

**WAC 390-18-025 Advertising—Identification of "top five contributors" and "top three donors to PAC contributors."** Sponsors must identify the "top five contributors" when required to be included in political advertising, as provided in WAC 390-18-010. When the "top five contributor" list includes one or more political committees, the sponsor must further identify and separately include in the advertisement the collective "top three donors to PAC contributors" to all such political committees. This section explains how the sponsor should identify such "top three donors to PAC contributors."

(1) For purposes of RCW 42.17A.320, "top five contributors" means the five persons, as defined in RCW 42.17A.005, giving the largest aggregate contributions of one thousand dollars or more during the twelve-month period preceding the date on which the advertisement is published or otherwise presented to the public. The sponsor may calculate the twelve-month period from the date the advertisement is submitted to a third-party publisher for reasonably prompt publication, so long as there is no anticipated or intentional delay in the publication or presentation. If more than five contributors give an amount equal to the largest aggregate contribution exceeding the threshold value and the funds are received during the relevant twelve-month period, the political committee sponsoring the advertisement must select five of these contributors to identify as the top five contributors.

(2) (a) If a political committee keeps records necessary to track contributions used according to the use intended by its contributors, that committee may identify the top contributions to the advertisement, as opposed to identifying the overall top five contributors to the committee, if such identified contributors made contributions that were intended and actually used to pay for the advertisement.

(b) For purposes for identifying the top five contributors, the sponsor should not include contributions earmarked, tracked, and used for purposes other than paying for the advertisement. However, if a sponsor uses a contributor's contributions earmarked for advertising for a different candidate or slate of candidates than the candidate or candidates intended by the contributor, the sponsor must include such contribution in determining the "top five contributors" of the actual advertisement for which the contribution was used.

(3) For purposes of RCW 42.17A.350 "top three donors to PAC contributors" means the three individuals or entities, other than political committees, who gave the largest aggregate contributions to one or more political committee listed as a "top five contributor," totaling one thousand dollars or more during the twelve-month period preceding the date on which the advertisement was published or otherwise presented to the public. The sponsor may calculate the twelve-month period from the date the advertisement is submitted to a third-party publisher for reasonably prompt publication, so long as there is no anticipated or intentional delay in the publication or presentation.

(a) If any of the contributors to a "top five" political committee is itself a political committee, the sponsor must identify the top three contributors to that political committee. Such process continues until the sponsor has identified the top three nonpolitical committee contributors for each "top five" political committees. If more than three contributors to a "top five" political committee have given an amount equal to the largest aggregate contribution, the sponsor may select three of these contributors to identify as the "top three donors to PAC contributors."

(b) If there is more than one political committee identified as a "top five contributor," the sponsor must identify the top three nonpolitical committee contributors to each "top five" political committee, and then determine the "top three donors to PAC contributors" collectively from that list.

(c) The sponsor should not include contributions to a "top five" political committee contributor for purposes of identifying the "top three donors to PAC contributors" if both:

(i) The contribution to the "top five" committee was reported as an earmarked contribution for a purpose other than the advertisement in question; and

(ii) The "top five" committee has provided written verification to the sponsor before the initial publication or public presentation of the advertisement, confirming that such contribution was tracked and used for such other purpose.

(4) For purposes of determining the "top three donors to PAC contributors," the sponsor must make reasonable efforts to identify the contributions made to a political committee. Reasonable efforts include searching through reports of contributions filed with the commission or any other state, as well as requests made to any political committee that has not disclosed its contributions to the commission or in any other state. After making reasonable efforts, the sponsor may reasonably rely on the information reported to the commission, and will not be liable for any omission or miscalculation because a contribution to any "top five" political committee has not been reported to the commission.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-18-025, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-18-025, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110 and 42.17A.320. WSR 13-12-015, § 390-18-025, filed 5/24/13, effective 6/24/13. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-18-025, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 07-08-044, § 390-18-025, filed 3/28/07, effective 4/28/07. Statutory Authority: RCW 42.17.370 and 42.17.562. WSR 06-11-132, § 390-18-025, filed 5/23/06, effective 6/23/06. Statutory Authority: RCW 42.17.370(1). WSR 02-12-007, § 390-18-025, filed 5/23/02, effective 6/23/02.]