

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-37-005 Complaint review and categorization. (1) PDC staff, upon receiving or initiating a complaint, will promptly conduct an initial review and preliminarily assign matters to certain categories.

(2) Upon initial review, a matter may be preliminarily categorized as:

(a) Unfounded or frivolous, pursuant to WAC 390-37-060;

(b) A remediable violation, pursuant to RCW ((42.17A.005)) 42.17A.755;

(c) Appropriate for resolution as a technical correction, pursuant to RCW ((42.17A.005)) 42.17A.755;

(d) A minor violation, appropriate for alternative resolution alternatives, pursuant to WAC 390-37-061;

(e) Appropriate to initiate an investigation as to whether or not there has been a material violation;

(f) Appropriate for referral to the attorney general, pursuant to WAC 390-37-042; or

(g) Other status as authorized and appropriate under chapter 42.17A RCW or Title 390 WAC.

(3) Each enforcement matter will be posted on the PDC's public case-tracking database, where its status will be updated from time to time as appropriate until the matter is closed, to apprise the parties and general public.

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

WAC 390-37-040 Enforcement procedures—Procedures for filing complaints with the PDC. (1) A complaint filed with the PDC must be by electronic writing. Complainants must use the form(s) provided by the PDC on its website. The executive director may waive this requirement and allow for the use of another written format on the basis of hardship.

(2) A complaint must include:

(a) A statement of the nature of the alleged violation or violations, referencing chapter 42.17A RCW and/or Title 390 WAC (if known), date, time and place of each occurrence and name of person or persons believed to be responsible, and a description of the impact of the alleged violation on the public;

(b) All available documentation and other evidence which the complainant is able to supply that supports the allegations made in the complaint. Information about where documents or evidence can be obtained and any relevant contact information should be included for any items that cannot be supplied with the complaint;

(c) The names and telephone numbers, email addresses, and U.S. mail address, if known, of any witnesses or other persons who have knowledge of facts related to the complaint;

(d) The complainant's name, email address which will be the PDC's official method of communication, U.S. mail address, and telephone number;

(e) The signature of the complainant certifying under penalty of perjury under the laws of the state of Washington that the information provided with the complaint is true and correct to the best of their knowledge and belief; ((and))

(f) Identification of any complaint filed by the complainant against the same respondent within the previous 12 months from the date of the complaint; and

(g) Other pertinent information, as required by the PDC.

(3) The person or entity against whom a complaint is filed is known as the respondent.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-37-060 Case initiation and resolution procedures—Alternative responses to noncompliance—Technical corrections—Investigation of complaints—Initiation of adjudicative proceeding. (1) Upon receipt or initiation of a complaint, the PDC staff will conduct an initial review pursuant to WAC 390-37-005.

(a) If the executive director determines that any complaint is obviously unfounded or frivolous, or outside of the PDC's jurisdiction, the executive director will inform the complainant and, as appropriate, the respondent why no further action is warranted.

(b) The executive director may resolve a matter as a technical correction pursuant to RCW 42.17A.755. PDC staff will notify the respondent of the need to make a correction and the deadline by which that correction must be made. The deadline will be no less than two days and no more than ((fourteen)) 21 days from the date of the notification. The failure to make the requested correction may result in the initiation of an investigation or other enforcement action.

(c) The executive director may resolve a matter as a remediable violation pursuant to RCW 42.17A.755.

(d) The executive director may resolve any complaint that alleges minor violations of chapter 42.17A by issuing a formal written warning. If the resolution is conditioned upon the respondent reaching or maintaining compliance, specific expectations and any deadlines will be clearly explained in the written warning. A respondent's failure to meet conditions may result in a complaint being reopened.

(e) The executive director may use the complaint publication process set out in WAC 390-32-030 to resolve any complaint ((that alleges minor or remediable violations or warrants a technical correction under chapter 42.17A RCW)).

(f) The executive director may enter into a statement of understanding, in accordance with WAC 390-37-142.

(g) The executive director may propose a stipulation to the commission before or after conducting an investigation.

(h) The executive director may initiate an investigation whenever an initial review of a complaint indicates that a material violation may have occurred.

(i) The executive director may, with the concurrence of the commission chair or vice chair, refer a complaint to the attorney general, in accordance with WAC 390-37-042.

(j) The executive director must report at each regular commission meeting a summary covering the period since the previous commission meeting of all complaints initiated or received; how they were categorized; the nature of the allegations; conformance to required timelines; and actions taken and resolutions achieved pursuant to the alternatives provided for under chapter 42.17A RCW, such as dismissals, requests for technical correction, warning letters, complaint publication, statements of understanding, initiations of investigations, status reviews, stipulations, referrals to the attorney general's office, brief adjudicative proceedings, or commission hearings.

(2) If the executive director determines an investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before proceeding.

(3) If the executive director determines an investigation is warranted, an initial hearing (also referred to as a "case status review") will be held pursuant to WAC 390-37-071 (~~(within ninety days of the complaint being initiated or received)~~).

(4) Following the initial hearing (case status review), and further investigation if needed, the executive director may initiate an adjudicative proceeding before the commission whenever the facts support that a material violation (~~(has)~~) may have occurred and the matter is not appropriate for a dismissal or an alternative resolution.

