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 propositions 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.