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)*

Petitioner's Name   Joe A. Kunzler

Name of Organization   N/A

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RCW 42.17A.555 **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: Public Disclosure Commission

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

☒ The subject (or purpose) of this rule is: To provide clarity during public comment periods what campaigning is, what is required and what is needed by any complainant.

☒ The rule is needed because: We have local elected officials and city attorneys who are not acting to enforce RCW 42.17A.555 during RCW 42.30.240 public comment periods. This rule will provide the necessary clarity.

☒ The new rule would affect the following people or groups: Local elected officials, public commentators, candidates and potential PDC complainants.

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

List rule number (WAC), if known: _____

☐ I am requesting the following change: _____

☐ This change is needed because: _____

☐ 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): _____

Public Disclosure Commission Chair Allen Hayward

c/o Public Disclosure Commission

711 Capitol Way, Rm. 206

Olympia, WA 98504-0908

Dear Chair Hayward and PDC Commissioners, PDC Staff and esteemed CCs;

Here we go again. In the past little while, I've faced some city attorneys and city elected officials having, er, confusion about the application of RCW 42.17A.555 during public comment as per RCW 42.30.240. When we face continued abuse of public comment periods for campaigning – especially from Avrum "Alex" Tsimerman – then we need *clarity* in our laws and rules.

Hence, this new rule. I am asking that you instruct staff to be open-minded about this one. Clarity is best, especially when we have concerns with upholding the US Constitution First Amendment and Washington State Constitution Article I, Section 5. We also need clear instructions for hesitant local elected officials to do their duty.

I am open to an alternative rule by staff to address these issues. I would be deeply concerned at a response of dismissal, and I am uncertain more education will work. This is a time for the Public Disclosure Commission to take the Washington State polity we have more seriously, as to quote Governor Inslee, "We will not relent to our greatest challenges. We will not go backward. This is the Evergreen State and the Ever Forward State." Then let's get after defending our democracy. Ultimately, please consider this a Christmas 2024 gift to defend the commons of the Ever Forward State.

Very respectfully;

Joe A. Kunzler

growlernoise@gmail.com

TEXT OF PROPOSED NEW RULE ON PUBLIC COMMENT & POLITICAL ADVERTISING

Chapter 390-18 WAC POLITICAL ADVERTISING

WAC 390-18-060
Use of Public Comment for Political Advertising

(1)   "Public comment" is as defined in **RCW 42.30.240**

(2)   Public comment is considered a public resource under "facilities of a public office or agency" under **RCW 42.17A.555**

(3)   Public comment under **RCW 42.17A.555,** which is, "For the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition" except public comment as a response to agenda items under **RCW 42.17A.555 (1)** where an agenda is required under **RCW 42.30.077** is illegal.

(4)   A campaign includes but is not limited to the definition of "candidate" under **RCW 42.17A.005** and **WAC 390-05-200**.

(5)   Therefore, the chair of the meeting has a legal duty to *immediately* stop the use of public comment "For the purpose of assisting a campaign for election of any person to any office or for the promotion of or opposition to any ballot proposition" with a declarative statement like 'I am a candidate' or "vote yes" or "vote against" for instance unless those comments are again addressing an item under **RCW 42.17A.555 (1)**. This rule is because public comment periods use publicly owned and subsidized transmission equipment (e.g., speakers and video cameras) to transmit to the electorate.

(6)   The penalty schedule shall be under WAC 390-37-182 and WAC 390-37-182 as "Use of public facilities for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition." However, first-time penalties for chairs of public meetings should be set at a 100% suspended amount with a reminder letter provided that the chair agrees within 30 calendar days to attend a refresher course for the Open Public Meetings Act under RCW **42.30.205** and that there are no further violations of campaign finance law for one calendar year from the violation.

(7)   Complainants that cite violations of **RCW 42.17A.555** to the Public Disclosure Commission are recommended to cite the candidate's filing or clear internet statement, preferably a website or professional news report, that a potential public commentator indicated being a candidate for office in the initial complaint.