



State of Washington PUBLIC DISCLOSURE COMMISSION

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TO: Members, Public Disclosure Commission
FROM: Nancy Krier, General Counsel
DATE: June 20, 2013
SUBJECT: Continued Discussion of Interpretation 07-04, *Campaign Activities on the Internet* – June 27, 2013 Meeting

Agenda Item

At its June 27 meeting, the Commission is scheduled to continue its discussion of and possibly adopt amendments to Interpretation 07-04, *Campaign Activities on the Internet*.

Background

In 2012 – 2013, the Commission has discussed updating Interpretation 07-04 to reflect developments in online campaign activity since 2007. That effort was put on hold until the Commission could first update its relevant rules. Last month, the Commission adopted one new and four amended rules to address online political advertising activities. Copies enclosed. Those rules are effective June 24. As a result, Interpretation 07-04 must now be revised to reflect those rule changes. Draft amendments are enclosed for Commission review and discussion, and possible approval.

Draft Amendments to Interpretation 07-04

The draft amendments (highlighted in yellow) propose to do the following:

- Update the title to reference “online” activities, consistent with the new and amended rules.
- Update the Commission’s description of its approach to online campaigning that has developed since 2007.
- Update statutory references (RCW 42.17 to RCW 42.17A) and remove the text box on the top with the recodification citations.
- Remove language made obsolete by the new and amended rules, and include citations to and brief descriptions of the rules.
- Add a new Q & A describing that public announcements of candidacy can occur online.
- Add a new Q & A to cross-reference information concerning campaign contributions made via the Internet and other technologies (the subject of proposed amendments to Interpretation 00-02, which is also on the June 27 agenda for Commission review and possible updates).
- Correct internal references to the numbering of the Q & A’s.

After the Commission revises the interpretation, staff will post it on the Commission website.

Other Materials

At the June 27 meeting, staff anticipates advising the Commission about other activities that have been implemented or are underway to inform the public of the new and revised online political advertising activity rules taking effect on June 24, 2013.

Enclosures: Draft Amendments to Interpretation 07-04 (June 2013)
PDC Online Political Advertising Activity Rules (Effective June 24, 2013)

**Draft Amendments to
Interpretation 07-04**

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Draft Amendments for Discussion – June 2013

PDC Interpretation

APPROVAL DATE: October 25, 2007

NUMBER: 07-04

STATUS: Effective October 25, 2007;
Amended XXXX

SUPERSEDES: N/A

REFERENCES: [Chapter 42.17](#) [42.17A](#) RCW,
[Title 390 WAC](#)

APPROVED BY: The Commission

SEE ALSO: [PDC Interpretation 00-02](#) (Guidelines for Contributions Received Via Made Over the Internet, Via 1-900 Telephone Numbers, and Using Other Technologies Such As Text Messages)

Online Campaign Activities on the Internet

The Public Disclosure Commission implements and enforces the campaign finance reporting requirements in [Chapter 42.17](#) [42.17A](#) RCW and [Title 390 WAC](#). During the fall of 2007, the Commission reviewed the approach of the Federal Election Commission (FEC) concerning online campaign activities (on the Internet). The Commission also reviewed current PDC statutes and rules, and gathered information from participants in the state and federal political campaign process about Internet campaign activities. In 2012, former RCW 42.17 was recodified to RCW 42.17A. In 2012-2013, the Commission studied new developments in online campaign activity, including the significant increase in online political advertising by campaigns. In 2013, the Commission determined it would update its rules and this guidance to reflect some of these changes.

The Commission's intent in providing this Interpretation is based on state voters' strong interest in public disclosure of campaign financing which allows the public to "follow the money." However, the Commission also recognizes the unique and evolving nature of the Internet, and that it often offers no-cost or low-cost opportunities for candidates, voters, bloggers and others to participate in the political process and increasingly, is being used to distribute political advertising. The focus of the agency will be has been to first apply current state laws and rules to Internet activity where possible, before promulgating new rules or amending current rules. The Commission has updated its rules where necessary to reflect changing technologies and use of those technologies by campaigns.

As a result, to provide guidance to state political campaign participants at this time and while technology, Internet use, and the laws continue to unfold evolve, the Commission is providing

this Interpretation of its laws and rules as they ~~are currently written exist on June 24, 2013~~, and as they may impact ~~online~~ political campaign activities ~~conducted on the Internet~~, and impact Internet users. Those approaches are explained in this Interpretation.

