WSR 25-14-055
EMERGENCY RULES
PUBLIC DISCLOSURE COMMISSION

[Filed June 26, 2025, 11:59 a.m., effective June 30, 2025]

Effective Date of Rule: June 30, 2025.

Purpose: The rule change will exempt funding of a political party's sample ballots from contribution limits when the sample ballot includes the party's position on a ballot proposition. The current rule provides that sample ballots meeting certain criteria are not considered contributions to the candidates listed on the card. One requirement is that the sample ballot may not include any ballot proposition in order to qualify for the exemption. The rule change would permit the inclusion of ballot propositions, so long as there is no additional statement about the sponsor's reasons for supporting or opposing the ballot proposition, or indicating any candidate's support for or opposition to a ballot proposition.

Citation of Rules Affected by this Order: Amending WAC 390-17-030.

Statutory Authority for Adoption: RCW 42.17A.110(1).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The public disclosure commission (commission) finds good cause that immediate amendment of the rule is necessary for the general welfare and that observing the time requirements of permanent rule making is contrary to the public interest. Under RCW 42.17A.110(1), any rule relating to campaign finance, political advertising, or related forms may not take effect after June 30 through the day following the general election in that year. This rule change was proposed through a petition submitted to the commission on March 18, 2025, and the state budget was not finalized until May 21, 2025. The timing of the petition, legislative session, and budget approval did not permit enough time for the commission to consider and complete the rule-making process before the statutory June 30 deadline.

The petition stated that rule change was important for the upcoming 2025 election cycle, as both major political parties have recently increased participation in the ballot initiative process. The 2024 election cycle included party involvement in several high profile ballot initiative campaigns, which is expected to continue in the upcoming election. Furthermore, the 2025 legislative session produced particular issues, including the extraordinary budget situation, that are anticipated to generate multiple ballot propositions in which the parties will be participating. The parties have indicated that they use sample ballots to inform the public on the positions each party takes in elections. Under the current rules, the parties are limited in producing sample ballots that include the positions taken on ballot propositions, which can effectively prevent the parties from disseminating information to help inform the public on the election. Therefore, emergency rule making is necessary to implement the purpose of the Fair Campaign Practices Act and to help to fully inform the public concerning the positions of political parties on ballot propositions during the 2025 election cycle.

The commission has conducted extensive outreach to engage the public in formulating this rule for adoption. The petition was presented at the commission's public meeting on April 24, 2025. Commission staff published the draft rule on its website, sent notice to all stakeholders, and solicited comments from each major political party as well as other targeted groups. The issue again was presented at the commission's public meetings on May 22 and June 26.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: June 26, 2025.

Kim Bradford
Deputy Director

RDS-6446.2

AMENDATORY SECTION (Amending WSR 18-24-074, filed 11/30/18, effective 12/31/18)

WAC 390-17-030 Sample ballots and slate cards. (1) **Intent.** Under certain conditions, expenditures for ((~~slate cards and other candidate listings~~)) sample ballots fall within the scope of RCW 42.17A.405(15) and are, therefore, exempt from contribution limits and eligible for payment with a bona fide political party's exempt funds. ((~~Slate cards and other candidate listings~~)) Sample ballots remain reportable under chapter 42.17A RCW and subject to the political advertising provisions of the act.

The purpose of this exemption from the contribution limits is to allow political parties, political committees, and other sponsors to tell the general public which candidates they support. The exemption is not intended as a device to circumvent the contribution limits and full reporting requirements.

(2) For purposes of RCW 42.17A.005(22) and 42.17A.405(15), **"sample ballots"** means slate cards, or other candidate listings, whether written or oral, that satisfy the qualifying criteria specified in subsection (10) of this section.

Sample ballots constitute political advertising for a slate or list of candidates and must include sponsor identification and otherwise be in compliance with the provisions of RCW 42.17A.320 through 42.17A.340.

(3)(a) A bona fide political party may use contributions it receives pursuant to RCW 42.17A.405(15) to produce and distribute sample ballots.

(b) Expenditures for sample ballots do not count against a bona fide political party's contribution limit to the candidates listed on the sample ballot. Further, when reporting sample ballot expenditures, a bona fide political party is not required to attribute a portion of the expenditure to each of the candidates and ballot propositions (if any) listed on the sample ballot, but the names of the candidates and ballot propositions must be reported along with the other information required by chapter 42.17A RCW and chapter 390-17 WAC.