(5) The respondent and complainant must be notified of the date of the adjudicative proceeding or a report on an enforcement matter resulting from a complaint no later than (~~(ten)~~) 10 calendar days before that date. The notice must contain the information required by RCW 34.05.434, the staff investigative report, if a report was completed, and any charges to be adjudicated. The notice, whenever possible, will be delivered electronically.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-37-061 Enforcement procedures—Alternative responses to noncompliance—Goals and objectives—Factors to be considered. (1) In considering appropriate responses to violations, the PDC staff will consider whether an investigation or adjudicative proceeding constitutes an efficient and effective use of public funds; or whether an alternative response better meets the PDC's mission and public expectations by allowing the expedited resolution of minor violations and technical reporting errors, and the focusing of resources on more significant violations of chapter 42.17A RCW and Title 390 WAC.

(2) A minor violation is a violation that occurs:

(a) When required information is not timely disclosed, but the public is not deprived of critical information;

(b) When incomplete information is disclosed, but a good faith effort to comply with disclosure is made, and the public is not deprived of critical information; or

(c) When any other violation of chapter 42.17A RCW has occurred that does not materially affect the public interest.

(3) In authorizing an alternative response to alleged noncompliance, the executive director may consider the nature of the alleged violation and any relevant circumstances including, but not limited to, the factors described in subsection (4) of this section: Provided, that, if after weighing the relevant circumstances and factors, the executive director determines ~~((that))~~ there is evidence that so warrants, the allegations ~~((must))~~ may be addressed through an investigation as provided by WAC 390-37-060.

(4) The factors the executive director may consider in permitting an alternative response to noncompliance, an investigation, or an adjudicative proceeding include, but are not limited to:

An alternative response to noncompliance may be appropriate if ...	An investigation and possible adjudicative hearing may be appropriate if ...
It appears that noncompliance resulted from a good-faith error, omission, or misunderstanding.	It appears that the noncompliance may have resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior.
The respondent is a first-time filer.	The respondent has experience in complying with the applicable requirements.
The respondent's compliance history indicates the noncompliance was isolated or limited in nature, and not indicative of systematic or ongoing problems.	The noncompliance is part of a pattern of violations by the respondent, or in the case of a political committee, or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization.
The impact of the noncompliance on the public was minimal.	The noncompliance deprived the public of timely or accurate information during a time-sensitive period in a campaign, legislative session, etc., or otherwise had a significant or material impact on the public.
The respondent's organization or campaign was relatively unsophisticated or small.	The respondent or the respondent's organization or campaign demonstrated a relatively high level of sophistication, or was well financed and staffed.
The total expenditures by the respondent in the campaign or statement period were relatively modest.	The campaign or statement period involved significant expenditures by the respondent.
The amount of late-reported activity, or the duration of the untimely disclosure, was small in proportion to the amount of activity that was timely reported by the respondent.	The late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period.
There is no evidence that any person, including an entity or organization, benefited politically or economically from the noncompliance.	It appears the respondent or anyone else benefited politically or economically from the noncompliance.
Personal emergency or illness of the respondent, <u>the respondent's officer</u> , or member of ((his or her)) <u>their</u> immediate family contributed to the noncompliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
Other emergencies such as fire, flood, or utility failure prevented compliance.	There are no circumstances that appear to mitigate or appropriately explain the late reporting or other noncompliance.
PDC staff or equipment error ((;)) including technical problems at the agency prevented or delayed electronic filing.	PDC staff or equipment error did not appear to contribute to the noncompliance.
The noncompliance resulted from the respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions, a lack of clarity in the rule or statute, or uncertainty concerning the valid application of the commission's ((rules)) <u>requirements</u> .	It appears the respondent understood the application of staff's guidance or instructions, and did not dispute the valid application of the commission's rules.

An alternative response to noncompliance may be appropriate if ...	An investigation and possible adjudicative hearing may be appropriate if ...
The respondent quickly took corrective action or initiated other remedial measures prior to any complaint, or when noncompliance was brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or over limit contributions).	The respondent appeared negligent or unwilling to address the noncompliance.
The respondent made a good-faith effort to comply, including by consulting with PDC staff following a complaint and cooperating during any preliminary investigation, or demonstrated a wish to acknowledge and take responsibility for the alleged violation.	The respondent failed to provide a timely or adequate response to the complaint, or was otherwise uncooperative.
The alleged violation was or is being addressed under an analogous local ordinance, regulation, or policy.	The commission has primary jurisdiction over the alleged violation.
The alleged violation presents a new question or issue for the commission's interpretation.	The alleged violation does not present a case of first impression.
Other factors relevant to a particular case	

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-37-062 Enforcement procedures—Alternative responses—Cases resolvable by stipulation prior to an investigation—Penalty schedule.

(1) The purpose of (~~WAC 390-37-062~~) this section is to set forth a schedule of violations and penalties that may be agreed to by a respondent pursuant to a stipulation prior to an investigation, as authorized by RCW 42.17A.755. That schedule appears in the table below.

(2) A violation not set forth in the schedule may be resolved pursuant to a stipulation, provided that the proposed penalty amount is within the dollar ranges listed in the schedule.

(3) "Occasion" as used in the schedule means a violation found by the commission, or acknowledged by the respondent in a statement of understanding.

(4) Only violations within the last five years will be considered for determining whether the violation under consideration will be deemed a second or third occasion.

(5) Any proposed stipulation must be in writing, must include a brief recitation of the facts, violations, and penalty, and be signed by each party to the stipulation or their representative and provided by 4:00 p.m. three business days preceding the commission meeting. The executive director will sign for PDC staff.

(6) The commission has the option of accepting, modifying or rejecting the proposed stipulation. If the commission accepts the stipulation, or modifies the stipulation with the agreement of the parties, the commission will enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation, the commission staff may consider whether:

- (a) An investigation should be initiated; or
- (b) The matter may appropriately be resolved in another manner.