Readers are also encouraged to check the PDC's website at www.pdc.wa.gov for any legislative changes or other developments in the law or rules. This Interpretation may also be subject to revision as the laws or rules are amended, or Internet usage develops and changes. ~~Nothing in this interpretation should be construed as permitting other than full compliance with RCW 42.17A and Title 390 WAC.~~

If you have any questions after reading this, please contact the PDC toll-free at 1-877-601-2828. You may also e-mail the PDC at pdc@pdc.wa.gov.

General Approach and Guiding Principles

- The primary objective is to ~~provide disclosure of campaign financing, while not interfere affecting with~~ the free flow of political information provided ~~online via the Internet, particularly~~ when the information is provided ~~at no or little cost by~~ individuals using their own modest resources, ~~knowing that any such interference may be counterproductive to enabling an informed electorate and the electoral process.~~
- The Internet is ~~a unique and an~~ evolving mode of mass communication and political speech that ~~is in the past was considered~~ distinct from other media and ~~warrants warranted~~ a restrained regulatory approach ~~at this time in the past. At this juncture in history, some have~~ Some had described the Internet as supplanting the town square or common as the primary place of citizen-to-citizen public discourse. ~~More recently, however, the Internet has become a common and frequent source of political advertising, generating interest by voters, and generating monetary and in-kind contributions to or expenditures for online political advertising. Voters today increasingly look to or receive online political advertising, in addition to traditional forms of media.~~
- RCW 42.17A is to be liberally construed to promote the complete disclosure of all information respecting the financing of political campaigns to and assure the public interest is protected. ~~RCW 42.17.010 42.17A.001~~. In addition, small contributions by individual contributors are to be encouraged and not requiring the reporting of small contributions may tend to encourage such contributions. ~~RCW 42.17.010 42.17A.001~~. ~~Similarly, small expenditures for political advertising made by individuals using their own modest resources warrant a restrained regulatory approach.~~
- Where possible, state regulation of ~~Internet online~~ activity will follow the Federal Election Commission approach. The concepts of disclosure and limitation of election campaign financing established by the Federal Election Campaign Act (FECA) will be implemented to the extent feasible at the state level, within the parameters of state laws and rules. See ~~RCW 42.17.010 42.17A.001~~.
- ~~The FEC approach provides in part, for example, that uncompensated individuals or groups of individuals may engage in Internet activities for the purpose of influencing a~~

federal election without restriction, and the activity would not result in a “contribution” or “expenditure” that triggers reporting requirements. However, under the FEC approach, Internet communications placed on another person’s website for a fee are subject to FEC regulation (disclosure and disclaimer requirements apply), and which may result in a contribution or expenditure. Uncompensated “blogging” whether done by individuals or groups of individuals is exempt from FEC regulation. 11 CFR Parts 100, 110 and 114.

- The FEC, like many other jurisdictions, considers new technologies used by campaigns and candidates and the new questions they present, as those developments occur. The Commission continues to take this same approach, and will provide guidance within current laws, adopting new rules where needed, or providing other guidance to assist filers and the public. The Commission recognizes that the laws it enforces, and its rules, may change as technologies continue to develop, and as campaigns use these technologies, and as a consequence its approach may change. The Commission and its staff may provide guidance on a case-by-case basis, or may address the questions more formally when common or similar questions are raised. This interpretation provides guidance on common questions raised to date.

Index Of Questions and Answers

<u>Topic</u>	<u>Questions</u>	<u>Pages</u> <i>[revised page #'s will be added after any amendments are incorporated]</i>
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E-mails	# 9	X
Public Announcement of Candidacy	# 10	X
Contributions Made Online or Via Other Technologies	# 11	X
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Answers to Questions about Internet Online Campaign Activities in Washington

POLITICAL ADVERTISING

1. What **online** political advertising **placed on the Internet** requires disclosure to the public (in a report filed with the PDC of what is paid and to whom) and a disclaimer (“paid for by”)?

Answer: By way of background, “political advertising” includes any advertising displays, newspaper ads, billboards, signs, brochures, articles, tabloids, flyers, letters, radio or television presentations, or other means of mass communication, used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign. [RCW 42.17.020](#) [42.17A.005](#). [WAC 390-05-290](#) defines other political advertising terms, including “mass communication” and “online.”

