



## PETITION FOR ADOPTION, AMENDMENT, OR REPEAL OF A STATE ADMINISTRATIVE RULE

Print Form

In accordance with [RCW 34.05.330](#), the Office of Financial Management (OFM) created this form for individuals or groups who wish to petition a state agency or institution of higher education to adopt, amend, or repeal an administrative rule. You may use this form to submit your request. You also may contact agencies using other formats, such as a letter or email.

The agency or institution will give full consideration to your petition and will respond to you within 60 days of receiving your petition. For more information on the rule petition process, see Chapter 82-05 of the Washington Administrative Code (WAC) at <http://apps.leg.wa.gov/wac/default.aspx?cite=82-05>.

### CONTACT INFORMATION *(please type or print)*

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### COMPLETING AND SENDING PETITION FORM

- Check all of the boxes that apply.
- Provide relevant examples.
- Include suggested language for a rule, if possible.
- Attach additional pages, if needed.
- Send your petition to the agency with authority to adopt or administer the rule. Here is a list of agencies and their rules coordinators: <http://www.leg.wa.gov/CodeReviser/Documents/RClist.htm>.

### INFORMATION ON RULE PETITION

Agency responsible for adopting or administering the rule: Washington State Public Disclosure Commission

**1. NEW RULE - I am requesting the agency to adopt a new rule.**

The subject (or purpose) of this rule is: \_\_\_\_\_

The rule is needed because: \_\_\_\_\_

The new rule would affect the following people or groups: \_\_\_\_\_

**2. AMEND RULE - I am requesting the agency to change an existing rule.**

List rule number (WAC), if known: 390-17-405

I am requesting the following change: (3) An individual may donate their professional services without limit to a candidate, a candidate ' s authorized committee, a political party or a caucus political committee, provided they are not compensated by any person and provided their time is reported

This change is needed because: The existing exemptions for volunteer services do not allow professional services without limit, which places an inappropriate burden on campaigns. Details below.

The effect of this rule change will be: \_\_\_\_\_

The rule is not clearly or simply stated: \_\_\_\_\_

**3. REPEAL RULE - I am requesting the agency to eliminate an existing rule.**

List rule number (WAC), if known: \_\_\_\_\_

*(Check one or more boxes)*

It does not do what it was intended to do.

It is no longer needed because: \_\_\_\_\_

It imposes unreasonable costs: \_\_\_\_\_

The agency has no authority to make this rule: \_\_\_\_\_

It is applied differently to public and private parties: \_\_\_\_\_

It conflicts with another federal, state, or local law or rule. List conflicting law or rule, if known: \_\_\_\_\_

It duplicates another federal, state or local law or rule. List duplicate law or rule, if known: \_\_\_\_\_

Other (please explain): \_\_\_\_\_

**Administrative Procedures Act Petition per RCW 34.05.330**  
**Petition for Amendment of [WAC 390-17-405](#)**

**Proposed Modification - [WAC 390-17-405](#) "Volunteer services."**

**[WAC 390-17-405](#) (abridged)**

(1) In accordance with [RCW 42.17A.005](#) (16)(b)(vi), an individual may perform services or labor for a candidate or political committee without it constituting 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. [...]

(2) An attorney or accountant may donate their professional services to a candidate, a candidate's authorized committee, a political party or a caucus political committee, without it constituting a contribution. [...]

(3) An individual may donate their professional services without limit to a candidate, a candidate's authorized committee, a political party or a caucus political committee, provided they are not compensated by any person and provided their time is reported at fair market value as a contribution in accordance with [RCW 42.17A.235](#).

**Explanation of Proposal:**

Commissioners:

This proposed modification is designed to exempt volunteer contributions of professionally compensated skills (referred to in the WAC as "professional services") by individuals from the campaign contribution limits outlined in [RCW 42.17A.405](#) and elsewhere in the Washington Administrative Code (WAC).

**Background:**

The current limit for in-kind contributions from an individual to a campaign is \$1200 per election. This is not an issue on its own, but

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in the course of campaigns, candidates and committees may wish to seek out help from individuals who have skills they use in their professional careers and ask them to use those skills to help. When an individual contributes time using a skill they would normally be paid for, the fair market value of their time is required to be recorded as an in-kind contribution (this is typically their hourly wage). Campaigns are allowed to receive donations of professional skills, but they must compensate professionals for those skills once that individual's contribution limit has been reached. Campaigns may also partially compensate an individual and consider the difference between that partial compensation and the fair market value of the individual's time as an in-kind contribution by the individual, subject to the same contribution limit of \$1200.