(7) In determining whether to accept the stipulation, the commission may consider the nature of the violation(s), and any aggravating and/or mitigating factors as provided in WAC (~~390-37-182~~) 390-37-185.

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((300)) <u>\$500</u>	((300 - 600)) <u>\$500 - \$1,000</u>	((600 -)) \$1,000 - <u>\$1,500</u>
Report is filed late and is incomplete or inaccurate.	\$0 - ((600)) <u>\$1,000</u>	((600 - 1,200)) <u>\$1,000 - \$2,000</u>	\$1,200 - \$2,400
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 Report)			
Filed missing C-3 Report or amended C-3 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Campaign Summary Receipts and Expenditures Report (C-4 Report)			
Filed missing C-4 Report or amended C-4 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to report a contractual contingent liability.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to properly dispose of surplus funds.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Independent Expenditure Report (C-6 Report)			
Filed missing C-6 Report or amended C-6 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Report is incomplete or inaccurate.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Out-of-State Political Committee Report (C-5 Report)			
Filed missing C-5 Report or amended C-5 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Exceeding Contribution Limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - ((750)) <u>\$1,000</u>	((750 - 1,500)) <u>\$1,000 - \$2,000</u>	((1,500 - 2,250)) <u>\$2,000 - \$3,000</u>
Other Alleged Violations			

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Exceeding Mini Reporting Threshold			
Filed C-3 and C-4 Reports for full reporting after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((\$750)) <u>\$1,000</u>	((\$750 - \$1,500)) <u>\$1,000 - \$2,000</u>	((\$1,500 - \$2,250)) <u>\$2,000 - \$3,000</u>
Failure to file electronically			
Filed C-3 and C-4 Reports electronically after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((\$750)) <u>\$1,000</u>	((\$750 - \$1,500)) <u>\$1,000 - \$2,000</u>	((\$1,500 - \$2,250)) <u>\$2,000 - \$3,000</u>
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.			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - ((\$750)) <u>\$1,000</u>	((\$750 - \$1,500)) <u>\$1,000 - \$2,000</u>	((\$1,500 - \$2,250)) <u>\$2,000 - \$3,000</u>
<u>Use of public facilities was not incidental or isolated, or evidence was submitted indicating that the use may have affected the outcome of the election.</u>	<u>\$0 - \$1,500</u>	<u>\$1,500 - \$3,000</u>	<u>\$3,000 - \$5,000</u>
Failure to file Lobbyist Registration report (L-1 Report)			
Filed missing L-1 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Failure to File Agency Lobbying Report (L-5 Report)			
Filed missing L-5 Report or amended L-5 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Grassroots Lobbying Report (L-6 Report)			
Filed missing L-6 Report or amended L-6 Report after being notified about the complaint, and provided written explanation with mitigating circumstances.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification, or included improper or misleading sponsor identification.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - ((\$300)) <u>\$500</u>	((\$300 - \$600)) <u>\$500 - \$1,000</u>	((\$600 -)) \$1,000 - <u>\$1,500</u>
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office; <u>falsely represents that a candidate is the incumbent for the office sought; or makes a false claim stating or implying the support or endorsement of any person or organization.</u>	\$0 - ((\$600)) <u>\$1,000</u>	((\$600 - \$1,200)) <u>\$1,000 - \$2,000</u>	((\$1,200 - \$2,400)) <u>\$2,000 - \$3,000</u>

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
((Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - \$600	\$600 - \$1,200	\$1,200 - \$2,400))
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain records and books of account, or make such information available by the methods provided under WAC 390-18-050.	\$0 - (((\$600)) \$1,000	(((\$600 - \$1,200)) \$1,000 - \$2,000	(((\$1,200 - \$2,400)) \$2,000 - \$3,000
Candidates and political committees—Public inspection of books of accounts			
Candidates or political committees who fail to accommodate requests for public inspection as required by WAC 390-16-043.	\$0 - (((\$600)) \$1,000	(((\$600 - \$1,200)) \$1,000 - \$2,000	(((\$1,200 - \$2,400)) \$2,000 - \$3,000
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - (((\$600)) \$1,000	(((\$600 - \$1,200)) \$1,000 - \$2,000	(((\$1,200 - \$2,400)) \$2,000 - \$3,000

(8) In a matter where the PDC staff have completed an investigation or resolved the matter as a technical correction, as authorized in RCW 42.17A.755, the schedule set forth in the table above is not applicable.

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

WAC 390-37-071 Enforcement procedures—Initial hearing (case status review prior to ((~~ninety~~)) 90 days). (1) After initiating an investigation pursuant to WAC 390-37-060, the executive director will conduct a case status review, referred to as an initial hearing in RCW 42.17A.755. The case status review is not an adjudicative proceeding conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW), and does not determine any rights of the parties. Its purpose is to ensure the investigation, is being conducted expeditiously and to provide an opportunity to discuss possible alternative resolutions.

(2) The case status review will be conducted within ((~~ninety~~)) 90 days of the complaint being filed in the matter, and may be held by telephone conference or in-person at a time and place specified by PDC staff. Notice of the case status review will be delivered electronically whenever possible.

(3) Participation in the case status review by the respondent is not mandatory. The failure to participate in the hearing will not prejudice or affect any rights of the respondent with respect to the investigation or potential adjudication of the matter.

(4) The case status review shall have a set time limit as determined by the executive director.

