-502 campaign separate from city work were complicated by the fact that marijuana policy is and has been a constant focus of the City of Seattle and Mr. Holmes' office. Seattle voters approved a local initiative making marijuana enforcement the lowest priority for the Seattle Police Department and City Attorney's Office. Then, in 2009 when Mr. Holmes ran for election to the City Attorney's office, he made a campaign promise to comply with the initiative and to stop prosecuting misdemeanor possession of marijuana. After taking office he took steps to keep that promise. Mr. Holmes has testified before the state legislature regarding both medical and recreational marijuana laws. He stated that while acting in his official capacity, he has taken part in media interviews and speaking engagements related to marijuana possession and marijuana policy generally. He stated that all of these activities are clearly official city business, and have required the support of his staff, including Ms. Garrett. He said that I-502 concerned the same issue that has occupied the City Attorney's Office since before his election, and found that I-502 was novel only in that it also involved a ballot proposition. He said that Ms. Garrett's calendaring activity during the I-502 campaign was consistent with her normal and regular workplace conduct outside of any election campaign.

12. Pete Holmes and Kim Garrett have both stated that they take seriously the obligation not to use public resources in any election campaign, and that they did not intentionally violate any such restriction.
13. Neither Pete Holmes nor Kim Garrett has previously been found to have violated any provision of RCW 42.17 or 42.17A.

### STATUTORY AND RULE AUTHORITY

14. **RCW 42.17A.555** states: No elective official nor any employee of his [or her] office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

- (1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;
- (2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;
- (3) Activities which are part of the normal and regular conduct of the office or agency.

15. **WAC 390-03-273** states: Normal and regular conduct of a public office or agency, as that term is used in the proviso to RCW 42.17.130, means conduct which is (1) lawful, i.e., specifically authorized, either expressly or by necessary implication, in an appropriate enactment, and (2) usual, i.e., not effected or authorized in or by some

extraordinary means or manner. No local office or agency may authorize a use of public facilities for the purpose of assisting a candidate's campaign or promoting or opposing a ballot proposition, in the absence of a constitutional, charter, or statutory provision separately authorizing such use.

16. RCW 42.17A.755(5) provides that the commission has the authority to waive a fine for a first-time violation.


#### VIOLATION

Based on the Stipulation of Facts set forth above, Respondent Pete Holmes stipulates that he violated RCW 42.17A.555 by authorizing use of City of Seattle facilities in a manner that assisted the campaign in support of I-502. Respondent Kim Garrett stipulates that she violated RCW 42.17A.555 by using City of Seattle facilities in a manner that assisted Mr. Holmes' work supporting I-502.

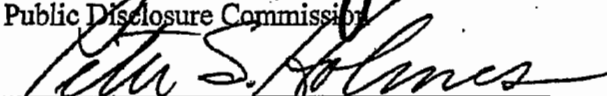
#### PENALTY

Based upon the above Stipulated Facts and Violations, the parties agree that no monetary penalty should be imposed for either Respondent and that the Commission should waive any monetary penalty as allowed by RCW 42.17A.755(5).

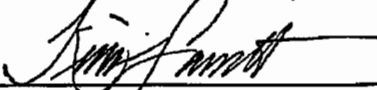
Respondent Holmes and Respondent Garrett re-affirm their intention to comply in good faith with the provisions of RCW 42.17A in the future.

  
Andrea McNamara Doyle, Executive Director  
Public Disclosure Commission

1-16-2013  
Date Signed

  
Pete Holmes, Seattle City Attorney

1-15-2013  
Date Signed

  
Kim Garrett, Special Assistant to Seattle City  
Attorney Pete Holmes

1-15-2013  
Date Signed



## **PDC Interpretation**

---

**APPROVAL DATE:** September 28, 2004; **NUMBER:** 04-02  
Amended September 28, 2006;  
Amended August 23, 2012

**STATUS:** Approved **SUPERSEDES:** Interpretation 00-05

**REFERENCES:** [RCW 42.17A.555](#) **APPROVED BY:** The Commission

**SEE ALSO:** [WAC 390-05-271](#) and [WAC 390-05-273](#)

**FORMER:** RCW 42.17.130

---

### **Guidelines for Local Government Agencies in Election Campaigns\***

#### **Public Disclosure Law Re: Use of Public Facilities in Campaigns**

##### **USE OF THE GUIDELINES**

These Guidelines are meant to aid and assist in compliance with the law.

This document is an educational tool that is an expression of the Commission's view of the meaning of [RCW 42.17A.555](#) and relevant administrative rules and case law involving local government and election campaign activity. It is intended to provide guidance regarding the Commission's approach and interpretation of how the statutory prohibition on the use of public facilities for campaigns impacts activities that may be contemplated by government employees and other persons who may seek to utilize those public facilities. Readers are strongly encouraged to review the statute and rules referenced in these Guidelines.

For ease of reference, the majority of this interpretation is in chart form. In part, the chart identifies categories of persons, some possible activities, and some general considerations. These illustrative examples in the columns of the chart are not intended to be exhaustive.

For example, the categories of persons identified are, in many cases, illustrative only and simply identify groups of persons more likely to undertake or consider undertaking the activity mentioned in the adjacent columns. If an activity is described as being viewed as "Permitted," it is viewed as permitted for all agency personnel otherwise having the authority under law or agency policy to undertake that action, not just the persons identified in the chart or in a particular column. The same approach is applied to the "Not Permitted" column. Further, the remarks in the chart's "General Considerations" column have relevance for the entire section and are not limited to the specific bullet point immediately to the left of the general consideration.