Under state law, most “written political advertising” is to include the “sponsor’s name and address.” Under state law, “sponsor” means the person paying for the political advertising or independent expenditure. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the sponsor. [RCW 42.17.020](#) [42.17A.005](#). [With advertising for which no payment is demanded or for which a cost is not readily ascertainable, the sponsor is the candidate, political committee, or person who solicits or arranges for the advertising to be displayed. WAC 390-18-010\(2\). Other disclosure requirements apply to certain ads, such information identifying a candidate’s party preference, or information describing the “Top 5 contributors.” RCW 42.17A.320. WAC 390-18-015 describes that disclaimer and disclosure requirements apply to online ads, unless exempted by statute or rule. There are some exemptions \(exceptions\) to disclaimer requirements for small or unusually-shaped ads. RCW 42.17A.320; WAC 390-18-030, and see further discussion below. The exemptions and partial exemptions from disclaimers for small or unusually shaped ads, including online ads that have space or character limits, are described in RCW 42.17A.320 and WAC 390-18-030.](#)

[Political committees must report expenditures for political advertising, including online political advertising. RCW 42.17A.240. Sponsors of many independent expenditures for online political advertising must also file reports with the Commission. RCW 42.17A.255; RCW 42.17A.260.](#)

- **Payment is Key.** [With respect to political advertising on the Internet, only paid advertising placed on another person’s website is subject to disclosure and reporting by the person paying for the advertising. This advertising is a political “expenditure” and “contribution” and must be disclosed by the sponsor \(the person or entity paying for the advertisement\). RCW 42.17.020\(15\)\(a\) and \(37\), RCW 42.17.103, RCW 42.17.510; WAC 390-18-010, WAC 390-18-020, WAC 390-18-025.](#)

If no cost is involved with the political advertising (such as you “cut and paste” the ad or information from another document or website, or you simply linked your website to another website containing an ad and no payment was required for that activity), no reporting or additional disclaimers are required.

However, when a candidate or political committee is provided ad space for which the website owner, blog or Internet provider usually charges a fee but provides it to a candidate or campaign for less than fair market value, that is an “in kind contribution” to the campaign that is reportable by the candidate or political committee and is subject to any applicable limit. [WAC 390-16-207](#).

- **Media Exemption and Disclaimers.** Under statute, there is a “media exemption” from what is considered a campaign contribution (thus reporting and disclosure requirements do not apply). See answers to Questions # 7 and # 8. Under current rule, “political advertising” does not include “letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the printed space or broadcast time is not normally required.” [WAC 390-05-290](#). This rule applies to online publications as well. ~~At this time, the Commission is applying a modern-day reading to what constitutes a newspaper or periodical for the purposes of this rule, and will apply this rule to online publications (whether it is an online publication that is the online presence of “mainstream media” or whether the publication has only an online presence via a website or blog.) This means that the disclaimer requirements (“paid for by”) do not apply to the activity exempted in [WAC 390-05-290](#) where payment is not normally required. The Commission may be interested in rulemaking in the future to update this rule or other rules, if it becomes necessary.~~
- **Exemption for Small Online Ads with Limited Space or Limited Characters.** Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. When small online advertising has restricted space or characters (such as with Google, Twitter or Facebook ads), the disclaimer requirements can be met through an automatic communication providing or directing the viewer to the disclaimers. For example, the ad can contain the required disclaimers in an automatic “pop up”, “hover-over”, “mouse-over”, “rollover”, or in text box that otherwise automatically appears with the ad, or in a link within the ad that, when clicked once, takes the viewer to a landing page or website that contains the disclaimers. See [WAC 390-18-030](#) for more information.
- **Electioneering Communications Exemption.** By definition, “electioneering communications”, which are a particular type of political advertising, do not include online ads. do not include political advertising on the Internet. [RCW 42.17.020 42.17A.005](#); [WAC 390-05-505](#).

- **Sample Ballots and Slate Cards Exemption.** There is also a partial exception for sample ballots and slate cards: while they are political advertising, they may be distributed via websites, electronic bulletin boards and e-mails (but not other types of media), and they do not count against a contribution limit. See [WAC 390-17-030](#) for details on sample ballots and slate cards, including disclaimer requirements.

In sum, the financing of political advertising activates many of the reporting and disclaimer requirements under RCW 42.1742.17A. As applied to the Internet, persons or entities paying for such political ads to be placed on websites or blogs should review the PDC's information on political advertising and on independent expenditures.

For more information, See see the brochures on political advertising, electioneering communications, and independent expenditures [Political Advertising and Electioneering Communications](#) on the PDC's website at www.pdc.wa.gov. Click on "Filer Resources" then "Advertising Sponsors" or "Manuals/Brochures."



WEBSITES

2. What other online campaign activity on the Internet, such as creating and maintaining websites or "blogging," are subject to reporting or disclaimer ("paid for by") or other requirements?

Answer: Very little.