(5) At the case status review, the executive director shall have the authority to:

(a) Provide the respondent with a brief opportunity to explain the respondent's view of the matter, including why further investigation may not be warranted;

(b) Identify any available options to resolve the matter;

(c) When appropriate, encourage the parties to enter into a stipulated agreement as authorized by RCW 42.17A.755 and WAC 390-37-062; and

(d) Consider such other matters as may aid in the investigation, disposition or resolution of the matter.

(6) Following the case status review, the executive director shall direct PDC staff to update the PDC's public case-tracking database pursuant to WAC 390-37-005.

(7) The executive director shall report to the commission, no later than the next regular commission meeting, any case status reviews held. The executive director's report shall include an overview of matters addressed and any review outcomes.

(8) Nothing in this section shall limit the authority of the commission or its staff to resolve a complaint, pursue an investigation and enforcement, or refer a matter to the attorney general at any time.

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

WAC 390-37-075 Enforcement procedures—Deferred enforcement after an investigation has been commenced. (1) As provided by WAC 390-37-060, the chair or the chair's designee commissioner may authorize deferred enforcement:

(a) Following a case status review provided for in WAC 390-37-071, referred to as an initial hearing in RCW 42.17A.755, in lieu of a formal investigation;

(b) Following an investigation, in lieu of a notice of administrative charges for an adjudicative proceeding; or

(c) After a notice of administrative charges, prior to an adjudicative proceeding.

(2) The executive director will recommend to the chair or the chair's designee commissioner the conditions of a deferred enforcement. The conditions shall be clearly defined and agreed to by the respondent, along with the consequences for failure to meet the conditions of the deferral. Negotiations regarding deferred enforcement shall be informal and without prejudice to rights of a participant in the negotiations.

(3) With concurrence of the chair or the chair's designee commissioner, the executive director or designee (commission staff) shall memorialize the pertinent facts and the conditions of the deferral by

electronic writing to the respondent, together with the consequences for failure to meet the conditions of the deferral. The agreement shall be signed by the executive director or designee (commission staff) and the respondent. Staff shall notify the respondent that any administrative charges issued in the matter are stayed pending satisfaction of the deferral conditions.

(4) Once the deferral conditions are met, the complaint shall be dismissed with no further investigation or action as provided by WAC 390-37-070.

(5) If the deferral conditions are not met, the complaint shall proceed in accordance with WAC 390-37-060.

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

WAC 390-37-090 Enforcement procedures—Cases resolvable by stipulation after an investigation and prior to an enforcement hearing (adjudicative proceeding). (1) RCW 34.05.060 authorizes agencies to establish by rule specific procedures for attempting and executing informal settlement of matters. The following procedures are available for informal dispute resolution prior to an adjudicative proceeding that may make more elaborate proceedings under the Administrative Procedure Act (chapter 34.05 RCW) unnecessary.

(a) Any enforcement matter before the commission which has not yet been heard in an adjudicative proceeding may be resolved by settlement. The respondent shall communicate their request to the executive director or designee (commission staff), setting forth all pertinent facts and the desired remedy. Settlement negotiations shall be informal and without prejudice to rights of a participant in the negotiations.

(b) The executive director and respondent may also agree to a stipulation of facts, violations, and/or penalty. The commission staff shall prepare the stipulation for presentation to the commission.

(c) Any proposed stipulation shall be in writing, must include a brief recitation of the facts, violations and penalty, and be signed by each party to the stipulation or their representative. The executive director or designee shall sign for PDC staff. Any stipulation to facts, violations, or penalty shall be provided by 4:00 p.m. three business days preceding the hearing. The commission has the option of accepting, rejecting, or modifying the proposed stipulation or asking for additional facts to be presented. If the commission accepts the stipulation or modifies the stipulation with the agreement of the parties, the commission shall enter an order in conformity with the terms of the stipulation. If the commission rejects the stipulation or either party does not agree to the commission's proposed modifications to the stipulation, and if no revised stipulation or staff report is presented to the commission, then an adjudicative proceeding shall be scheduled and held.

(2) Parties are encouraged to be creative in resolving cases without further litigation where appropriate.

(3) As part of the commission's review of any proposed stipulation of facts, violations and law or other alternative resolution ruled on at a hearing, if the commission determines certain additional

sanctions or other steps are required by the respondent and states on the record that the commission intends to enter an order, and the respondent does not timely raise an objection at the hearing, it shall be presumed that the respondent has waived objections and appeals, and agrees to the entry of the order.

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

WAC 390-37-140 Brief enforcement hearings (brief adjudicative proceedings)—Authority. (1) The commission may provide a brief adjudicative proceeding for violations in which the facts are undisputed, the violations appear to be relatively minor in nature, and a penalty no greater than (~~(\$1,000)~~) \$2,000 will be assessed for the violations. Typical matters to be heard in a brief adjudicative proceeding include, but are not limited to, the following:

- (a) Failure to file or late filing of required reports;
- (b) Failure to report or accurately report campaign contributions or expenditures or funds spent in lobbying;
- (c) Use of public office facilities in election campaigns when the value of public funds expended was minimal; and
- (d) Infractions of political advertising law regarding sponsor identification or political party identification.

(2) The commission may utilize a penalty schedule for brief adjudicative proceedings.

(3) Brief adjudicative proceedings are set forth in RCW 34.05.482 through 34.05.494.

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

WAC 390-37-142 Brief enforcement hearing (brief adjudicative proceeding)—Procedure. (1) A brief adjudicative proceeding may be presided over by the chair, or a member of the commission designated by the chair.

