



State of Washington
PUBLIC DISCLOSURE COMMISSION

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Memo

To: Commissioners
From: Sean Flynn, General Counsel
Date: April 17, 2025
Re: APA Rulemaking Petition (Democratic Party) re Party Exempt Funds Used for Slate Cards Including Ballot Propositions.

The Petitioner, Washington State Democratic Party, submitted a rulemaking petition on March 18, 2025. The Petition requests the Commission to adopt a rule change to exempt funding of a political party's slate card from contribution limits when the card includes the party's position on a ballot proposition.

Under the Administrative Procedure Act (APA), a person may petition an agency requesting the adoption, repeal, or amendment of a rule. Within 60 days of the submission of a petition, the agency must either deny the petition, or initiate the rulemaking process. If the Commission denies the petition, it must state its reasons for the denial, addressing the concerns raised and alternative means of addressing the concerns, where appropriate.

The Petitioner asserts that political parties use slate cards to inform the public of a party's support of candidates as well as their position on ballot propositions. Slate cards are exempt from contribution limits, which allows parties to report the expenses as general party costs without attributing the costs as contributions to each individual candidate on the card. Under the current rules, however, a slate card is *not* exempt from contribution limits if the card includes the party's position on any ballot proposition. The Petitioner claims this limitation effectively prevents parties from using slate cards to inform the public of their positions on ballot propositions, since it would eliminate the exemption and require the parties to engage in additional reporting to attribute costs to each candidate.

Contribution limits for candidate elections have been in place since the enactment of Initiative 134 (1993). The law includes an exemption for contributions used to fund certain activities that do not promote or advertise for individual candidates, such as voter registration, get-out-the-vote drives, ballot counting, or sample ballots. RCW 42.17A.405(15). Political parties may raise such "exempt funds" in a separate account to be used for any enumerated qualifying purpose. WAC 390-17-060.

The Commission has articulated the purpose of the exemption for sample ballots "to allow political parties, political committees, and other sponsors to tell the general public which candidates they support," but not to be used "as a device to circumvent the contribution limits

and full reporting requirements.” WAC 390-17-030(2). The PDC initially adopted rules to implement the new law, including a definition of sample ballots as “a printed list that includes a majority of all of the partisan offices on the ballot and that also may include ballot measures and nonpartisan races . . . all without promotion of or political advertising for specifically named individual candidates.” WAC 390-17-030 (effective August 30, 1993). The definition came under pressure from the political parties and the Commission subsequently expanded it to include “slate cards,” which requires listing “the names of at least three candidates” for any local, state, or federal office. WAC 390-17-030(9). At the same time, the Commission included certain qualifying criteria for the content and publication of slate cards to ensure such communications would not drift into advocacy for individual candidates. Specifically, the rule excludes “any additional biographical data on candidates and their positions on issues, as well as statements about the sponsor's philosophy, goals or accomplishments,” and further excluded “any statements, check marks or other indications showing support of or opposition to ballot propositions.” WAC 390-17-030(9).

While the history of the original rule does not reveal the Commission’s reasoning for initially permitting ballot propositions in sample ballots, the intent for prohibiting ballot propositions from slate cards was discussed at the Commission’s August 1998 meeting, when the rule changes were considered. A state party representative had urged the Commission to allow ballot propositions on exempt slate cards, arguing that including a ballot proposition is like listing the candidates the party supports. In response, Commissioner Ron Meyers replied that “such message would be analogous to the Party expressing its philosophy, which the Commission has said may not be on a slate card.” *See* PDC Meeting Minutes, August 25, 1998, page 9. The statement may have reflected concern that a ballot proposition exposes a position on an issue, which could be attributed to a candidate’s own position. Generally, the purpose of the rule change in 1998 appears to strike a balance in permitting an exemption for slate cards against imposing the qualifying criteria to ensure against the circumvention of contribution limits.

The Petition here proposes to remove the restriction on ballot proposition positions and would allow a “a statement, check mark, or other indication of support or opposition” for or against the ballot proposition. The Petitioner asserts that this is consistent with the purpose of the exemption to allow political parties to inform the public on the parties’ positions. But ballot propositions relate to issues, and therefore when a ballot proposition is added to a slate card of candidates it potentially could connect the proposition with the candidate’s position on an issue. Such connection could be perceived as using the slate card to advocate for the candidates.

The Petition attempts to address this concern by restricting further “statements about the sponsor’s rationale for supporting or opposing a ballot proposition.” Another possible limitation could be to restrict any information about the proposition, beyond the ballot number or the official title of the measure.

As the Commission previously considered and decided this issue, staff does not make a recommendation on the current Petition. The Commission may choose to weigh the proposal’s purported benefits to political parties and the public against the risk of allowing for the circumvention of contribution limits. Staff remains available for any questions and support at the request of the Commission.