- **Disclaimers ("Paid for By") on Websites and Other Online Forums of a Political Committee.** See Question # 1. And, political committee websites and other online forums created by a political committee must include the sponsor's name and address. WAC 390-18-015. The same is true for other online political advertising, unless the sponsor is an unpaid individual acting independently of a campaign and spending less than \$50 to disseminate the online political advertising on his/her personal online site, and when other criteria are satisfied. See more details at WAC 390-18-015; WAC 390-18-030(4).
- **Other Disclosure Requirements.** All online political advertising must include a candidate's party preference. Additional disclosure requirements apply to political committee advertisements (for example, "Top 5" contributor information must be disclosed for advertisements with an aggregate value of \$1,000 or more) and to independent expenditure advertisements (for advertisements with an aggregate value of \$900 or more). See more details at Question #1; RCW 42.17A.320; WAC 390-18-015; WAC 390-18-010.
- First, recall for candidates and political committees that expenditures and contributions **Contributions and Expenditures for Websites and Other Online Activity.** Contributions and expenditures related to creating and maintaining candidate and political committee websites, like other campaign expenditures and

contributions, are generally reportable, unless exempted by statute or rule. RCW 42.17A; Title 390 WAC. The topic of blogs and blogging is discussed in Questions ## 3 - 6. Here is a description of some Internet campaign activities and topics that the Commission has been made aware of at this time, and how those activities will be addressed under current laws and rules.

- **Volunteer Services to a Campaign – Website Design and Maintenance.** In general, certain campaign activities are considered “volunteer services” and are not considered a contribution or expenditure, so long as the volunteer does not incur incidental expenses exceeding \$50. RCW 42.17.020(15)(a) 42.17A.005, WAC 390-17-405. Unpaid services such as creating, designing, posting to and maintaining a candidate’s or political committee’s official campaign website or online forum can also qualify as a volunteer service under certain circumstances. WAC 390-17-405(1)(l).

The Commission understands that currently, campaigns may be interested in obtaining volunteer services of non-professional persons who can assist the campaign by designing and maintaining websites. The Commission understands these non-professionals may earn a modest income from time to time in providing such website services for others (such as for their schools, friends, family members, community groups, etc.), but it is not their full-time profession. The Commission also wants to encourage candidates and campaigns to expand their outreach to voters via the Internet.

Therefore, at this time, the Commission will consider donated website design and maintenance services a “volunteer” service, so long as the volunteer does not incur incidental expenses exceeding \$50, and so long as the volunteer does not earn more than \$10,000 per calendar year providing similar services to others. The Commission will begin rulemaking to address this in WAC 390-17-405, but in the interim, wanted to provide guidance to campaigns and candidates that are seeking to engage in Internet activities, but may lack the technological capability among its officers or current staff.

- **Volunteer Services to a Campaign – Internet Advertising.** A volunteer’s donated Internet advertising production costs at \$50 or less, such as costs for producing a YouTube video, are not a contribution or expenditure under RCW 42.17A.005, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service. WAC 390-17-405(1)(k).

- **Disclaimers (“Paid for By”).** The Commission recognizes that at this time, there are often no costs or low costs associated with creating and maintaining most campaign websites. The Commission also recognizes that there has been a development of websites maintained by individuals using their own modest resources in support of or in opposition to candidates or campaigns (sometimes called “fan sites.”) The Commission has determined that even if they support or oppose a campaign, these websites are similar to the level of small contributions that the Public Disclosure Act encourages. Therefore, at this time, and pending further developments on state campaign Internet use by candidates, political

committees, or others in Washington State, or developments in the law, the Commission is not requiring “paid for by” on any website. For example, if Joe Doe wants to use his home computer to create a website to support his favorite candidate, and link other similar websites, and use or purchase software at a modest cost to enable him to engage in this Internet campaign activity, none of those modest costs associated with those activities (use of computer, depreciation of computer, use or purchase of software, use or purchase of domain name) would be reportable to the PDC as a contribution or expenditure.

Remember, however, from the answer to Question # 1 that if a qualifying paid political advertisement under RCW 42.17.020 placed on a website, the disclosure and reporting requirements otherwise apply.

- **Internal Political Communications to Members.** Websites or other online forums that are available only to an organization’s members are not required to separately include the disclaimers and other disclosures in RCW 42.17A.320 if the sponsor’s name is otherwise apparent on the face of the communication. WAC 390-18-030(5).
- **Website Hosting and Similar Costs, Website Political Advertising, and Reporting Independent Expenditures.** As noted, the Commission recognizes that many websites have no costs or minimal costs associated with their creation and maintenance. The Commission also recognizes that candidates and campaigns may also elect to utilize qualifying volunteer services to assist them, and qualifying volunteer services thus do not constitute a reportable “contribution.”