(2) When a violation, as described in WAC 390-37-140, is alleged, before taking action, the executive director shall send the respondent notice, which shall include:

- (a) Alleged violation;
- (b) The maximum amount of the penalty that can be imposed at the hearing, relevant penalty schedules, and the amount of any proposed fine; and
- (c) Person's right to respond either by electronic writing or in person.

(3) As provided in RCW 34.05.050, a respondent may waive the opportunity for a hearing by providing the following:

- (a) A signed statement of understanding;
- (b) Any missing required reports; and

(c) A penalty payment specified by the executive director in accordance with the penalty authority of WAC 390-37-140 and the brief enforcement hearing penalty schedules of this chapter.

(4) As used in this section, the term "statement of understanding" means a written statement signed by the respondent that:

(a) Acknowledges a violation of chapter 42.17A RCW and any relevant rules; and

(b) Expresses the respondent's understanding that the commission will not hold any adjudicative proceeding concerning the violation.

(5) At the time of the hearing if the presiding officer believes alleged violations are of such magnitude as to merit penalties greater than ~~((one thousand dollars))~~ \$2,000, the presiding officer shall immediately adjourn the hearing and direct the matter be scheduled for an adjudicative proceeding by the full commission.

(6) Within ~~((thirty))~~ 30 days after the hearing, the commission shall serve upon each party a written statement describing the violation, the reasons for the decision, the penalty imposed, and information about any internal administrative review or reconsideration available. The executive director is authorized to sign the decision on behalf of the presiding officer.

(7) The written decision of the presiding officer is an initial order. If no review is taken of the initial order, the initial order shall be the final order.

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

WAC 390-37-143 Brief enforcement hearings (brief adjudicative proceeding)—Penalty schedule. The presiding officer may assess a penalty up to ~~((one thousand dollars))~~ \$2,000 upon finding a violation of chapter 42.17A RCW or Title 390 WAC.

(1) Base penalty amounts:

Violation	1st Occasion	2nd Occasion	3rd Occasion
Failure to timely file an accurate and complete statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - ((150)) <u>\$500</u>	((150-300)) <u>\$500 - \$1,000</u>	((300-600)) <u>\$1,000 - \$1,500</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 - <u>\$500</u>	((300)) <u>\$500 - \$1,000</u>	((600)) <u>\$1,000 - \$1,500</u>
Failed to file report by date of enforcement hearing.	\$250 - <u>\$750</u>	((500)) <u>\$750 - \$1,000</u>	\$1,000 - <u>\$2,000</u>
Candidate's failure to timely file an accurate and complete registration statement (C-1)/statement of financial affairs (F-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - ((150)) <u>\$500</u> per report	((150-300)) <u>\$500 - \$1,000</u> per report	((300-600)) <u>\$1,000 - \$1,500</u> per report up to ((1,000)) <u>\$2,000</u>
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	\$150 per report	\$300 per report	\$600 per report up to \$1,000
Failed to file report by date of enforcement hearing.	\$250 per report	\$500 per report	consideration by full commission
Failure to timely file an accurate and complete lobbyist monthly expense report (L-2):			

Violation	1st Occasion	2nd Occasion	3rd Occasion
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - (\$150) \$500	(\$150 - \$300) \$500 - \$1,000	(\$300 - \$600) \$1,000 - \$1,500
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failed to file report by date of enforcement hearing.	(\$250) \$750	(\$500) \$1,500	(\$1,000) \$2,000
Failure to timely file an accurate and complete lobbyist employer report (L-3):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - (\$150) \$500	(\$150 - \$300) \$500 - \$1,000	(\$300 - \$600) \$1,000 - \$1,500
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failed to file report by date of enforcement hearing.	(\$250) \$750	(\$500) \$1,250	(\$1,000) \$2,000
Failure to timely file accurate and complete disclosure reports:			
Political committee registration (C-1pc).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Statement of contributions deposit (C-3).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Summary of total contributions and expenditures (C-4).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Independent expenditures and electioneering communications (C-6).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Last minute contribution report (LMC).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Out-of-state committee report (C-5).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Annual report of major contributors (C-7).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failure to timely file accurate and complete reports disclosing lobbying activities:			
Lobbyist registration (L-1).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Public agency lobbying report (L-5).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Grass roots lobbying report (L-6).	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failure to file electronically.	(\$350) \$750	(\$650) \$1,500	(\$1,000) \$2,000
Exceeding contribution limits.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Exceeding mini reporting threshold.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failure to comply with political advertising sponsor identification requirements.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failure to include required candidate's party preference in political advertising.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failure to comply with other political advertising requirements, RCW 42.17A.330 through 42.17A.345.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Use of public facilities to assist a campaign for election or promote a ballot measure.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Treasurer's failure to timely file an accurate and complete annual treasurer's report (T-1):			
Filed report after hearing notice, but before enforcement hearing. Provided written explanation or appeared at hearing to explain mitigating circumstances. Did not enter into statement of understanding.	\$0 - (\$150) \$500	(\$150 - \$300) \$500 - \$1,000	(\$300 - \$600) \$1,000 - \$1,500
Filed report after hearing notice, but before enforcement hearing. Did not enter into statement of understanding.	(\$150) \$500	(\$300) \$1,000	(\$600) \$1,500
Failed to file report by date of enforcement hearing.	(\$250) \$750	(\$500) \$1,500	(\$1,000) \$2,000

"Occasion" means established violation, including any violation acknowledged by the respondent in a statement of understanding. Only violations in the last five years will be considered for the purpose of determining second and third occasions.

