

WAC 390-05-515 Exclusion from contributions, independent expenditures, and electioneering communications—Communications within membership organizations.

(1) In determining whether an organization's political communications are limited to its "members" for purposes of communications that are excluded from the definitions of a contribution, independent expenditure, or electioneering communication, as provided in RCW 42.17A.005 of the act and used in these rules, the commission will examine whether the organization is a legitimate membership organization with common interest goals and objectives, taking into account such factors as the organization's permanence, structure and formal organizing documents, membership criteria, and services it provides its members. An organization will not be considered a membership organization if it is primarily a commercial entity or for-profit entity selling products to customers even though it may refer to its customers as "members."

(2) With respect to the status of members of an organization, the commission will examine whether a valid, active relationship exists between the organization and its members or classes of members for purposes other than influencing the outcome of an election, taking into account:

- (a) Whether the members affirmatively accept membership;
- (b) The rights and obligations conferred on members by the organization, including whether members have the right to vote for:
 - (i) Election of directors or officers;
 - (ii) Changes to the articles or bylaws; or
 - (iii) The disposition of all or substantially all of the assets of the organization or on a merger or dissolution; and
- (c) A required payment of a predetermined amount of membership dues.

(3) If an organization and its members satisfy the criteria regarding "membership associations" and "members" established by the Federal Election Commission (FEC) in 11 C.F.R. Sec. 100.134 (e)-(g), the commission will consider these FEC criteria as indicators of legitimate membership organizations or valid members.

(4) In determining whether an internal political communication is "primarily" limited to the members of an organization or political committee, the commission will consider whether any distribution to nonmembers is incidental and isolated.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-05-515, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-05-515, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-05-515, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 09-04-022, § 390-05-515, filed 1/27/09, effective 2/27/09. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-05-515, filed 5/23/06, effective 6/23/06.]