However, there are other state State laws that require reporting of certain expenditures in support of or opposition to a candidate or ballot measure that are made independently from a candidate or political committee, once a particular dollar threshold is reached. RCW 42.17.100 42.17A.255 (\$100 reporting threshold for an independent expenditure) and RCW 42.17.103 42.17A.260 (\$1,000 reporting threshold for independent expenditures that are political advertising) provide for disclosure (reporting) of the value of those expenditures once those thresholds are met.¹ Regarding the second statute (RCW 42.17.103 42.17A.260), as described in the answer to Question # 1, if political advertising is placed on a website, and there is payment (an expenditure) for this advertising, state laws and rules require a report to be filed by the sponsor.

¹ RCW 42.17.100(2) 42.17A.255 provides in part that “within five days after the date of making an independent expenditure that by itself or when added to all other such independent expenditures made during the same election campaign by the same person equals one hundred dollars or more” the person making the expenditure must file a report with the PDC. RCW 42.17.103(1) 42.17A.260 provides that the sponsor of political advertising who, within twenty-one days of an election, publishes, mails, or otherwise presents to the public political advertising supporting or opposing a candidate or ballot proposition that qualifies as an independent expenditure with a fair market value of one thousand dollars or more shall deliver, either electronically or in written form, a special report to the commission within twenty-four hours of, or on the first working day after, the date the political advertising is first published, mailed, or otherwise presented to the public.

- **Blogs. See next question.**

BLOGS

3. What “blogging”² activity **by an unpaid individual** is subject to reporting and disclaimer (“paid for by”) requirements?

Answer: Very little. In particular, **like at the federal level,** uncompensated blogging **by an individual who is not coordinating with a political committee or other entity** is not subject to disclosure or disclaimer requirements. **See WAC 390-18-030(4) for more details.**

- **Payment is Key.** A candidate, campaign or political committee paying a “blogger” to blog on behalf of a candidate or ballot measure would be required to report that campaign expenditure like they would any other campaign expenditure. The blogger is not required to report. A person or entity not associated with a campaign or candidate paying a blogger to blog on behalf of or in opposition to a candidate or campaign would be required to report that expenditure as an “independent expenditure” like that person or entity would report any other qualifying independent expenditure. [RCW 42.17.100](#) [42.17A.255](#). A person otherwise hiring a blogger as a vendor, independent contractor or employee to post information in support of or opposition to a candidate, campaign or ballot measure would be required to report that cost like any other campaign expenditure.
- **Blogs May Also Be Entitled To The “Media Exemption.”** In addition, a blog or blogger may be entitled to the “media exemption” from reporting and disclosure requirements in any event, if the statutory criteria are met in [RCW 42.17.020](#) [42.17A.005](#). See answer to Question # 8.

4. What about “tip jars” or other voluntary donations to bloggers?

Answer: A blogger who simply has a “tip jar” and has no direct payment arrangement with a candidate, campaign or political committee to post specific information in support or opposition to a candidate or campaign in exchange for the **voluntary** “tips” is not subject to any PDC regulatory requirements, nor is the donor.

5. Does the fact that a blogger otherwise sells advertising space place a reporting requirement on the blogger, if some of the space is sold to a candidate, political committee, or campaign?

² A blog (“web log”) is a website where entries are written in chronological order and commonly displayed in reverse chronological order. Many blogs provide commentary or news on a particular subject such as food, politics, or local news. A blog can combine text, images, and links to other blogs, web pages, and other media related to its topic. The ability for readers to leave comments in an interactive format is an important part of many blogs.

Answer: No. However, if a blogger provides a candidate or political committee ad space for which the blogger usually charges a fee, but provides it to a candidate or campaign for less than fair market value, that is an “in kind contribution” to the campaign that is reportable by the candidate or political committee. [WAC 390-16-207](#).

6. Can public agency employees create blogs on public agency computers to support or oppose candidates or campaigns?

Answer: No. Statutes prohibit use of public agency facilities (including computers) for political campaign purposes. [RCW 42.17.130](#) [42.17A.555](#) and [RCW 42.52.180](#). Also see [WAC 390-05-273](#), and [PDC Interpretations 04-02, 01-03](#).



MEDIA EXEMPTION

7. Does the statutory “media exemption” from what is **not considered a contribution extend to **online** media activities **on the Internet**, including news media that exist only **online on the Internet**?**

Answer: Yes, if the statutory criteria in [RCW 42.17.020](#) [42.17A.005](#) are satisfied. The statute exempts from what is considered a contribution those communications that meet all the following criteria:

- a news item, feature, commentary, or editorial
- in a regularly scheduled news medium of primary interest to the general public
- that is in a news medium controlled by a person whose business is that news medium
- and that is not controlled by a candidate or political committee.