### **Personal Examples:**

I'd like to share three examples where a limitation to those in-kind contributions of professional services places a burden on me as a candidate and actively reduces the effectiveness of my campaign.

1. My first example is a colleague who works with me. I'd shared the substance of my campaign and my motivation for running, and he immediately and excitedly offered to help. He was even more excited when I asked if he would be willing to use the skills he's developed over the course of his professional career for my campaign, namely data analysis. My friend has been successful and manages a small team of analysts within a prominent company in the software space, and as a result, he makes approximately \$51 per hour. If he wishes to volunteer for my campaign using this skill, the maximum time I am allowed to take from him against this limit of \$1200 is 23.8 hours per election. This means, if there are 6 months between today and the primary election, I am only allowed one hour of volunteer time per week from my friend for this purpose. Data analysis is not listed as an exempt activity according to the PDC, and I do not believe the PDC should add it to their list of exempt activities for reasons outlined later.
2. My second example is a small group of musicians who have expressed interest in volunteering their time to my campaign in the form of live music. Ordinarily, they receive approximately \$600 for a single live performance. This means if they wish to

volunteer their time to perform live as a contribution to my campaign, they could be limited to a maximum of two performances per election, even if they are willing to contribute much more. If these would instead be reported as individual contributions, this lessens the impact of those contributions against the limit, but if acknowledged as a single entity, they would be lumped together as an entity subject to its own contribution limits. Musical performance is not listed as an exempt activity according to the PDC, and I do not believe the PDC should add it to their list of exempt activities for reasons outlined later.

3. My third example is in anticipation of needing assistance from professionals who are skilled in management activities related to software implementation. One such role is as a "Program Manager", who is primarily responsible for ensuring good operational practice in the use of new software solutions as they are being implemented. There are many new kinds of softwares appearing all the time, and someone with the professional experience to guide the implementation of that service may be required for my campaign. If, however, that person is normally compensated (especially if they are highly compensated in proportion to the business value of this skill), I may not want to ask for their assistance or may only be allowed a small amount of their time by the existing in-kind contribution limit. This means any software solutions I purchase are more likely to be poorly implemented, lessening their effectiveness and reducing the efficiency of my campaign activity dependent on that solution. This could also constitute a material waste of valuable campaign funds. Software implementation management is not listed as an exempt activity according to the PDC, and I do not believe the PDC should add it to their list of exempt activities for reasons outlined later.

**Why should individuals be allowed to donate professional services without limit?**

Our current economy requires most people to dedicate themselves to specific pursuits in the interest of making money to afford their lives. Most people who develop deep competencies today are not doing so for fun or enjoyment - they are usually developing these competencies in the interest of strengthening their career prospects. To that end, most people with deep competency are being paid for their

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work, and if they are particularly skilled at what they do, they will usually be compensated well for their efforts.

Limiting those individuals' ability to contribute those unique skills to a political campaign represents a distinct problem when those skills are well-compensated. It implies that they are somehow providing an inappropriate advantage to a campaign because they are good at what they do, as though it's not fair for them to donate their time to a campaign because people who are passionate about other causes may not possess the same skills. It discourages them from getting involved at all, especially if the campaign they're supporting takes these contribution limits seriously and wants to follow them to the letter (as I do).

In addition, most people today have at least *some* competency that is unique. In the interest of effective campaigns, it's important to find people who possess unique skills in order to solve unique problems. Their unique skills are an advantage, but that advantage has nothing to do with the campaign and everything to do with their individual willingness to help. If they believe their unique skills are valuable, and they believe in the mission of a campaign, they should be allowed to use those unique skills as an expression of their individual freedom, autonomy, and their desire to see improvements to their circumstances through government intervention. That they are otherwise compensated for these skills does not directly represent a conflict of interest if they are providing these services of their own volition without influence by other persons.

### **What is the impact of this limit on campaigns?**

The limit to in-kind contributions of this nature requires that candidates and committees set maximums for these kinds of skilled contributions and that candidates and committees must eventually turn away people who offer to help. In addition, to ensure these rules are not unintentionally violated, campaigns are incentivized to seek help from people who do not already have the skills they need; if individuals are not ordinarily paid, campaigns don't need to worry about hitting this limit by accident. Candidates and committees are discouraged from asking people to do things they've developed skill in, especially when that skill has led to a successful career and they may hit this contribution limit quickly.