As noted in the Basic Principles section below, hard and fast rules are difficult to establish for every fact pattern involving agency facilities that may occur.

\*School Districts are directed to [Guidelines for School Districts in Election Campaigns, Interpretation 01-03](#).

Situations may arise that are not squarely addressed by the guidelines or that merit additional discussion. The PDC urges government agencies to review the guidelines in their entirety, and to consult with their own legal counsel and with the PDC. The PDC can be reached at <mailto:pdcc@pdcc.wa.gov>, 360/753-1111 or toll free at 1-877-601-2828.

### **RCW 42.17A.555**

#### **Use of public office or agency facilities in campaigns — Prohibition — Exceptions.**

No elective official nor any employee of his or her office nor any person appointed to or employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, directly or indirectly, for the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition. Facilities of a public office or agency include, but are not limited to, use of stationery, postage, machines, and equipment, use of employees of the office or agency during working hours, vehicles, office space, publications of the office or agency, and clientele lists of persons served by the office or agency. However, this does not apply to the following activities:

(1) Action taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;

(2) A statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry;

(3) Activities which are part of the normal and regular conduct of the office or agency.

(4) This section does not apply to any person who is a state officer or state employee as defined in [RCW 42.52.010](#).

#### **Notes:**

**Finding -- Intent -- 2006 c 215:** "(1) The legislature finds that the public benefits from an open and inclusive discussion of proposed ballot measures by local elected leaders, and that for twenty-five years these discussions have included the opportunity for elected boards, councils, and commissions of special purpose districts to vote in open public meetings in

order to express their support of, or opposition to, ballot propositions affecting their jurisdictions.

(2) The legislature intends to affirm and clarify the state's long-standing policy of promoting informed public discussion and understanding of ballot propositions by allowing elected boards, councils, and commissions of special purpose districts to adopt resolutions supporting or opposing ballot propositions." [\[2006 c 215 § 1.\]](#)

### **WAC 390-05-271**

#### **General applications of [RCW 42.17A.555](#).**

- (1) [RCW 42.17A.555](#) does not restrict the right of any individual to express his or her own personal views concerning, supporting, or opposing any candidate or ballot proposition, if such expression does not involve a use of the facilities of a public office or agency.
- (2) [RCW 42.17A.555](#) does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency.

### **WAC 390-05-273**

#### **Definition of normal and regular conduct.**

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

Similar prohibitions on the use of public facilities by state employees and state officers are described in a memorandum from the Attorney General's Office regarding [RCW 42.52](#) and available at

<http://www.ethics.wa.gov/RESOURCES/Resources.htm><http://www.ethics.wa.gov/RESOURCES.htm>.

### **BASIC PRINCIPLES**

1. Public facilities may not be used to support or oppose a candidate or ballot proposition. [RCW 42.17A.555](#). Facilities include local government agency equipment, buildings, supplies, employee work time, and agency publications. The statute includes an exception to the prohibition for "activities which are part of the normal and regular conduct of the office or agency."
2. The Public Disclosure Commission holds that it is not only the right, but the responsibility of local government to inform the general public of the operational and maintenance issues facing local agencies. This includes informing the community of

the needs of the agency that the community may not realize exist. Local governments may expend funds for this purpose provided that the preparation and distribution of information is not for the purpose of influencing the outcome of an election.

3. Public employees do not forfeit their rights to engage in political activity because of their employment. Neither may agency employees be subjected to coercion, pressure, or undue influence to participate in political activity or to take a particular position. Public officials and employees should make it clear that any participation is personal rather than officially sponsored.
4. Supervisory personnel have a duty to know, apply, and communicate to their staffs the difference between acceptable information activities and inappropriate promotional activities in support of local government ballot measures.
5. Local elected officials are free to support agency ballot issues and engage in other political activities as long as such activities do not make use of government facilities, time or resources and do not either pressure or condone employees' use of agency facilities, time or resources to support ballot issues.
6. The PDC is charged with enforcing [RCW 42.17A.555](#). This requires consideration and analysis of activities, which may or may not be determined to be in violation of the statute. The PDC has, over the years, developed methods of considering and analyzing activities engaged in by public offices. Among the factors considered are the normal and regular conduct and the timing, tone, and tenor of activities in relation to ballot measure elections. As in any matter where intent is to be considered, hard and fast rules, which will be applicable to all situations, are difficult to establish.

The combination of a number of activities into a coordinated campaign involving close coordination between agency activities and citizens' committee activities which closely resembles traditional election campaign activities and which is targeted at and/or occurs close in time to a ballot measure election is likely to draw close scrutiny and careful consideration by the PDC as to whether a violation has occurred.

- 7.a. Historically, the PDC has routinely advised and held that with respect to election-related publications, one jurisdiction-wide objective and fair presentation of the facts per ballot measure is appropriate.

In addition, if an agency\* has also customarily distributed this information through means other than a jurisdiction-wide mailing (e.g. regularly scheduled newsletter, website, bilingual documents, or other format), that conduct has also been permitted under [RCW 42.17A.555](#) so long as the activity has been normal and regular for the government agency.

- b. The PDC will presume that every agency may distribute throughout its jurisdiction an objective and fair presentation of the facts for each ballot measure. If the agency distributes more than this jurisdiction-wide single publication, the agency must be able to demonstrate to the PDC that this conduct is normal and regular for that agency. In other words, the agency must be able to demonstrate that for other major policy issues facing the government jurisdiction, the agency has customarily communicated with its residents in a manner similar to that undertaken for the ballot measure.