Also see [WAC 390-05-290](#) (political advertising exemption), and [WAC 390-16-313](#) (independent expenditures exemption), and [WAC 390-16-206](#) (ratings and endorsements by news media). ~~The Commission is considering rulemaking regarding WAC 390-16-206 (ratings and endorsements).~~

8. Does this media exemption apply to blogs and bloggers, too?

Answer: Yes, if the statutory criteria in [RCW 42.17.020](#) [42.17A.005](#) are satisfied. In addition, under current rule, political advertising does not include “letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the printed space or broadcast time is not normally required.” [WAC 390-05-290](#). ~~At this time, the Commission is applying a modern day reading to what constitutes a newspaper or periodical for the purposes of this rule, and will apply this rule to online publications (whether it is an online publication that is the online presence of “mainstream media” or~~

whether the publication has only an online presence via a website or blog.) The Commission may be interested in rulemaking in the future to update this rule, if it becomes necessary. Also see [WAC 390-16-313](#) (independent expenditures exemption) and [WAC 390-16-206](#) (ratings and endorsements by news media). The Commission is considering rulemaking regarding [WAC 390-16-206](#) (ratings and endorsements).

E-MAILS

9. What about mass distribution of e-mails that urge persons to vote for or against a candidate or ballot measure, or otherwise constitute political advertising? Are there reporting or disclaimer (“paid for by”) requirements?

Answer: The cost to a candidate or committee that is associated with purchasing an e-mail address list would be a reportable expenditure, just like any other expenditure.

At this time, because unlike at the federal level, the Commission has not been provided information that “mass e-mails” are used in Washington State campaigns as a “means of mass communication” under [RCW 42.17.020](#), or have presented disclosure or reporting issues or complaints, or other issues regarding reportable expenditures, the Commission is taking a “wait and see” approach with respect to any further provisions regarding e-mails. This means there are no other disclaimer or reporting requirements at this time that will be applied to e-mails, except for sample ballots and slate cards sent via e-mail which are subject to [WAC 390-17-030](#).

E-mails from or on behalf of individuals, where there is little or no cost to the individual, remain unregulated. A person on his or her own time, who volunteers to send e-mails supporting a candidate or ballot measure, is not making a contribution. Similarly, if an individual who is not in the business of compiling e-mail lists creates an e-mail address list using his or her own contacts (like from a personal e-mail address book) and provides the list to a candidate or committee, such activity is also not reportable.

In addition, as described in Question # 1, political advertising includes a “**mass communication**” used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign. [RCW 42.17A.005](#). “Mass communication” includes 100 or more e-mails that are identical or substantially similar in nature, directed to specific recipients, and sent within a 30-day period. [WAC 390-05-290\(1\)\(f\)](#). E-mails that are a “mass communication” must include the disclaimers required under [RCW 42.17A.320](#), unless exempted by statute or rule. For example, there are exemptions for individuals acting independently of a campaign and using their own modest resources, and for political advertising sent only to an organization’s members. See the criteria in [WAC 390-18-030\(4\)](#).

These e-mail provisions do not apply where other statutes prohibit use of public agency facilities (including computers and e-mail systems) for campaign purposes, such as [RCW 42.17.130](#), [42.17A.555](#) or [RCW 42.52.180](#). Also see [WAC 390-05-273](#), and [PDC Interpretations 04-02, 01-03](#).



PUBLIC ANNOUNCEMENT OF CANDIDACY

10. What happens when a candidate announces online that he/she is running for office? For example, they post a notice on their Facebook page or upload a video to YouTube, explaining they are running for office.

Answer: They must file a Candidate Registration Form (C-1) and Personal Financial Affairs Statement (F-1) with the PDC within two weeks.

This is because by law, a person becomes a candidate when they do one of these things: raise or spend money for their campaign; reserve space or purchase advertising to promote their candidacy; **announce publicly that they are seeking office**; file a declaration of candidacy; or, authorize someone to do any of these activities. RCW 42.17A.005. Once he or she becomes a candidate, that person must file the F-1 and C-1 forms. "Announce publicly" includes announcements made online such as through a website, Facebook, YouTube, Twitter, or through other similar means.



CONTRIBUTIONS MADE VIA THE INTERNET OR OTHER ONLINE TECHNOLOGIES

11. Has the Commission provided guidance to campaigns seeking contributions over the Internet, or through other online means?

Answer: Yes. See PDC Interpretation 00-02 (*Guidelines for Contributions Made Over the Internet, Via 1-900 Numbers and Using Other Technologies Such as Text Messages.*)



OTHER QUESTIONS

12. Will the Commission examine and possibly revise this Interpretation in the future if new or other questions are raised, if laws or rules are amended or new provisions adopted, if technology changes, or if Internet use changes?