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This limit places the following constraints on me as a candidate;

1. It discourages me from working with people who know what they're doing and have been successful in the areas I cannot do myself.
2. It requires that I limit volunteer contributions and turn passionate professionals away, even when they are willing and excited to contribute.
3. It incentivizes me to recruit novice volunteers for activities a professional could complete more quickly with less training, reducing the efficiency of my campaign's limited resources and requiring a considerable amount of time spent to train them.

In reviewing past decisions from this Commission, I do not believe the intention of this limit is to stop campaigns from receiving skilled help. I believe the requirement to report donated professional services as in-kind contributions is appropriate, but this limit places a burden on candidates and committees which makes effective campaigning more difficult.

On a personal note, this issue is magnified because I am running as an independent candidate, which means I can't expect help from major political parties in my area. I need to go to individuals, and when I do, I'd like to ask them to do things they're good at. This conforms with the principles I hold to as an effective leader; in my opinion, asking someone to do something they don't believe they are good at is essentially planning for a poor outcome. I want to ask people to utilize their unique skills to the best of their ability and avoid asking them to do things they will struggle to do. This is mostly in their own interest - trying to do things we're bad at is hard. Selfishly, this also means I can relieve myself of the worry that the outcome I want won't be realized.

### **Why should these contributions be reported?**

It's important that these contributions are reported and available to the public. If a campaign receives a large number of volunteer hours from employees of a specific corporation, it could inform them of potential conflicts of interest. I believe requiring these contributions to be reported, without setting a limit to what may be contributed by an individual, gives the public a greater opportunity to understand the makeup of a campaign and its supporters. I believe requiring these contributions to be reported and available to the

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public is directly in line with the spirit of RCW 42.17A.001, namely Section 1 - "That political campaign and lobbying contributions and expenditures be fully disclosed to the public and that secrecy is to be avoided." I believe there is no reason to exempt donated professional services from being reported as contributions in the public's best interest. Exempting these activities from reporting could serve to obfuscate those conflicts of interest from public view.

### **Why can't the Commission just add these proposed activities to the list of defined "commonly performed campaign services"?**

As already stated, defining these activities as exempt from reporting creates risk of those donated professional services hiding potential conflicts of interest.

In addition, requiring that these professional services are reported as campaign contributions without a limit allows a necessary flexibility, as the nature of relevant professional services may change over time. I don't believe an appropriate solution to this problem is to add to the list of exempt campaign activities [as outlined by the PDC's website](#) in accordance with [RCW 42.17A.405](#) (15) and [RCW 42.17A.005](#) (16)(b)(vi). This would require an exhaustive review of all activities that could conceivably be related to a campaign, which would ultimately diminish the benefits of existing reporting exemptions. In addition, we cannot expect ourselves to exhaustively anticipate the future advancements which might introduce new professional services relevant to effective campaigns; as professional services advance, it would place an inordinate burden on candidates, campaigns, and the Commission to require continued additions to this list of exempt activities. Any new campaign activities that require modern professional services could not be considered exempt until added to the list, meaning campaigns would be legally required to use outdated processes while the PDC and the WAC/RCW catch up to present-day solutions.



**Why can't the Commission just call these "similar activities"?**

Leaving these definitions up to what the Commission at present decides are "similar activities" (as allowed by [WAC 390.17.405](#) (1)(m)) allows too much room for individual judgment and discretion, and it exposes campaigns to risk of violating contributions limits if future commissioners decide certain activities should not be exempt. This practice would also risk inappropriate interference by the Commission to conspire against new ways of running campaigns, through refusal or intentional delay in adding to the list of exempt activities. This would discourage innovation and force campaigns to rely on old/outdated practices simply because those activities have prior approval by the Commission.

**Why should these contributions be limited to "individuals"?**

This proposed modification should not be adjusted to allow businesses or other entities besides individuals to be exempt from the existing contribution limits, as this would allow corporations and other similar entities to donate professional services in support of particular candidates. I believe this violates the spirit of the existing contribution limits, and I would recommend that professional services provided by any other person (as defined by [RCW 7.96.200](#)) not be exempted. If deemed appropriate by the Commission, additional language which limits a corporation's ability to encourage their employees to support a candidate may be justifiable. I believe the language provided by my proposed modification would also prevent corporations from giving their employees paid time off to volunteer, as this would be considered "compensation".

**What is the benefit to the PDC and to campaigns?**

Allowing individuals to donate professional services without limiting the amount they can contribute encourages candidates and committees to seek help from willing volunteers with professional experience. Experienced support from members of their communities would allow candidates and committees to more easily and efficiently comply with regulations enforced by this Commission, improving every part of the election process in turn.

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Thank you for your consideration.

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