- c. Agencies are urged to read the definitions of "normal and regular" at [WAC 390-05-271](#) and [WAC 390-05-273](#). **Agencies need to be aware, however, that in no case will the PDC view a marketing or sales effort related to a campaign or election as normal and regular conduct.**
- 8. The PDC attributes publications or other informational activity of a department or subdivision as the product of the local agency as a whole.
- 9. Providing an objective and fair presentation of facts to the public of ballot measures that directly impact a jurisdiction's maintenance and operation, even though the measure is not offered by the jurisdiction, may be considered part of the normal and regular conduct of the local agency. The agency must be able to demonstrate that for other major policy issues facing the jurisdiction, the agency has customarily communicated with its residents in a manner similar to that undertaken for the ballot measure.
- 10. State law provides certain exemptions from the prohibition on the use of public office or agency facilities in campaigns for an elected legislative body, an elected board, council or commission of a special purpose district, and elected officials that are not afforded appointed officials. [RCW 42.17A.555 \(1\) and \(2\)](#) apply only to these elected bodies and elected officials.\*\*

\*Agency means any county, city, town, port district, special district, or other state political subdivision.

\*\*See [Chapter 215, Laws of 2006](#) and [AGO 2005 No. 4](#).

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<p><b>Agency* Administrators</b>            (County Administrator, City Manager, Executive Director, Fire Chief, PUD Manager, Etc.)</p>	<ul style="list-style-type: none"> <li>• May inform staff during non-work hours<sup>1</sup> of opportunities to participate in campaign activities.<sup>2</sup></li> <li>• Are encouraged to communicate to staff the difference between acceptable and unacceptable activities related to a ballot measure.</li> <li>• In the course of normal publications for the agency, may distribute an objective and fair presentation of the facts<sup>3</sup> based on and expanded upon the information<sup>4</sup> prepared by the agency in accordance with the normal and regular conduct of the agency.<sup>5</sup></li> </ul>	<ul style="list-style-type: none"> <li>• Shall not pressure or coerce employees to participate in campaign activities.</li> <li>• Shall not use internal memoranda solely for the purpose of informing employees of meetings supporting or opposing ballot measures.</li> <li>• Shall not coordinate informational activities with campaign efforts, in a manner that makes the agency appear to be supporting or opposing a ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Has there been communications with staff and with union representatives regarding the prohibition on the use of the agency's internal mail or email system to support or oppose a ballot measure?</li> <li>• Is the distribution of this information consistent with the normal practices of the agency (such as newsletters, websites, or some other format)?</li> </ul>

<sup>1</sup> Agencies may set the definition of work hours for their employees. For example, to the extent that an agency defines the lunch hour as a non-work hour, activities to support or oppose a candidate or a ballot measure that do not use public resources and that are held away from government facilities are permitted during the lunch hour.

<sup>2</sup> [RCW 42.17A.495\(2\)](#) provides that “[n]o employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for (a) the failure to contribute to, (b) the failure in any way to support or oppose, or (c) in any way supporting or opposing a candidate, ballot proposition, political party, or political committee.”

<sup>3</sup> Throughout these guidelines, the clause “objective and fair presentation of the facts” means that in addition to presenting the facts, the materials should present accurately the costs and other anticipated impacts of a ballot measure.

<sup>4</sup> For the purposes of these guidelines, “information” refers to the documents prepared, printed, and mailed to persons within the governmental jurisdiction by that agency solely for the purposes of informing residents regarding an upcoming ballot measure. The agency may continue to distribute information consistent with the customary practices of the agency, including but not limited to newsletters, websites, and multi-lingual documents. These publications may continue, but if they discuss the ballot measure, the information needs to be an objective and fair presentation of the facts.

<sup>5</sup> For the purpose of these guidelines, the term “normal and regular” is defined in [WAC 390-05-273](#) and clarified further by [WAC 390-05-271](#).

\*Agency means any county, city, town, port district, special district, or other state political subdivision.

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<b>Agency Administrators</b> (continued)	<ul style="list-style-type: none"> <li>• May speak at community forums and clubs to present factual and objective information on a ballot measure during regular work hours.</li> <li>• May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections.</li> <li>• May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties.</li> <li>• May wear campaign buttons or similar items while on the job if the agency's policy generally permits employees to wear political buttons.</li> <li>• May engage in campaign activities on their own time, during non-work hours and without using public resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not use public resources to operate a speakers' bureau in a manner that may be viewed as promoting a ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the information provided an objective and fair presentation of the facts?</li> <li>• Is the activity consistent with the agency's normal and regular course of business?</li> <li>• Do the materials accurately present the costs and other anticipated impacts of a ballot measure?</li> <li>• For considerations regarding uniforms and related equipment, see pages 14-18.</li> </ul>
<b>Community Groups</b>	<ul style="list-style-type: none"> <li>• May use agency facilities for meetings supporting or opposing a ballot measure to the extent that the facilities are made available on an equal access, nondiscriminatory basis, and it is part of the normal and regular activity of the jurisdiction.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not use agency facilities to produce materials that support or oppose a ballot measure.</li> </ul>	

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<b>Local Elected Legislative Body*</b>	<ul style="list-style-type: none"> <li>May collectively vote to support or oppose a ballot measure at a properly noticed public meeting, where opponents of the measure are given an equal opportunity to express views.<sup>6</sup></li> </ul>	<ul style="list-style-type: none"> <li>Shall not pressure or coerce agency management to participate in campaign activities.</li> <li>Shall not explicitly include passage of a ballot measure in the agency's annual goals.</li> </ul>	

<sup>6</sup> [RCW 42.17A.555\(1\)](#) provides that action may be “taken at an open public meeting by members of an elected legislative body or by an elected board, council, or commission of a special purpose district including, but not limited to, fire districts, public hospital districts, library districts, park districts, port districts, public utility districts, school districts, sewer districts, and water districts, to express a collective decision, or to actually vote upon a motion, proposal, resolution, order, or ordinance, or to support or oppose a ballot proposition so long as (a) any required notice of the meeting includes the title and number of the ballot proposition, and (b) members of the legislative body, members of the board, council, or commission of the special purpose district, or members of the public are afforded an approximately equal opportunity for the expression of an opposing view;”.