Answer: Yes.

Online Political Advertising Activity Rules

**(Previously approved by Commission;
effective June 24, 2013)**

AMENDATORY SECTION (Amending Order 85-03, filed 7/9/85)

WAC 390-05-290 (~~(Definition--)~~) **Political advertising definitions.** (1) "Mass communication" means a communication intended to reach a large audience through any of the following methods:

(a) Advertising displays, newspaper advertising, billboards, signs;

(b) Brochures, articles, tabloids, fliers, periodicals;

(c) Radio or television presentations;

(d) Sample ballots (see WAC 390-17-030);

(e) Online or other electronic transmission methods;

(f) One hundred or more letters, e-mails, text messages or similar communications that are identical or substantially similar in nature, directed to specific recipients, and sent within a thirty-day period; and

(g) Other mass means of disseminating political advertising, unless excluded by chapter 42.17A RCW or commission rule.

(2) "Online" means disseminating through a network of interconnected computers or devices, such as the internet or similar systems enabling electronic dissemination or exchange of communications. Examples include, but are not limited to, internet web sites, web-based social media (such as Facebook, Twitter, and other electronic publishing platforms), e-mails, and text messages.

(3) "Political advertising" is defined under RCW 42.17A.005 to include a mass communication used for the purpose of appealing, directly or indirectly, for votes or for financial or other support or opposition in any election campaign.

(4) Political advertising does not include letters to the editor, news or feature articles, editorial comment or replies thereto in a regularly published newspaper, periodical, or on a radio or television broadcast where payment for the ((printed)) space or ((broadcast)) time is not normally required.

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

WAC 390-05-520 **Periodical.** For electioneering communications, "periodical" means a publication on paper that is serial in nature and appears or is intended to appear indefinitely ((at regular)), issued regularly or at stated intervals at least once every three months. For all other political advertising, "periodical" means a publication that is serial in nature and

appears or is intended to appear indefinitely, issued regularly or at stated intervals at least once every three months.

NEW SECTION

WAC 390-18-015 Online political advertising. (1) For the purposes of RCW 42.17A.320, the procedures in this rule apply to online political advertising unless otherwise exempted by chapter 42.17A RCW or commission rule.

(2) All online advertising must include a candidate's party preference as described in RCW 42.17A.320(1).

(3) Advertising disseminated in a paper publication and reproduced in an identical manner in the online edition (such as an online edition of a newspaper), or disseminated only in an online edition of the publication must include the disclosures required in WAC 390-18-010(4).

(4) Independent expenditure advertising prepared for radio, telephone and television that is reproduced in an identical manner online or prepared only for online dissemination must provide the disclosures required in WAC 390-18-010 (6)(a).

(5) Political committee web sites and other online forums created by a political committee must include the sponsor's name and address. Political committees sponsoring online independent expenditures advertising must provide the disclosures required in WAC 390-18-010 (6)(c).

(6) Other online political advertising sponsored for the purpose of appealing, directly or indirectly, for votes or for financial or other support in an election campaign must include the sponsor's name and address.

(7) Small online advertising, defined as online advertising where character or size limits make full compliance with RCW 42.17A.320 impractical, may provide required disclosures by using an automatic display described in WAC 390-18-030.

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

WAC 390-18-030 Advertising--Exemptions from identification and alternatives for online advertising. ~~((Pursuant to))~~ (1) RCW 42.17A.320((+6),) requires that political advertising must identify certain information. The commission is authorized to exempt advertising where the sponsor identification disclosures required by RCW 42.17A.320 (1) and (2) are impractical. In addition, other political advertising is exempt from providing certain disclosures.

(2) The following forms of advertising need not include the

sponsor's name and address, the "no candidate authorized this ad" sponsor identification, the "top five contributors," or the identification of the individual, corporation, union, association, or other entity that established, maintains, or controls the sponsoring political committee as otherwise required by RCW 42.17A.320 (1) and (2) because such identification is impractical: Ashtrays, badges and badge holders, balloons, bingo chips, brushes, bumper stickers ((--))_size 4" x 15" or smaller, buttons, cigarette lighters, clothes pins, clothing, coasters, combs, cups, earrings, emery boards, envelopes, erasers, frisbees, glasses, golf balls, golf tees, hand-held signs, hats, horns, ice scrapers, inscriptions, key rings, knives, labels, letter openers, magnifying glasses, matchbooks, nail clippers, nail files, newspaper ads of one column inch or less (excluding online ads), noisemakers, paper and plastic cups, paper and plastic plates, paper weights, pencils, pendants, pennants, pens, pinwheels, plastic tableware, pocket protectors, pot holders, reader boards where message is affixed in moveable letters, ribbons, 12-inch or shorter rulers, shoe horns, skywriting, staple removers, stickers ((--))_size 2-3/4" x 1" or smaller, sunglasses, sun visors, swizzle sticks, state or local voters pamphlets published pursuant to law, tickets to fund-raisers, water towers, whistles, yard signs ((--))_size 4' x 8' or smaller, yo-yos, and all other similar items.