(2) In determining the appropriate penalty, the presiding officer may consider the nature of the violation and aggravating and mitigating factors (~~(, including:~~

~~(a) Whether the respondent is a first-time filer;~~

~~(b) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;~~

~~(c) The respondent's unpaid penalties from a previous enforcement action;~~

~~(d) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;~~

~~(e) The amount of financial activity by the respondent during the statement period or election cycle;~~

~~(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;~~

~~(g) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention;~~

~~(h) Good faith efforts to comply, including consultation with PDC staff prior to initiation of enforcement action and cooperation with PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;~~

~~(i) Personal emergency or illness of the respondent or member of his or her immediate family;~~

~~(j) Other emergencies such as fire, flood, or utility failure preventing filing;~~

~~(k) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization; and~~

~~(l) PDC staff, third-party vendor, or equipment error, including technical problems at the agency preventing or delaying electronic filing) as set forth under WAC 390-37-185.~~

(3) The presiding officer has authority to suspend all or a portion of an assessed penalty under the conditions to be determined by that officer including, but not limited to, payment of the nonsuspended portion of the penalty within (~~(five))~~ 30 business days of the date of the entry of the order in that case.

(4) If, on the third occasion, a respondent has outstanding penalties or judgments, the matter will be directed to the full commission for consideration.

(5) The presiding officer may direct a matter to the full commission if the officer believes (~~(one thousand dollars))~~ the penalty limit would be an insufficient penalty or the matter warrants consideration by the full commission. Cases will automatically be scheduled before the full commission for an enforcement action when (~~(the respondent))~~):

(a) (~~(Was))~~ The respondent already had been found in violation during a previous reporting period;

(b) (~~(The))~~ That prior violation remains in effect, following any appeals; and

(c) The person has not filed the disclosure forms that were the subject of the prior violation at the time the current hearing notice is being sent.

AMENDATORY SECTION (Amending WSR 20-02-062, filed 12/24/19, effective 1/24/20)

WAC 390-37-182 Penalty factors (full adjudicatory proceedings).

(1) ~~((In assessing a penalty after a full adjudicatory proceeding, the commission considers the purposes of chapter 42.17A RCW, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the additional factors described in subsection (3) of this section.~~

~~(2))~~ Under RCW 42.17A.755, the commission:

(a) May waive a penalty for a first-time violation;

(b) Must assess a penalty for a second violation by the same person or individual, regardless if the person or individual committed the violation for a different political committee;

(c) Must assess successively increased penalties for succeeding violations pursuant to the following schedule:

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Filed missing report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - (((\$500)) <u>\$1,000</u>	(((\$500-\$1,500)) <u>\$1,000 - \$2,500</u>	(((\$1,500-)) <u>\$2,500</u> <u>- \$5,000</u>
Report is filed late and is incomplete or inaccurate.	\$0 - (((\$1,000)) <u>\$2,000</u>	(((\$1,000-\$2,000)) <u>\$2,000 - \$5,000</u>	(((\$2,000-\$3,000)) <u>\$5,000 - \$7,500</u>
<u>Failed to file missing report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Respondent failed to file or timely file accurate and complete campaign disclosure reports:			
Cash Receipts Monetary Contributions Report (C-3 Report)			
Filed missing C-3 Report or amended C-3 Report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - (((\$1,500)) <u>\$2,500</u>	(((\$1,500-)) <u>\$2,500</u> <u>- \$5,000</u>	(((\$2,500)) <u>\$5,000</u> <u>- \$10,000</u>
Failed to timely deposit monetary contributions within five business days of receipt.	\$0 - (((\$1,500)) <u>\$2,500</u>	(((\$1,500-)) <u>\$2,500</u> <u>- \$5,000</u>	(((\$2,500)) <u>\$5,000</u> <u>- \$10,000</u>
Failed to include employer and occupation information for contributors of more than \$100.	\$0 - (((\$1,500)) <u>\$2,500</u>	(((\$1,500-)) <u>\$2,500</u> <u>- \$5,000</u>	(((\$2,500)) <u>\$5,000</u> <u>- \$10,000</u>
<u>Failed to file missing or amended C-3 Report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Campaign Summary Receipts and Expenditures Report (C-4 Report)			
Filed missing C-4 Report or amended C-4 Report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - (((\$1,500)) <u>\$2,500</u>	(((\$1,500-)) <u>\$2,500</u> <u>- \$5,000</u>	(((\$2,500)) <u>\$5,000</u> <u>- \$10,000</u>
<u>Failed to file missing or amended C-4 Report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Failed to properly report the "purpose" of an expenditure under RCW 42.17A.240(6) or 42.17A.255 (5)(b).	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Failed to properly report expenditures made on behalf of a candidate or political committee by any person, agency, firm, organization, etc.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Failed to report a contractual contingent liability.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Failed to properly dispose of surplus funds.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Failed to properly make campaign books of account available for public inspection as required immediately preceding the date of an election.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Independent Expenditure Report (C-6 Report)			
Filed missing C-6 Report or amended C-6 Report after being notified about the complaint (and provided written explanation with mitigating circumstances).	\$0 - (\$1,000) <u>\$2,500</u>	(\$1,000 - \$2,000) <u>\$2,500 - \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Report is filed late and is incomplete or inaccurate.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
<u>Failed to file missing or amended C-6 Report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Out-of-State Political Committee Report (C-5 Report)			
Filed missing C-5 Report or amended C-5 Report after being notified about the complaint (and provided written explanation with mitigating circumstances).	\$0 - (\$1,000) <u>\$2,500</u>	(\$1,000 - \$2,000) <u>\$2,500 - \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
<u>Failed to file missing or amended C-5 Report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Last Minute Contribution Report (LMC report)			
Filed missing LMC report or amended LMC report after being notified about the complaint (and provided written explanation with mitigating circumstances).	\$0 - (\$1,000) <u>\$2,500</u>	(\$1,000 - \$2,000) <u>\$2,500 - \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
<u>Failed to file missing or amended LMC Report by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Exceeding contribution limits			
Refunded contributions after being notified of the complaint, over limit contributions were not significant, and respondent provided written explanation with mitigating circumstances.	\$0 - (\$1,500) <u>\$2,500</u>	(\$1,500-) \$2,500 <u>- \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
Other Alleged Violations:			
Exceeding mini reporting threshold			
Filed C-3 and C-4 Reports for full reporting after being notified about the complaint (and provided written explanation with mitigating circumstances).	\$0 - (\$1,000) <u>\$2,500</u>	(\$1,000 - \$2,000) <u>\$2,500 - \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
<u>Failed to file missing C-3 and C-4 Reports by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>
Failure to file electronically			
Filed C-3 and C-4 Reports electronically after being notified about the complaint(, and provided written explanation with mitigating circumstances).	\$0 - (\$1,000) <u>\$2,500</u>	(\$1,000 - \$2,000) <u>\$2,500 - \$5,000</u>	(\$2,500) <u>\$5,000</u> - \$10,000
<u>Failed to file C-3 and C-4 Reports electronically by date of enforcement hearing.</u>	<u>\$0 - \$3,000</u>	<u>\$3,000 - \$7,500</u>	<u>\$7,500 - \$10,000</u>