\* The term “elected” modifies the term “body,” connoting that the body itself must be elected. “We therefore conclude that bodies composed in any of the three ways you suggest in your question are not elected bodies for purposes of RCW 42.17.130 [the former codification of [RCW 42.17A.555](#)]. Bodies containing a combination of elected or appointed members, bodies whose members serve ex officio by virtue of being elected to another office, or informal groups of elected officials from different jurisdictions are not “elected” for purposes of this analysis.” ([AGO 2005 No. 4, Page 4](#))



**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<b>Local Government Elected Officials</b>	<ul style="list-style-type: none"> <li>• May engage in political activities on his or her own time, if no public equipment, vehicle or facility is used. (An elected official may use his or her title, but should clarify that he/she is speaking on his/her own behalf, and not on behalf of the agency. If the elected legislative body has adopted a resolution, the official can then speak on behalf of the agency.)</li> <li>• May attend any function or event at any time during the day and voice his or her opinion about a candidate or ballot proposition as long as they are not being compensated and are not using any public equipment, vehicle or other facility.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not direct agency staff to perform tasks to support or oppose campaign activities or ballot measures.</li> <li>• Shall not use public facilities or resources to engage in political activities.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the elected official using staff time, a public vehicle, or other public resources?</li> <li>• Has the agency adopted a resolution? If yes, the elected official can speak on behalf of the agency. If not, has the elected official made it clear that he or she is not speaking on behalf of the agency?</li> <li>• For considerations regarding uniforms and related equipment, see pages 14-18.</li> <li>• For considerations regarding officials' calendars, see pages X - X.</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<p><b>Appointed Officials</b>  <small>(Boards, Commissions, and similar appointed positions)</small></p>	<ul style="list-style-type: none"> <li>• May engage in political activities on his or her own time, if no public equipment, vehicle or facility is used. An appointed official may use his or her title, but should clarify that he/she is speaking on his/her own behalf, and not on behalf of the agency.</li> <li>• May attend any function or event at any time during the day and voice his or her opinion about a candidate or ballot proposition as long as they are not being compensated and are not using any public equipment, vehicle or other facility.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not direct agency staff to perform tasks to support or oppose campaign activities or ballot measures.</li> <li>• Shall not use public facilities or resources to engage in political activities.</li> <li>• Shall not use public facilities to express a collective decision or actually vote upon a motion or resolution to support or oppose a ballot proposition.</li> <li>• Shall not use public facilities to make a statement at a press conference or responding to an inquiry in support or opposition to any ballot proposition.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the appointed official using staff time, a public vehicle, or other public resources?</li> <li>• Has the appointed official made it clear that he or she is not speaking on behalf of the agency?</li> <li>• For considerations regarding uniforms and related equipment, see pages 14-18.</li> <li>• For considerations regarding officials' calendars, see pages X - X.</li> </ul>
<p><b>Management Staff or Their Designees</b></p>	<ul style="list-style-type: none"> <li>• May speak at community forums and clubs to present an objective and fair presentation of the facts on a ballot measure during regular work hours.<sup>7</sup></li> <li>• May fully participate in campaign activities, including meeting with citizens' campaign committees to plan strategies, during non-work hours and without the use of public resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not use public resources to operate a speakers' bureau in a manner that may be viewed as promoting a ballot measure.</li> <li>• Shall not use public resources to promote or defeat a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the management staff using public resources in a manner that promotes or opposes a candidate or a ballot measure?</li> <li>• Does the presentation accurately present the costs and other anticipated impacts of a ballot measure?</li> </ul>

<sup>7</sup> Agencies may set the definition of work hours for their employees. For example, to the extent that a agency defines the lunch hour as a non-work hour, activities to support or oppose a candidate or a ballot measure that do not use public resources and that are held away from agency facilities are permitted during the lunch hour.

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<p><b>Management Staff or Their Designees</b> (continued)</p>	<ul style="list-style-type: none"> <li>• May inform staff during non-work hours of opportunities to participate in campaign activities.</li> <li>• May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties.</li> <li>• May wear campaign buttons or similar items while on the job if the agency's policy generally permits employees to wear political buttons.</li> <li>• May place window signs or bumper stickers on their privately-owned cars, even if those cars are parked on government property during working hours.</li> <li>• Are encouraged to communicate to staff the difference between acceptable and unacceptable activities related to a ballot measure.</li> <li>• May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not pressure or coerce employees to participate in campaign activities.</li> <li>• Shall not use agency resources to organize the distribution of campaign materials.</li> </ul>	<ul style="list-style-type: none"> <li>• Does the agency have a policy permitting employees to wear political buttons?</li> <li>• For considerations regarding agency employees' calendars, see pages X - X.</li> </ul>