(3) Online political advertising must provide the same disclosures that apply to non-online advertising to the extent practical. As an alternative, small online advertising may provide the required disclosures by using an automatic display with the advertising that takes the reader directly to the required disclosures.

(a) These automatic displays must be clear and conspicuous, unavoidable, immediately visible, remain visible for at least four seconds, and display a color contrast as to be legible. Online advertising that includes only audio must include the disclosures in a manner that is clearly spoken.

(b) Examples include nonblockable pop-ups, roll-overs, a separate text box or link that automatically appears with or in the advertising that automatically takes the reader directly to the required disclosures upon being clicked once, or other similar mechanisms that disclose the information required in RCW 42.17A.320.

(4) Political advertising created and distributed by an individual using his or her own modest resources is not required to provide the disclosures in RCW 42.17A.320, when all of the following criteria are satisfied:

(a) The individual spends in the aggregate less than one hundred dollars to produce and distribute the advertising or less than fifty dollars to produce and distribute online political advertising;

(b) The individual acts independently and not as an agent of a candidate, authorized committee, political committee, corporation, union, business association, or other organization or entity;

(c) The advertising is not a contribution under RCW 42.17A.005

(13)(a)(ii) or (iii) or WAC 390-05-210;

(d) The individual does not receive donations, contributions, or payments from others for the advertising, and is not compensated for producing or distributing the advertising; and

(e) The advertising is either:

• A letter, flier, handbill, text or e-mail from the individual that does not appear in a newspaper or other similar mass publication (except for letters to the editor and similar communications addressed in WAC 390-05-490(4)); or

• Disseminated on the individual's social media site, personal web site, or an individual's similar online forum where information is produced and disseminated only by the individual.

(5) Political advertising that is internal political communications to members is not required to separately include the disclosures in RCW 42.17A.320 where the sponsor's name is otherwise apparent on the face of the communication.

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

WAC 390-17-405 Volunteer services. (1) In accordance with RCW 42.17A.005 (13)(b)(vi), an individual may perform services or labor for a candidate or political committee without incurring a contribution, so long as the individual is not compensated by any person for the services or labor rendered and the services are of the kind commonly performed by volunteer campaign workers. These commonly performed services include:

- (a) Office staffing;
- (b) Doorbelling or leaflet drops;
- (c) Mail handling (folding, stuffing, sorting and postal preparation, processing e-mails to and from the campaign);
- (d) Political or fund-raising event staffing;
- (e) Telephone bank activity (conducting voter identification, surveys or polling, and get-out-the-vote campaigns);
- (f) Construction and placement of yard signs, hand-held signs or in-door signs;
- (g) Acting as a driver for candidate or candidate or committee staff;
- (h) Scheduling of campaign appointments and events;
- (i) Transporting voters to polling places on election day;
- (j) Except as provided in subsection (2) of this section, preparing campaign disclosure reports required by chapter 42.17A RCW and otherwise helping to ensure compliance with state election or public disclosure laws;
- (k) Campaign consulting and management services, polling and survey design, public relations and advertising (including online advertising), or fund-raising performed by any individual, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; (~~and~~)
- (l) Creating, designing, posting to and maintaining a candidate or political committee's official campaign web site or online forum, so long as the individual does not ordinarily charge a fee or receive compensation for providing the service; and
- (m) All similar activities as determined by the commission.

(2) An attorney or accountant may donate his or her professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without making a contribution in accordance with RCW 42.17A.005 (13)(b)(viii), if the attorney or accountant is:

- (a) Employed and his or her employer is paying for the services rendered;
- (b) Self-employed; or
- (c) Performing services for which no compensation is paid by any person. However, neither RCW 42.17A.005 (13)(b)(viii) nor this section authorizes the services of an attorney or an accountant to

be provided to a political committee without a contribution ensuing, unless the political committee is a candidate's authorized committee, political party or caucus political committee and the conditions of RCW 42.17A.005 (13)(b)(viii) and (a), (b) or (c) of this subsection are satisfied, or unless the political committee pays the fair market value of the services rendered.