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
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			
Use of public facilities was incidental and isolated, and evidence was not submitted indicating that the use may have affected the outcome of the election.	\$0 - ((\$1,000) \$2,500)	((\$1,000 - \$2,000) \$2,500 - \$5,000)	((\$2,500) \$5,000 - \$10,000)
<u>Use of public facilities was not incidental or isolated, or evidence was submitted indicating that the use may have affected the outcome of the election.</u>	\$0 - \$5,000	\$5,000 - \$7,500	\$7,500 - \$10,000
Failure to File Lobbyist Registration Report (L-1 Report)			
Filed missing L-1 Report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
<u>Failed to file missing L-1 Report by date of enforcement hearing.</u>	\$0 - \$3,000	\$3,000 - \$7,500	\$7,500 - \$10,000
Failure to File Agency Lobbying Report (L-5 Report)			
Filed missing L-5 Report or amended L-5 Report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
<u>Failed to file missing or amended L-5 Report by date of enforcement hearing.</u>	\$0 - \$3,000	\$3,000 - \$7,500	\$7,500 - \$10,000
Grassroots Lobbying Report (L-6 Report)			
Filed missing L-6 Report or amended L-6 Report after being notified about the complaint ((and provided written explanation with mitigating circumstances)).	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
<u>Failed to file missing or amended L-6 Report by date of enforcement hearing.</u>	\$0 - \$3,000	\$3,000 - \$7,500	\$7,500 - \$10,000
Sponsor identification requirements for political advertising			
Political advertising failed to include any sponsor identification or included improper or misleading sponsor identification.	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
Party preference requirement for political advertising			
Political advertising failed to include a candidate's party preference.	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
Use of current picture requirement in political advertising			
Political advertising fails to include at least one picture of the candidate used in the advertising that was taken within the last five years, that is no smaller than any other picture of the same candidate used in the same advertisement.	\$0 - ((\$500) \$2,500)	((\$500 - \$1,000) \$2,500 - \$5,000)	((\$1,000 - \$1,500) \$5,000 - \$10,000)
Political advertising or electioneering communication—Libel or defamation per se			
Political advertising or an electioneering communication that contains a false statement of material fact about a candidate for public office.	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)
Political advertising or an electioneering communication that falsely represents that a candidate is the incumbent for the office sought when in fact the candidate is not the incumbent.	\$0 - ((\$500) \$2,500)	((\$500 - \$1,500) \$2,500 - \$5,000)	((\$1,500 - \$2,500) \$5,000 - \$10,000)

Violations:			
Respondent failed to file or timely file an accurate or complete: (1) Statement of Financial Affairs (F-1 Report) / (2) Candidate Registration / (C-1 Report) / (3) Lobbyist Monthly Expense Report (L-2 Report) / (4) Lobbyist Employer Annual Report (L-3 Report) and (5) Local Treasurer's Annual Report (T-1 Report).			
	1st Occasion	2nd Occasion	3rd Occasion
Political advertising or an electioneering communication that makes either directly or indirectly, a false claim stating or implying the support or endorsement of any person or organization when in fact the candidate does not have such support or endorsement.	\$0 - ((\$600)) <u>\$2,500</u>	((\$600-\$1,200)) <u>\$2,500 - \$5,000</u>	((\$1,200-\$2,400)) <u>\$5,000 - \$10,000</u>
Commercial advertisers—Public inspection of documents			
Commercial advertisers who after accepting or providing political advertising or electioneering communications during an election campaign fail to maintain records and books of account, or make such information available by the methods provided under WAC 390-18-050.	\$0 - ((\$600)) <u>\$2,500</u>	((\$600-\$1,200)) <u>\$2,500 - \$5,000</u>	((\$1,200-\$2,400)) <u>\$5,000 - \$10,000</u>
Candidates and political committees—Public inspection of books of account			
Candidates or political committees who fail to accommodate requests for public inspections as required by WAC 390-16-043.	\$0 - ((\$600)) <u>\$2,500</u>	((\$600-\$1,200)) <u>\$2,500 - \$5,000</u>	((\$1,200-\$2,400)) <u>\$5,000 - \$10,000</u>
Limitations on employers or labor organizations			
Failed to maintain open for public inspection, during normal business hours, documents and books of accounts showing a copy of each employee's request for funds to be withheld for transfer to a political committee.	\$0 - ((\$600)) <u>\$2,500</u>	((\$600-\$1,200)) <u>\$2,500 - \$5,000</u>	((\$1,200-\$2,400)) <u>\$5,000 - \$10,000</u>