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<p><b>Agency Employees</b></p>	<ul style="list-style-type: none"> <li>• May speak at community forums and clubs to present an objective and fair presentation of the facts on a ballot measure during regular work hours.</li> <li>• May inform staff during non-work hours of opportunities to participate in campaign activities.</li> <li>• May engage in campaign activities on their own time, during non-work hours and without using public resources.</li> <li>• May respond to questions regarding a ballot measure if such activity is consistent with his or her normal and regular duties.</li> <li>• May wear campaign buttons or similar items while on the job if the agency's policy generally allows employees to wear political buttons.</li> <li>• May, during non-work hours, make available campaign materials to employees in lunchrooms and break rooms that are used only by staff or other authorized individuals.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not use work hours or public resources to promote or oppose a candidate or ballot measure (such as gathering signatures, distributing campaign materials, arranging speaking engagements, coordinating phone banks, or fundraising).</li> <li>• Shall not pressure or coerce other employees to participate in campaign activities.</li> <li>• Shall not use agency resources to organize the distribution of campaign materials.</li> </ul>	<ul style="list-style-type: none"> <li>• Do the presentations accurately present the costs and other anticipated impacts of a ballot measure?</li> <li>• Is the employee acting on his or her own time, during non-work hours?</li> </ul>

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Persons	Permitted	Not Permitted	General Considerations
<b>Agency Employees</b> (continued)	<ul style="list-style-type: none"> <li>• May place window signs or bumper stickers on their cars, even if those cars are parked on government agency property during working hours.</li> <li>• May encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections.</li> </ul>		<ul style="list-style-type: none"> <li>• For considerations regarding agency employees' calendars, see pages X - X.</li> </ul>
<b>Union Representatives</b>	<ul style="list-style-type: none"> <li>• May, during non-work hours, make available campaign materials to union members in lunchrooms and break rooms that are used only by staff or other authorized individuals.</li> <li>• May distribute campaign materials at union-sponsored meetings.</li> <li>• May post campaign materials on a bulletin board, if such a board is in an area that is not accessible to the general public and if such activity is consistent with the agency's policy and the collective bargaining agreements.</li> </ul>	<ul style="list-style-type: none"> <li>• Shall not use the agency's internal mail or email system to communicate campaign-related information, including endorsements.</li> <li>• Shall not distribute promotional materials in public areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Are campaign materials made available only in those areas used solely by staff or other authorized individuals?</li> <li>• Does such distribution occur during non-work hours?</li> </ul>

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Equipment and Supplies</b>	<ul style="list-style-type: none"> <li>• Agency employees, in the course of their employment, may use equipment (including but not limited to projectors and computers) to make an objective and fair presentation of the facts at community forums and clubs.</li> <li>• Agency employees, in the course of their employment, may produce information that is an objective and fair presentation of the facts using public resources.</li> </ul>	<ul style="list-style-type: none"> <li>• Public resources (including but not limited to internal mail systems, email systems, copiers, telephone) shall not be used to support or oppose a candidate or ballot measure, whether during or outside of work hours.</li> <li>• Citizens' campaign committees and other community groups shall not use agency equipment (including but not limited to internal mail systems, projectors, computers, and copiers) to prepare materials for meetings regarding ballot measures.</li> </ul>	<ul style="list-style-type: none"> <li>• Do the presentations fairly and objectively present the costs and other anticipated impacts of a ballot measure?</li> </ul>
<b>Uniforms and Related Equipment<sup>8</sup></b>	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> <li>• Agency employees may use or wear their own uniforms to assist a campaign including to support or oppose a ballot proposition. This use includes any part of the employee's own uniform (shirt, pants, shoes, hat, etc.). This use includes clothing that may not appear to be a uniform (example, detective's suit). "Own uniform"</li> </ul>	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> <li>• Agency employees shall not use or wear their agency-issued, agency-purchased, agency-owned or agency-replaced uniforms to assist a campaign or to support or oppose a ballot proposition.</li> <li>• This prohibition applies to use of any part of such a uniform (shirt, pants, shoes, hat, etc.).</li> </ul>	<p><i>Current Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> <li>• Are any public funds used to purchase, reimburse, or replace the uniforms or related equipment? See footnote 9.</li> </ul>

<sup>8</sup> For members of the judiciary subject to the Code of Judicial Conduct, see [PDC Interpretation 00-03](#).

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
<b>Uniforms and Related Equipment</b> (Continued)	<p>means: The employee has purchased the uniform. The agency has not issued, purchased or replaced the uniform, or has not reimbursed the employee for the employee's purchase of the uniform, in whole or in part (such as reimbursement to the employee through a clothing allowance used to pay for the item).<sup>9</sup></p> <ul style="list-style-type: none"> <li>• These same provisions apply to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; hats; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios.</li> </ul>	<ul style="list-style-type: none"> <li>• This same prohibition applies to clothing that may not appear to be a uniform (example, a detective's suit).</li> <li>• This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; shoes; agency patches, logos, insignias, emblems; and radios.</li> <li>• Prohibited uses include but are not limited to using or wearing those uniforms at campaign functions or in political advertisements such as TV commercials.</li> <li>• Exceptions for attending campaign functions in uniform may be made on a case-by-case basis under exigent circumstances.<sup>10</sup></li> </ul>	

<sup>9</sup> An agency's reimbursement for or other means of providing for cleaning/maintenance of uniforms or related equipment does not convert the privately-purchased item to a public facility.

<sup>10</sup> For example, in examining all the surrounding circumstances, the Commission may determine that an enforcement action will not proceed when public safety and the demands of the public employee's office with respect to an ongoing law enforcement matter unexpectedly required the official to remain in uniform at a campaign function, and if that uniform use is part of the agency's "normal and regular" activities under those circumstances. However, the Commission anticipates these situations will be rare and isolated. This exception does not apply when campaigns or employees may seek to use agency uniforms and related equipment under other circumstances, or for other campaign activities such as in political advertising.