(4) Any person, as defined by RCW 42.17A.005, who makes an expenditure for sample ballots has made an expenditure that does not count against that person's contribution limit to the candidates listed.

(5) An in-state political committee, when disclosing expenditures for sample ballots as part of its C-4 report, is not required to attribute a portion of the expenditure to the candidates and ballot propositions (if any) listed on the sample ballot, but the names of the candidates ((~~and~~)), including their respective party affiliations, and ballot propositions must be reported along with other information required by chapter 42.17A RCW and chapter 390-17 WAC.

(6) An out-of-state committee, when disclosing expenditures for sample ballots on a C-5 report, is not required to attribute a portion of the expenditure to the candidates and ballot propositions (if any) listed on the sample ballot, but must report that an expenditure for sample ballots was made, the name and address of the person to whom the expenditure was made, the full amount of the expenditure, and the name, office sought and party affiliation of each candidate listed on the sample ballot, as well as each ballot proposition listed on the sample ballot. The report is due no later than the 10th day of the month following the month in which the expenditure was made.

(7) If a lobbyist or lobbyist employer makes expenditures for sample ballots, those expenditures are required to be reported in detail on the lobbyist's monthly L-2 report. Itemization of these expenditures must include the names and respective party affiliations of the candidates listed on the sample ballot, but no portion of the expenditure need be attributed to individual candidates or ballot propositions (if any) listed on the sample ballot.

(8) The candidates listed on a sample ballot are not required to report any portion of the expenditure as an in-kind contribution to their campaigns.

(9) Qualifying criteria for sample ballots((~~, slate cards and other candidate listings~~)). In order not to count against a person's contribution limit to the candidates listed on a sample ballot and, in the case of a bona fide political party, in order to be eligible for payment with contributions received pursuant to RCW 42.17A.405(15), a sample ballot must satisfy all of the criteria in (a) through (d) of this subsection.

(a) The sample ballot must list the names of at least three candidates for election to public office in Washington state and be distributed in a geographical area where voters are eligible to vote for at least three candidates listed. The candidate listing may include any combination of three or more candidates, whether the candidates are seeking federal, state or local office in Washington. In addition, the sample ballot may include the support or opposition to any local or state ballot proposition, so long as the number of ballot proposi-

tions appearing on the sample ballot does not outnumber the number of candidates on the sample ballot.

(b) The sample ballot must not be distributed through public political advertising; for example, through broadcast media, newspapers, magazines, billboards or the like. The sample ballot may be distributed through direct mail, telephone, electronic mail, websites, electronic bulletin boards, electronic billboards or personal delivery by volunteers.

(c) The content of a sample ballot is limited to:

((•)) (i) The identification of each candidate (pictures may be used);

((•)) (ii) The office or position currently held;

((•)) (iii) The office sought;

((•)) (iv) Party affiliation;

(v) For any ballot proposition, the assigned number, the full (or abbreviated) official ballot title, as provided in RCW 29A.72.050, 29A.36.071, or otherwise set forth in statute, and a simple statement (such as "yes" or "no"), check mark, or indication of support for, or opposition to, the proposition; and

((•)) (vi) Information about voting ((~~hours~~)) period and locations.

Therefore, the sample ballot ((~~must exclude~~)) may not include any additional biographical data on candidates ((~~and~~)) or their positions on issues, as well as statements about the candidate's or sponsor's philosophy, goals or accomplishments. The ((~~list must also exclude any statements, check marks or other indications showing support of or opposition to ballot propositions~~)) sample ballot may not include any other information about any ballot proposition beyond the language of the official ballot title. Public investment impact disclosures, under RCW 29A.72.027, are not considered part of the official ballot title and may not be included on the sample ballot. The sample ballot may not include statements about the sponsor's reasons for supporting or opposing the ballot proposition, and may not directly or indirectly indicate any candidate's support for or opposition to any ballot proposition.

(d) The sample ballot is a stand-alone political advertisement. It ((~~must~~)) may not be a portion of a more comprehensive message or combined in the same mailing or packet with any other information, including get-out-the-vote material, candidate or campaign brochures, or statements about ((~~the~~)) a candidate's or sponsor's philosophy, goals or accomplishments.