~~((3) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:~~

~~(a) The respondent's compliance history, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;~~

~~(b) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;~~

~~(c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;~~

~~(d) Amount of financial activity by the respondent during the statement period or election cycle;~~

~~(e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;~~

~~(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;~~

~~(g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;~~

~~(h) Personal emergency or illness of the respondent or member of his or her immediate family;~~

- ~~(i) Other emergencies such as fire, flood, or utility failure preventing filing;~~
- ~~(j) PDC staff or equipment error, including technical problems at the PDC preventing or delaying electronic filing;~~
- ~~(k) The respondent's demonstrated good faith uncertainty concerning staff guidance or instructions;~~
- ~~(l) Corrective action or other remedial measures initiated by respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);~~
- ~~(m) Whether the respondent is a first-time filer;~~
- ~~(n) Good faith efforts to comply, including consultation with PDC staff prior to initiation of enforcement action and cooperation with PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;~~
- ~~(o) Penalties imposed in factually similar cases; and~~
- ~~(p) Other factors relevant to a particular case.~~

~~(4))~~ (2) In determining the appropriate penalty, the commission may consider the nature of the violation and aggravating and mitigating factors as set forth under WAC 390-37-185. The commission may consider the factors in the penalty schedule under subsection ((s)) (1) ((through (3))) of this section, and the factors set forth under WAC 390-37-185, in determining whether to suspend a portion or all of a penalty upon identified conditions, and whether to accept, reject, or modify a stipulated penalty amount recommended by the parties.

~~((5))~~ (3) Notwithstanding the above schedule, the commission may assess a penalty of up to ~~((ten thousand dollars))~~ \$10,000 per violation, or a greater amount if agreed to by the parties, pursuant to RCW 42.17A.755, based on the aggravating factors set forth in subsections (1) ((through (3))) and (2) of this section. In making an assessment outside of the schedule, the commission may evaluate the deterrent effect the penalty will have on the respondent, in consideration of the sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization, or other factors.

~~((6))~~ (4) The penalty schedule for brief enforcement proceedings is provided under WAC 390-37-143.

NEW SECTION

WAC 390-37-185 Aggravating and mitigating factors for consideration of penalty amounts for brief enforcement hearings and full adjudicatory proceedings. (1) In assessing a penalty after a brief enforcement hearing or a full adjudicatory proceeding, the commission considers the purposes of chapter 42.17A RCW, including the public's right to know of the financing of political campaigns, lobbying and the financial affairs of elected officials and candidates as declared in the policy of RCW 42.17A.001; and, promoting compliance with the law. The commission also considers and applies RCW 42.17A.755 and may consider any of the factors described in subsection (2) of this section.

(2) In addition to the requirements of RCW 42.17A.755, the commission may consider the nature of the violation and any relevant circumstances, including the following factors:

(a) The respondent's compliance history for the last five years, including whether the noncompliance was isolated or limited in nature, indicative of systematic or ongoing problems, or part of a pattern of violations by the respondent, or in the case of a political committee or other entity, part of a pattern of violations by the respondent's officers, staff, principal decision makers, consultants, or sponsoring organization;

(b) The impact on the public, including whether the noncompliance deprived the public of timely or accurate information during a time-sensitive period, or otherwise had a significant or material impact on the public;

(c) Sophistication of respondent or the financing, staffing, or size of the respondent's campaign or organization;

(d) Amount of financial activity by the respondent during the statement period or election cycle;

(e) Whether the noncompliance resulted from a knowing or intentional effort to conceal, deceive or mislead, or violate the law or rule, or from collusive behavior;

(f) Whether the late or unreported activity was significant in amount or duration under the circumstances, including in proportion to the total amount of expenditures by the respondent in the campaign or statement period;

(g) Whether the respondent or any person, including an entity or organization, benefited politically or economically from the noncompliance;

(h) Personal emergency or illness of the respondent, the respondent's officer, or member of their immediate family;

(i) Other emergencies such as fire, flood, or utility failure preventing filing;

(j) PDC staff or equipment error, including technical problems at the PDC, or with a third-party vendor, preventing or delaying electronic filing;

(k) The respondent's demonstrated good-faith uncertainty concerning staff guidance or instructions;

(l) Corrective action or other remedial measures initiated by the respondent prior to enforcement action, or promptly taken when noncompliance brought to respondent's attention (e.g., filing missing reports, amending incomplete or inaccurate reports, returning prohibited or overlimit contributions);

(m) Whether the respondent is a first-time filer;

(n) Good faith efforts to comply, including consultation with PDC staff prior to initiation of enforcement action and cooperation with PDC staff during enforcement action, and a demonstrated wish to acknowledge and take responsibility for the violation;

(o) Participation in one or more PDC training courses that demonstrates a proactive effort to become familiar with filing requirements;

(p) Penalties imposed in factually similar cases;

(q) Any unpaid or outstanding penalties from a prior enforcement action; and

(r) Other factors relevant to a particular case.