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<p><b>Uniforms and Related Equipment</b> (Continued)</p>	<p><i>Former Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> <li>• When a uniform or piece of related equipment was previously purchased, issued, replaced or reimbursed by the agency and is no longer used by the agency, the item may be used by a campaign to assist a campaign, or support or oppose a ballot measure.</li> <li>• “No longer used by the agency” means the employee or agency has documented that:               <ul style="list-style-type: none"> <li>○ The uniform or equipment has exceeded its life expectancy as defined by the agency and/or has been officially retired by the agency;</li> <li>○ The uniform or equipment has been given or sold to an employee or another person following agency procedures; and,</li> <li>○ The agency has no expectation the uniform or equipment will be returned to or used by the agency in the future.</li> </ul> </li> </ul>		<p><i>Former Uniforms and Related Equipment</i></p> <ul style="list-style-type: none"> <li>• Has the employee or campaign documented that the uniform or piece of related equipment is no longer used by the agency?</li> </ul>



**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<p><b>Uniforms and Related Equipment</b> (Continued)</p>	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> <li>Agency photos and agency videos depicting agency employees wearing agency uniforms may be used by a campaign to assist a campaign including to support or oppose ballot proposition, if the photos or videos: (1) were made in the ordinary course of the agency’s business, (2) were not “staged” for campaign purposes and, (3) are made available to a campaign on the same terms and conditions as any other member of the public would receive the photos or videos. For example, agency photos or agency videos could be provided in response to a public records request, or by other authorized agency policy.</li> <li>This same provision applies to agency photos and agency videos depicting agency personnel wearing or using related equipment, including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios.</li> </ul>	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> <li>Agency employees shall not make special arrangements for or “stage” the taking of an agency photo or agency video of an employee in uniform so the photo or video can be used for campaign purposes.</li> <li>This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios.</li> </ul>	<p><i>Uniforms and Related Equipment in Agency Photos/Videos</i></p> <ul style="list-style-type: none"> <li>Was the agency photo or agency video taken in the ordinary course of agency business, and not “staged” for a campaign?</li> <li>Was a campaign provided an agency photo or agency video of an employee wearing a uniform in the same manner, and under the same conditions, as any other member of the public requesting the photo or video? For example, was the agency providing it in response to a public records request, or pursuant to authorized agency policies?</li> <li>Does the campaign’s ad make it clear to voters that the public agency is not endorsing or supporting the candidate or ballot measure, even though an employee in the photo/video is wearing a uniform? It is suggested that a disclaimer be added to the advertising to clarify that the photo/video has been obtained in the manner prescribed by the agency.</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Uniforms and Related Equipment</b> (Continued)	<p><i>Uniforms and Related Equipment Purchased with Non-Public Funds</i></p> <ul style="list-style-type: none"> <li>• Agency employees and campaigns may use uniforms that are not the property of the agency and are rented or purchased with non-public funds (such as campaign funds), to assist campaigns including to support or oppose ballot propositions.</li> <li>• These same provisions apply to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios.</li> </ul>	<p><i>Uniforms and Related Equipment Purchased with Public Funds</i></p> <ul style="list-style-type: none"> <li>• Public funds shall not be used to rent or purchase uniforms to assist campaigns, or to support or oppose ballot propositions.</li> <li>• This same prohibition applies to related equipment including but not limited to: firearms; badges; nametags; holsters; handcuffs; jackets; belts; vests; agency patches, logos, insignias, emblems; and radios.</li> </ul>	

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Meeting Facilities</b>	<ul style="list-style-type: none"> <li>• Agency meeting facilities, including audio visual equipment, may be used by campaign committees for activities on the same terms and conditions available to other community groups, subject to the provisions of the agency’s policy.</li> <li>• Use of agency meeting facilities is permitted when the facility is merely a “neutral forum” where the activity is taking place, and the public agency in charge of the facility is not actively endorsing or supporting the activity that is occurring.</li> </ul>		<ul style="list-style-type: none"> <li>• Can community groups typically use agency facilities?</li> <li>• Are facilities made available to all groups on the same terms?</li> <li>• Has the agency adopted a policy regarding the distribution of campaign materials on agency property?</li> <li>• Is the meeting facility customarily made available on an equal access, nondiscriminatory basis for a variety of uses?</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Lists</b>	<ul style="list-style-type: none"> <li>• Lists of names (such as agency vendors or customers) that a agency has obtained or created in the course of transacting its regular public business are subject to public disclosure requirements; thus, unless otherwise exempt, the lists must be released subject to public records requests.</li> <li>• Agencies may charge a pre-established fee to cover the costs of providing copies of such lists on an equal access, nondiscriminatory basis.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not sell copies of such lists (though they may charge a pre-established fee to recover the costs of providing copies of the lists).</li> <li>• If a list is generally available as a public record, it cannot be denied to a person or group on the grounds that it might be used in a campaign.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the list obtained or created in the course of the agency transacting its public business?</li> <li>• Are the fees charged no greater than necessary to cover the costs of providing copies?</li> <li>• Has the agency complied with established policy in responding to any public record requests?</li> </ul>
<b>Voting Information</b>	<ul style="list-style-type: none"> <li>• Agency personnel may encourage staff and members of the public to vote, as long as such encouragement routinely occurs for other elections.</li> <li>• Public facilities may be used to register people to vote and to do periodic poll checking.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not pressure or coerce employees to vote.</li> <li>• Agencies shall not organize an effort to encourage staff to wear campaign buttons or display campaign materials.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the activity related to providing voting information for elections, as opposed to advocating for or against a particular candidate or ballot measure?</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Agency Publications (Specific to Elections)</b>	<ul style="list-style-type: none"> <li>• Agencies may develop an objective and fair presentation of the facts regarding agency needs and the anticipated impact of a ballot measure, and may distribute it in the agency’s customary manner. This information<sup>11</sup> may be printed in various languages and communicated in other formats as required by the ADA.</li>   <li>• In the course of regular publications for the agency, the agency may distribute an objective and fair presentation of the facts for each ballot measure in accordance with the normal and regular conduct of the agency.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not distribute election-related information in a manner that targets specific subgroups. Targeting does not refer to mailing information to agency constituencies such as community leaders, or some other group, or to the agency’s regular distribution list to provide information in a manner that is consistent with the normal and regular conduct of the agency.</li>   <li>• Agencies shall not publicize information supporting or opposing a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Does the information provide an objective and fair presentation of the facts?</li>   <li>• Is the timing, format, and style, including tone and tenor, of the information presented in a manner that is normal and regular for the agency?</li>   <li>• Is the information distributed in a manner that is normal and regular for the agency?</li> </ul>

<sup>11</sup> For the purposes of these guidelines, “information” refers to the documents prepared, printed, and mailed jurisdiction-wide by the agency solely for the purposes of informing residents regarding an upcoming ballot measure. The agency may continue to distribute information consistent with the customary practices of the agency, including but not limited to newsletters, websites, and multi-lingual documents. These publications may continue, but if they discuss the ballot measure, the information should be an objective and fair presentation of the facts.

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Agency Publications (Specific to Elections)</b> (continued)			<ul style="list-style-type: none"> <li>• Do the materials accurately present the costs and other anticipated impacts of a ballot measure?</li> <li>• Does the agency typically distribute information by newsletters, websites, or some other format?</li> </ul>
<b>Agency Publications (Regular)</b>	<ul style="list-style-type: none"> <li>• Agencies may include all or part of the information regarding agency needs and the anticipated impacts of a ballot measure in the agency's regular publications, such as agency and department newsletters. (For example, a department newsletter may specifically describe the projects and/or programs planned for that department.)</li> <li>• Agencies may inform staff and/or others of community meetings related to ballot measures if other such information is normally published in a newsletter or community calendar, and if both those supporting or opposing a ballot measure have the opportunity to appear on the calendar or in the newsletter.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not use internal memoranda or other agency publications to encourage employees to participate in campaign activities.</li> <li>• Agencies shall not publish materials supporting or opposing a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Does the agency routinely distribute such information?</li> <li>• Does the agency normally inform staff and/or parents of community activities and meetings?</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Agency Publications (Regular)</b> (continued)	<ul style="list-style-type: none"> <li>• Agencies may factually report jurisdictional support for a ballot measure, so long as it is the normal and regular conduct for the agency. (For example, a community newsletter that ordinarily reports on governmental actions may report that the jurisdiction adopted a resolution supporting a ballot measure.)</li> <li>• Agencies may thank citizens for their support after an election in agency publications.</li> </ul>		<ul style="list-style-type: none"> <li>• Is the information presented in an objective and fair manner?</li> <li>• Is the agency engaging in significantly different activities during the time period immediately prior to the ballot measure compared to all other times of the year?</li> </ul>
<b>Reader Boards/Posters</b>	<ul style="list-style-type: none"> <li>• Information encouraging staff and members of the public to vote, or providing the dates of upcoming elections such as “vote on February ___”, may be posted, as long as such encouragement is customarily posted for elections other than just an agency’s ballot measure.</li> <li>• Agencies may thank citizens on their reader boards for their support after an election.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not display a “Vote for ....” sign or other promotional messages on reader boards or posters.</li> <li>• Signs advocating for or against candidates or ballot measures shall not be posted on agency property in any area accessible to the general public.</li> </ul>	

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Reader Boards/Posters</b> (Continued)	<ul style="list-style-type: none"> <li>May post objective and fair information at an agency or at a future site regarding anticipated improvements to be funded by a ballot measure that is specific to that agency or site.</li> </ul>	<ul style="list-style-type: none"> <li>Publicly owned vehicles shall not be used to carry or display political material.</li> </ul>	
<b>Surveys and Research</b>	<ul style="list-style-type: none"> <li>Agencies may conduct surveys and/or other community research, including demographic questions, to determine the community's priorities, public perception of performance, and/or to inform the community about agency programs and policies.</li> <li>Agencies may conduct community research (including but not limited to the use of questionnaires, surveys, workshops, focus groups, and forums) to determine the community's priorities for both programs and/or facilities and their associated total costs and projected dollars per thousand assessment.</li> </ul>	<ul style="list-style-type: none"> <li>Agencies shall not conduct surveys to determine what taxation level the public would support.</li> <li>Agencies shall not conduct surveys designed to shore up support or opposition for a ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>Has the elected legislative body passed a resolution authorizing a measure to be placed on the ballot? (If so, actions may be more closely scrutinized.)</li> <li>Does the election-related survey target specific subgroups?</li> </ul>



**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Surveys and Research</b> (continued)	<ul style="list-style-type: none"> <li>• The surveys and/or other community research can be conducted before or after the governing body has approved a resolution to place a ballot measure on the ballot. However, research conducted after the adoption of the resolution may be subject to greater scrutiny.</li> <li>• Agencies may publish survey results if it is consistent with the normal and regular conduct of the agency.</li> </ul>	<ul style="list-style-type: none"> <li>• Agencies shall not target registered voters or other specific subgroups of the jurisdiction in conducting their election-related surveys.</li> <li>• Agencies shall not use survey results in a manner designed to support or oppose a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the survey or community research consistent with normal and regular activities of the agency?</li> </ul>
<b>Technology (websites, emails, computerized calling systems)</b>	<ul style="list-style-type: none"> <li>• An agency may develop an objective and fair presentation of the facts and post that information on its website, including information regarding agency needs and the anticipated impacts of a ballot measure. This information may be reformatted so that it is consistent with the manner in which the agency customarily presents information on its website.</li> </ul>	<ul style="list-style-type: none"> <li>• Agency computers, email systems, telephones, and other information technology systems shall not be used to aid a campaign for or against a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Are the materials developed an objective and fair presentation of the facts?</li> </ul>

**Public Disclosure Commission**  
**Guidelines for Local Government Agencies in Election Campaigns**

<b>Activities and Resources</b>	<b>Permitted</b>	<b>Not Permitted</b>	<b>General Considerations</b>
<b>Technology (websites, emails, computerized calling systems)</b> (continued)	<ul style="list-style-type: none"> <li>• Agency websites may permit viewers to make selections to learn about the anticipated impacts of a ballot measure for a specific division, or otherwise allow readers to explore issues in greater or lesser detail.</li> <li>• Agencies may update the information on their websites in a manner that is customary for the agency.</li> <li>• Staff may respond to inquiries regarding a ballot measure in an objective and fair manner, via email or by telephone, if it is part of their normal and regular duties.</li> </ul>	<ul style="list-style-type: none"> <li>• Electronic communication systems shall not be used to generate or forward information that supports or opposes a candidate or ballot measure.</li> <li>• Agency websites shall not be used for the purposes of supporting or opposing a candidate or ballot measure.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the agency engaging in significantly different activities during the time period immediately prior to the ballot measure compared to all other times of the year?</li> <li>• Do the materials accurately present the costs and other anticipated impacts of a ballot measure?</li> <li>• Has there been communications with staff and with union representatives regarding the prohibition on the use of the agency's technology to support or oppose a ballot measure?</li> </ul>

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
<p><b>Agency Calendars</b></p>	<ul style="list-style-type: none"> <li>• Agency officials, appointees and employees may place on their individual agency calendar the basic information that he/she is scheduled to be out of the office to attend campaign events.</li> <li>• Agency officials, appointees and employees may respond to public inquiries, including from campaigns, about the employee's, appointee's or official's availability to attend a campaign event.</li> <li>• A supervising employee, appointee or official may request his or her scheduling assistant (agency staff) to block out time on the supervising employee's, appointee's or official's individual calendar for campaign events.</li> <li>• A scheduling assistant may receive information and block out time on the supervising employee's, appointee's or official's individual calendar for campaign events, as directed by the supervising employee, appointee or official.</li> <li>• A scheduling assistant may respond to public inquiries, including from campaigns, about</li> </ul>	<ul style="list-style-type: none"> <li>• Agency officials, appointees and employees shall not use, nor direct their staff to use, public facilities or resources to arrange or plan campaign activities, or to assist with a campaign activity. Arranging details of the official's, appointee's or employee's appearance or participation in the campaign activity such as travel logistics, tickets, or agenda while at the event, are not permitted.</li> <li>• Agency officials, appointees and employees shall not place their individual campaign-related events on agency-wide distributed calendars such as monthly calendars of agency events, or regularly scheduled newsletters with agency events provided or distributed to staff or the public.</li> <li>• A scheduling assistant shall not reach out to campaigns and campaign vendors to initiate contact to coordinate the schedule of an official, appointee or employee.</li> </ul>	<ul style="list-style-type: none"> <li>• Is the scheduling activity limited to calendaring for the official, appointee or employee?</li> <li>• Is the calendaring limited to the ministerial act of placing only basic information about the campaign event (name, date, time, location, duration and contact number) on the official's appointee's or employee's schedule; conducted solely for business and security purposes related to the agency's need to know the official's, appointee's or employee's availability and location; and, to avoid scheduling conflicts?</li> <li>• Is the calendaring request to a scheduling assistant to block out time (generally or only for specific appointments), on the individual's calendar directed by the official appointee or supervising employee to agency staff, and not by a campaign?</li> <li>• Is the scheduling assistant passively receiving the information to be calendared?</li> </ul>

**Public Disclosure Commission  
Guidelines for Local Government Agencies in Election Campaigns**

Activities and Resources	Permitted	Not Permitted	General Considerations
	<p>the supervising employee's, appointee's or official's availability to attend a campaign event.</p> <ul style="list-style-type: none"> <li>Agencies may inform staff and/or others of community meetings related to ballot measures if other such information is normally published in a community calendar, and if both those supporting or opposing a ballot measure have the opportunity to appear on the calendar. (See more regarding "Agency Publications – Regular" at p. 22).</li> </ul>		

**Note on Timing of Activities:** A particular activity may be subject to the scrutiny of the Public Disclosure Commission depending in part on whether it is a part of the "normal and ordinary" conduct of a local government agency. Generally, activities that occur after the elected legislative body has passed a resolution authorizing a measure to be placed on the ballot will be subject to greater scrutiny by the Public Disclosure Commission than those occurring before such a resolution has been passed.

**Note on Agency Policies:** The application of these guidelines is also subject to each jurisdiction's own adopted policies.